

INTERNATIONAL COURT OF JUSTICE

**Obligations of States in Respect of Climate Change
(Request for Advisory Opinion)**

**Written Replies of the Kingdom of Thailand to
the Questions Put by Judges Aurescu and Charlesworth**

20 December 2024

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1. Pursuant to the President’s direction and the Court’s correspondence dated 13 December 2024, the Kingdom of Thailand hereby submits its written replies to the questions put by (i) Judge Aurescu and (ii) Judge Charlesworth at the end of the public sitting that day.¹

I. 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 consultative ? »

2. Thailand reaffirms that the Court should consider international human rights law in ascertaining States’ obligations in respect of climate change, and that relevant rights may include the right to a clean, healthy and sustainable environment (“**CHASE**”), which has been recognised by at least 161 UN Member States.² However, as noted by Judge Aurescu, while some participating States have asserted the right’s existence under international law,³ others disagreed.⁴ Thailand therefore welcomes the opportunity for the Participants to provide further clarity on the *lex lata* concerning this right.

¹ While appreciating the significance of the questions of Judges Cleveland and Tladi, in the limited time, we have directed our answers to the questions where we believe we would be of most assistance to the Court.

² See Written Statement of Thailand, pp. 27-28, fn. 38; UNGA, The human right to a clean, healthy and sustainable environment, A/RES/76/300 (28 July 2022).

³ See, e.g., Spain, CR 2024/40, p. 32, para. 8 (Solà Pardell); Ghana, CR 2024/41, p. 36, para. 21 (Negm); Liechtenstein, CR 2024/44, p. 30, paras. 24-25 (Schafhauser); Portugal, CR 2024/48, pp. 11 ff., paras. 23-30 (Galvão Teles); Slovenia, CR 2024/50, pp. 19 ff. (Rakovec; Sancin; Müller). See also Guatemala, CR 2024/41, pp. 61-62, paras. 42-43 (Rodríguez Pineda); Jamaica, CR 2024/43, p. 15 para. 15 (Gayle); Micronesia, CR 2024/45, p. 24, para. 20 (Mulalap).

⁴ See, e.g., Germany, CR 2024/35, p. 152, paras. 29 et seq. (Zimmermann) (“an individual self-standing right to a clean, healthy and sustainable environment does not yet form part and parcel of current customary international law”); Saudi Arabia, CR 2024/36, p. 33, para. 13 (Bajbaa) (“such a right has not entered the corpus of international law, and the implications flowing from any such right have not been spelled out and agreed”); Canada, CR 2024/37, p. 17, para. 33 (Aumais) (noting that “there is currently no common or internationally agreed upon understanding of the content and scope of a right to a clean, healthy and sustainable environment”); Russia, CR 2024/38, p. 57, paras. 36-37 (Musikhin) (contending that “this ‘right’ has not crystallized in customary international law yet”).

3. On its part, Thailand is committed to the progressive development of the law in this regard at both the international and regional levels. Apart from co-sponsoring Resolution 76/300 at the UN General Assembly, Thailand has also been actively participating in the ASEAN human rights framework in negotiations towards a draft ASEAN Declaration on Environmental Rights.⁵ The right to CHASE is also mentioned in the current work plan of the ASEAN Intergovernmental Commission on Human Rights during 2021-2025.⁶ One of the expected outputs of this work plan is to implement obligations on the “right to a safe, clean and sustainable environment” already enshrined in the ASEAN Human Rights Declaration, adopted by all ASEAN countries including Thailand in 2012.⁷

4. Thailand submits that, as it stands, the right to CHASE is anchored upon and necessarily implied by other relevant existing human rights (**Section A**). That said, this right to CHASE is more than merely the sum of those rights. The legal content of that right is not only derived from those human rights, but also informed by international environmental law, including, for present purposes, the UN climate change treaties (**Section B**).

A. Relation between the right to a clean, healthy and sustainable environment and other relevant human rights

5. In Thailand’s view, as it stands, the right to CHASE is based upon, and necessarily implied by, other relevant existing human rights because the meaningful enjoyment of the latter presupposes the former.

6. To begin, to effectively enjoy the **right to the highest attainable standard of physical and mental health** requires an environment that is clean, healthy and sustainable. Article 12 of the International Covenant on Economic, Social and Cultural Rights (the “**ICESCR**”) expressly mentions “improvement of all aspects of environmental and industrial hygiene”. As the Committee on Economic, Social, and Cultural Rights observed, this demonstrates that “the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such

⁵ See draft ASEAN Declaration on Environmental Rights, draft as of 7 March 2024, AER WG/3M/03/Add.1.

⁶ Work Plan of the ASEAN Intergovernmental Commission on Human Rights (2021-2025), at p. 9. See also Vitit Muntarbhorn, “Reconfiguring Asean rights declaration”, *Bangkok Post*, 13 December 2024 (<https://www.bangkokpost.com/opinion/opinion/2919076/reconfiguring-asean-rights-declaration>).

⁷ ASEAN Declaration on Human Rights, 18 November 2012, Article 28 (f).

as [...] *a healthy environment*".⁸ This is also affirmed in the context of the right to health under the Rights of the Child Convention, Article 24 of which explicitly recognises "the dangers and risks of environmental pollution" and "hygiene and environmental sanitation".⁹

7. Similarly, to enjoy the **right to life** – "and in particular life with dignity"¹⁰ – a person must be able to live in a safe environment without any life-threatening harm, as the Human Rights Committee recognised.¹¹ This is supported by the Committee of the Rights of the Child in its General Comment on children's rights and the environment, with a special focus on climate change.¹²

8. Thus, the right to CHASE is crucial as it enables and is a precondition for these and other existing human rights under international law.

B. Content of the right to a clean, healthy and sustainable environment

9. In Thailand's view, the content of the right to CHASE is twofold. *First*, since the right to CHASE is based upon and implied by other existing human rights, it follows that its specific content can also be derived and implemented through existing human rights. *Second*, the content of the right to CHASE *as such* is also connected to other relevant rules of international law. In particular, in Resolution 76/300, the General Assembly unanimously "[a]ffirms that the

⁸ Committee on Economic, Social and Cultural Rights, General Comment No. 14 on the right to the highest attainable standard of physical and mental health, E/C.12/2000/4, at para. 4 (emphasis added). See also Committee on Economic, Social and Cultural Rights, General Comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, E/C.12/24, at para. 4. At the regional level, the ASEAN Human Rights Declaration recognises 'the right to an adequate standard of living for himself or herself and his or her family *including* [t]he right to a safe, clean and sustainable environment' (emphasis added).

⁹ Convention on the Rights of the Child, Articles 24(2)(c) and 24(2)(e). Also General Comment No. 26 (2023) on children's rights and the environment, with a special focus on climate change, CRC/C/GC/26, at paras. 9-10.

¹⁰ UN Human Rights Committee, General Comment 36, (2019) Article 6: right to life, CCPR/C/GC/36, at para. 62. See also UN Human Rights Committee, *Ioane Teitiota v New Zealand*, CCPR/C/127/D/2728/2016 (23 September 2020), at para.9.4; International Covenant on Civil and Political Rights, Preamble; Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Section 4.

¹¹ UN Human Rights Committee, General Comment 36, (2019) Article 6: right to life, CCPR/C/GC/36, para. 62 ("Environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life.").

¹² Committee on the Rights of the Child, General Comment No. 26 (2023) on children's rights and the environment, with a special focus on climate change, CRC/C/GC/26, at paras. 20-25.

promotion of the human right to [CHASE] *requires the full implementation of the multilateral environmental agreements under the principles of international environmental law*”.¹³

10. In other words, the right to CHASE is the key to systematically integrating (i) international human rights law with (ii) international environmental law and the climate change treaties. As set out below, both the (1) substantive and (2) procedural aspects of the right to CHASE are supplied by international human rights law, as informed by international environmental law and climate change treaties.

1. Substantive aspects

11. While the right to CHASE in general entails a number of substantive rights pertaining to clean air, safe and sufficient water, healthy and sustainably produced food, health ecosystems and biodiversity,¹⁴ Thailand focuses on a key component for the purposes of these advisory proceedings – a **safe climate**. Thailand concurs with other participants that the right to CHASE entails obligations to ensure the protection of the climate system from anthropogenic greenhouse gas emissions, in line with the obligation under customary international environmental law and the climate change treaties.

12. For instance, the Human Rights Committee’s General Comment No. 36 on the right to life reaffirms that respecting and ensuring the right to life “depend[], inter alia, on measures taken by States parties to preserve the environment and protect it against harm, pollution and climate change caused by public and private actors.”¹⁵ In other words, States have the obligations to (i) respect these substantive rights and to (ii) protect them from abuses by third-party actors including business enterprises, both of which are obligations of due diligence as

¹³ UNGA, The human right to a clean, healthy and sustainable environment, A/RES/76/300 (28 July 2022), operative para. 3 (emphasis added).

¹⁴ Inter-American Court of Human Rights, *Inhabitants of La Oroya v. Peru*, 2024, para. 118. See also annual thematic reports by the UN Special Rapporteur on the right to a clean, healthy and sustainable environment, A/74/161 (safe climate), A/75/161 (healthy ecosystems and biodiversity), A/76/179 (healthy and sustainably produced food), A/HRC/40/55 (clean air), A/HRC/46/28 (safe and sufficient water), and A/HRC/49/53 (non-toxic environments). In Thailand, the Clean Air Act, which is currently being deliberated in the Parliamentary Extraordinary Committee on the draft clean air act, aims to provide the legal frameworks for the State to manage and mitigate the transboundary air pollution, partly caused by burning crops, which could enable Thailand to meet the obligations under the right to clean air. (<https://www.parliament.go.th/view/297/%E0%B8%AB%E0%B8%99%E0%B9%89%E0%B8%B2%E0%B8%AB%E0%B8%A5%E0%B8%B1%E0%B8%81/TH-TH>).

¹⁵ UN Human Rights Committee, General Comments No. 36 on the right to life, CCPR/C/GC/36, at para. 6. See also UN Human Rights Committee, *Ioane Teitiota v New Zealand*, CCPR/C/127/D/2728/2016 (23 September 2020), at paras. 9.4-9.5.

Thailand detailed in its oral observations. States must additionally (iii) fulfil the right to CHASE especially through appropriate domestic legal frameworks. As the Committee on Economic, Social and Cultural Rights explained, while every State enjoys discretion in determining the most suitable measures for specific circumstances, the obligation under the ICESCR requires adoption of a national strategy, and States should consider a framework law to operationalise their right to health strategy.¹⁶

13. To illustrate how this translates into practice in the case of Thailand, since 1997, Thai constitutional law has expressly recognised the right of individuals and communities to manage, maintain and utilise the environment in a sustainable manner.¹⁷ The current Constitution (2017)¹⁸ further imposes specific obligations on the State, *inter alia*, to: (i) conserve, restore, manage, and use natural resources, the environment, and biodiversity in a sustainable and equitable manner;¹⁹ (ii) provide sufficient water resources; and (iii) promote alternative energy use and energy security.²⁰ These duties and their implementation are elaborated in Thailand’s Environmental Quality Management Plan.²¹ As regards the obligation to protect from abuses by business enterprises, Thailand has produced a National Action Plan on Business and Human Rights with specific reference to climate change since 2019.²² Taken together, they establish the substantive content of the right to CHASE in Thailand.

2. Procedural aspects

14. The other component of the normative contents of the right to CHASE is of a procedural nature. This includes, in particular, (i) the right to accurate and reliable environmental information, (ii) the right to participate in decision-making related to the environment, and (iii)

¹⁶ Committee on Economic, Social and Cultural Rights, General Comment No. 14 on the right to the highest attainable standard of physical and mental health, E/C.12/2000/4, at paras. 53-56.

¹⁷ The Constitution of the Kingdom of Thailand B.E. 2540 (1997), Sections 46, and 56. Also Supreme Administrative Court’s decision Red case No. Or. 743/2555 dated 16 November B.E. 2555 (2012) at p. 77; Songkhla Administrative Court’s decision Red case No. Sor 411/2557 dated 13 November 2557 (2014) at p. 55.

¹⁸ The Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Section 43(2).

¹⁹ The Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Section 57.

²⁰ The Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Section 72.

²¹ For the current Environmental Quality Management Plan prepared by the Ministry of Natural Resources and Environment, see <https://www.onep.go.th/ebook/spd/environment-plan-2566-2570.pdf>.

²² See section on “Action plan for community, land, natural resources and the environment”, in *National Action Plan on Business and Human Rights (2019-2022)*, p. 71 (<https://globalnaps.org/wp-content/uploads/2024/01/NAP-Thailand-2019-2022-English.pdf>).

the right to access to justice.²³ The corresponding obligations of States include (i) making environmental information public available;²⁴ (ii) ensuring meaningful participation of stakeholders in environmental decision-making;²⁵ and (iii) providing for timely and effective remedies to redress both foreseeable and actual harm.²⁶

15. In particular, Thailand invites the Court to consider access to remedies as a component of the access to justice under the right to CHASE.²⁷ This encompasses, *inter alia*, formal remedies (such as through the courts)²⁸ and non-formal ones (such as through mediation).²⁹

16. These procedural elements help ensure the effective implementation of the substantive elements. As Judge Nolte puts it (writing extrajudicially) in the context of the Paris Agreement, a “proper procedure may well lead to the solution of substantive problems”.³⁰ Meaningful participation in decision-making by informed stakeholders helps improve understanding of environmental problems, which in turn contributes to more effective solutions and better prevention of harm.³¹ At the same time, “effective remedies can result in more rights-

²³ United Nations Conference on Environment and Development, Rio Declaration on Environment and Development, UN doc. A/CONF.151/26 (Vol. I) (12 August 1992) Principles 10, 17; Committee on the Rights of the Child, General comment No. 26 (2023) on children’s rights and the environment, with a special focus on climate change, CRC/C/GC/26, at para. 33.

²⁴ Committee on the Rights of the Child, General Comment No. 26 (2023) on children’s rights and the environment, with a special focus on climate change, CRC/C/GC/26, at para. 33. See also International Covenant on Civil and Political Right, Article 19(2); UN Human Rights Committee, General Comment No. 34, Article 19: Freedoms of Opinion and Expression, CCPR/C/GC/34, at para. 19.

²⁵ Committee on the Rights of the Child, General Comment No. 26 (2023) on children’s rights and the environment, with a special focus on climate change, CRC/C/GC/26, at para. 27. See also International Covenant on Civil and Political Rights, Article 25(a).

²⁶ Committee on the Rights of the Child, General Comment No. 26 (2023) on children’s rights and the environment, with a special focus on climate change, CRC/C/GC/26, at para. 69.

²⁷ See Vitit Muntarbhorn, “Fight for the right to clean environment”, *Bangkok Post*, 11 September 2023.

²⁸ In the case of Thailand, see, e.g., “Recommendation of the President of the Supreme Administrative Court on Administrative Court Procedure Relating to Environmental Issues”, *Government Gazette*, vol. 128, part 54a, p. 18, 4 July B.E. 2554 (2011).

²⁹ In the case of Thailand, see, e.g., Sorawit Limparangsri, “Framework for Environmental Mediation in the Court of Justice of Thailand”, *Dunlaphaha* (https://dunlaphaha.coj.go.th/upload/2553/2/2553_2_a1.pdf).

³⁰ Georg Nolte, “Treaties and their Practice—Symptoms of the Rise or Decline” (2018) 392 *Collected Courses of the Hague Academy of International Law*, p. 205, at p. 329. See also Jutta Brunnée, “Procedure and Substance in International Environmental Law” (2020) 405 *Collected Courses of the Hague Academy of International Law*, p. 75, at pp. 193-221.

³¹ Committee on the Rights of the Child, General Comment No. 26 (2023) on children’s rights and the environment, with a special focus on climate change, CRC/C/GC/26, at para. 26. See also John Knox, “Frameworks Principles on Human Rights and the Environment”, at pp. 11-14 (<https://www.ohchr.org/sites/default/files/Documents/Issues/Environment/SREnvironment/FrameworkPrinciplesUserFriendlyVersion.pdf>); Patricia Birnie, Alan Boyle, and Catherine Redgwell, *International Law and the Environment* (3rd edn, Oxford University Press, 2009) at pp. 288-289.

compliant, and therefore more ambitious and effective, environmental policies”.³² Thus, Thailand submits that the right to CHASE can only be fully realised when both these procedural and substantive rights are implemented holistically.³³

17. This interpretation of the procedural aspect of the right to CHASE and the corresponding obligations is consistent with the Thai Constitution, as well as the Thai Enhancement and Conservation of National Environmental Quality Act B.E. 2535 (1992) and relevant laws. They provide *expressis verbis* for the rights and liberties for both individual and community to: (i) public participation including environmental impact assessment and public hearing;³⁴ (ii) access to environmental information;³⁵ and (iii) access to justice,³⁶ including the right to compensation and remedies for loss, injury, or damage suffered by pollution or environmental damage.³⁷

18. The Thai Climate Change Bill would possibly implement several procedural elements of the right to a CHASE in the context of climate change, including: (i) the right to be notified and supported by the government for climate adaptation; (ii) the right to access environmental information, such as data on greenhouse gas emissions and climate change risk assessments; (iii) the right to financial support through the Thai Climate Fund; and (iv) the right to participate in relevant decision-making processes.³⁸

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³² Committee on the Rights of the Child, General Comment No. 26 (2023) on children’s rights and the environment, with a special focus on climate change, CRC/C/GC/26, at para. 8. See also John Knox, “Frameworks Principles on Human Rights and the Environment”, at p. 15 (<https://www.ohchr.org/sites/default/files/Documents/Issues/Environment/SREnvironment/FrameworkPrincipleUserFriendlyVersion.pdf>).

³³ Overview of the implementation of the human right to a clean, healthy and sustainable environment, A/79/270, at para. 38.

³⁴ Constitution of the Kingdom of Thailand B.E. 2560 (2017), Section 58, para. 1; Enhancement and Conservation of National Environmental Quality Act B.E. 2535 (1992) (ECNEQ Act), Section 48; Regulation of the Office of the Prime Minister on Public Hearing B.E. 2548 (2005).

³⁵ Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Sections 58, para. 2, and 59; ECNEQ Act, Section 6(1). See also Official Information Act, B.E. 2540 (1997).

³⁶ Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Section 58, para. 3.

³⁷ ECNEQ Act, Sections 6(2), 96, and 97.

³⁸ Thai Climate Change Bill (https://law.go.th/listeningDetail?survey_id=NDU5OURHQV9MQVdfRIJPTIRFTkQ=).

19. In summary, Thailand submits that the right to CHASE is necessarily implied by existing human rights, whose substantive and procedural content is supplied by international human rights law as well as informed by international environmental law, including climate change treaties.

II. 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?”

20. Thailand notes that five and nine States made declarations referred to in this Question upon becoming parties to the UNFCCC³⁹ and the Paris Agreement⁴⁰ respectively (collectively, the “**Declarations**”), to which there was no known opposition in the United Nations Treaty Collection. In Thailand’s view, these Declarations constitute “interpretative declarations” under international law, as they were unilaterally made by each author State “whereby that State ... purports to specify or clarify the meaning or scope of a treaty”,⁴¹ specifically on how the UNFCCC and the Paris Agreement should be interpreted.

21. While Thailand is in principle aligned with the *interpretation* set out in the Declarations,⁴² that is distinct from their *legal significance*. In Thailand’s view, generally, a State’s unilateral declaration is not in and of itself binding on other States. Whereas each and every State, by virtue of its sovereignty, may issue an interpretative declaration, imposition of an interpretation by one State on other States will violate the principle of sovereign equality. As a consequence, the legal significance of an interpretative declaration made upon becoming party to the treaty essentially depends on acceptance of the other parties. If it is “accepted by the other parties as an instrument related to the treaty”, it will form part of the “context” for the purpose of treaty interpretation under Article 31(2)(b) of the Vienna Convention on the Law of Treaties (the “**VCLT**”). Absent such acceptance, the declaration will not constitute any of

³⁹ See the declarations by Fiji, Kiribati, Nauru, Papua New Guinea, and Tuvalu. (https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXVII-7&chapter=27&Temp=mtdsg3&clang=_en).

⁴⁰ See the declarations by Cooks Islands, Marshall Islands, Micronesia, Nauru, Niue, the Philippines, Solomon Islands, Tuvalu, and Vanuatu. (https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=xxvii-7-d&chapter=27&clang=_en).

⁴¹ International Law Commission, “Text of the Guidelines Constituting the Guide to Practice, followed by an Annex on the Reservations Dialogue” (2011) *Yearbook of the International Law Commission* (Volume II, Part Three), p. 23, at p. 23 (Guideline 1.2).

⁴² CR 2024/51, p. 14, para. 15 (Tang) (“the United Nations climate change treaty régime neither ‘modifies [nor] limits the obligation’ under the law of the sea, international environmental law and international human rights law”). See also Written Statement of Thailand, at paras. 3-5, and 29-31.

the elements under the general rule of interpretation enumerated in Article 31 of the VCLT – nor, for that matter, a supplementary means of interpretation under Article 32.⁴³

22. In Thailand’s understanding, there is no indication that the Declarations were accepted by *all* Parties to the UNFCCC or the Paris Agreement. The authors of the Declarations have arguably accepted the Declarations among themselves to the extent that their respective interpretative declarations coincide, but the United Nations Treaty Collection does not contain any statements of acceptance by other Parties. Silence on the part of the other Parties cannot, in general, be construed as acquiescence in this context, since there is no legal duty to respond to interpretative declarations.⁴⁴ Consequently, the Declarations do not constitute “context” or any other elements under Articles 31 or 32 of the VCLT.

23. Nevertheless, the Court may still consider such interpretative declarations to support the meaning resulting from applying principles of treaty interpretation as codified in Articles 31 and 32 of the VCLT. In *Romania v Ukraine*, the Court held that “Romania’s declaration as such has no bearing on the Court’s interpretation”.⁴⁵ The International Law Commission has interpreted the expression “as such” to mean that interpretative declarations may still be relied on “as a means of proof or an element that might corroborate the Court’s interpretation in accordance with Article 31 of the Vienna Convention on the Law of Treaties”.⁴⁶

24. Here, Thailand submits that the Declarations may be used to corroborate the interpretation of the UNFCCC and the Paris Agreement resulting from applying the principles of treaty interpretation under Articles 31-32 of the VCLT. In particular, the Declarations have probative value, insofar as they evince contemporaneous understanding and intention of the

⁴³ International Law Commission, “Text of the Guide to Practice, Comprising an Introduction, the Guidelines and Commentaries thereto, An Annex on the Reservations Dialogue and a Bibliography” (2011) *Yearbook of the International Law Commission* (Volume II, Part Three), p. 35, at p. 322, para. 24 (Commentary to Guideline 4.7.1).

⁴⁴ International Law Commission, “Text of the Guidelines Constituting the Guide to Practice, followed by an Annex on the Reservations Dialogue” (2011) *Yearbook of the International Law Commission* (Volume II, Part Three), p. 23, at p. 29 (Guideline 2.9.9). See also Richard Gardiner, *Treaty Interpretation* (2nd edn, Oxford University Press, 2015) at p. 102. In these Written Replies, Thailand does not consider the fact-specific scenarios which acquiescence, estoppel, or detrimental reliance may apply.

⁴⁵ *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, Judgment, *I.C.J. Reports 2009*, p. 61, at para. 42.

⁴⁶ International Law Commission, “Text of the Guide to Practice, Comprising an Introduction, the Guidelines and Commentaries thereto, An Annex on the Reservations Dialogue and a Bibliography” (2011) *Yearbook of the International Law Commission* (Volume II, Part Three), p. 35, at p. 323, para. 28 (Commentary to Guideline 4.7.1). As regards the interpretation recognising obligations by a State, see *International Status of South West Africa, Advisory Opinion*, *I.C.J. Reports 1950*, p. 128, at pp. 135-136.

author States and may reflect their long-standing and consistent position on the matter.⁴⁷ In other words, they were not formulated specifically for the purposes of these proceedings. This is in contrast to those participants who now argue that the UN climate change treaties constitute *lex specialis*, but had neither opposed the Declarations nor clarified their own understanding in interpretative declarations upon becoming parties to these treaties.

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25. In summary, Thailand submits that the Declarations constitute interpretative declarations under international law, which may be considered to corroborate the meaning resulting from application of principles under Articles 31 and 32 of the VCLT. In Thailand's view, the Declarations are aligned with the correct interpretation that the climate change treaties do not constitute *lex specialis* derogating the application of rules of general international law.

⁴⁷ See also Andrea Bianchi and Fuad Zarbiyev, *Demystifying Treaty Interpretation* (Cambridge University Press, 2024) at p. 241 (“In any event, such a statement could at least serve as evidence of the intention of the issuing state.”).