

# *The ICJ's application of customary international law to climate change mitigation*

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# The ICJ's application of customary international law to climate change mitigation

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## Abstract

**This analysis of the Advisory Opinion of the International Court of Justice (ICJ) on climate change focuses on the application of customary international law. The ICJ identifies a customary duty to prevent significant harm to the climate system and some more specific obligations. It notes that these rules apply to every State, irrespective of their participation in climate treaties. What remains less clear, however, is the content of the duty of prevention and, more pragmatically, how courts could assess compliance with this duty. This analysis interprets the Advisory Opinion as suggesting that courts could rely on a set of indicia to determine whether, as a whole, a State is making efforts consistent with customary international law.**

**Keywords** climate change mitigation, international court of justice, advisory opinion, customary international law, duty of prevention, climate treaties

## 1. Introduction

Beside climate treaties, customary international law is at the core of the Advisory Opinion of the International Court of Justice (ICJ) on the Obligations of States in Respect of Climate Change.<sup>1</sup> The Court rejects the view that climate treaties constitute *lex specialis* preventing the application of other relevant norms of international law,<sup>2</sup> finding that climate treaties display neither any 'actual inconsistency ... [with] other rules and principles of international law' nor 'a discernible intention of the parties to the climate change treaties to displace

<sup>1</sup> *Obligations of States in Respect of Climate Change* (Advisory Opinion) 23 July 2025 [*Obligations of States*], [131]–[142], [271]–[315].

<sup>2</sup> See eg written statement by the Organization of Petroleum Exporting Countries (OPEC) (19 March 2024) in *Obligations of States* (n 1) [62]–[63]; see also Alexander Zahar, 'The Nature of Climate Law' (2023) 35 JEL 295, 303.

[such] rules or principles'.<sup>3</sup> As such, the Court finds that treaty and customary obligations on climate change 'retain a separate existence'<sup>4</sup> and should be interpreted consistently.<sup>5</sup> The Court identifies several customary international law obligations applicable in relation to climate change mitigation, in particular a cornerstone obligation: the 'duty to prevent significant harm to the climate system'<sup>6</sup> (in short: a duty of prevention).

An obvious implication of the identification of customary international law to climate change is that relevant obligations 'appl[y] to all States',<sup>7</sup> irrespective of their participation in climate treaties—which is particularly relevant following the United States' decision to withdraw from the Paris Agreement again. Yet another likely implication is that parties to climate treaties must do more than what these treaties specifically require from them. Yet the Advisory Opinion provides little clarity on this question or, generally, on the content of the relevant rules of customary international law. The Court emphasizes that a 'stringent' standard of due diligence is associated with the duty of prevention<sup>8</sup> and that the content of this duty 'should be determined objectively',<sup>9</sup> although it does not clearly indicate any concrete method to determine whether a State has complied with this duty. This analysis argues that, between the lines, the Court hints at the possibility of determining a State's compliance with its duty of prevention based on an overall assessment of a set of indicia—a method that could be used in subsequent contentious cases before international or domestic courts.

The next section takes stock of the obligations that the ICJ identifies under customary international law. Section 3 reflects the Court's characterization of the duty of prevention as an obligation of conduct. Section 4 considers how the content of this duty could be determined. Section 5 discusses how compliance with this duty relates to compliance with climate treaties. Section 6 considers what this duty implies for sectoral policies, in particular in the fossil fuel sector.

## 2. The identification of rules of customary international law

The Advisory Opinion identifies two customary international law 'duties' and several related 'obligations'. The first duty, mentioned above, is the duty of prevention,<sup>10</sup> which the court presents as 'the most significant primary obligation for States in relation to climate change'.<sup>11</sup> The Court identifies this duty by deduction from more general obligations that it and other courts have identified in previous cases, including the obligations of a State 'not to allow knowingly its territory to be used for acts contrary to the rights of other States'<sup>12</sup> and 'to ensure that activities within [its] jurisdiction and control respect the environment of other States and of areas beyond national control'.<sup>13</sup> As 'the climate system ... is an

3 *Obligations of States* (n 1) [168]–[171]. See also Benoit Mayer, *International Law Obligations on Climate Change Mitigation* (OUP 2022) 115–19; 'Climate Change Mitigation as an Obligation under Customary International Law' (2023) 48 *YJIL* 105, [113]–[119].

4 *Obligations of States* (n 1) [310].

5 *ibid* [313].

6 *ibid* [279].

7 *ibid* [409].

8 *ibid* [138].

9 *Obligations of States* (n 1) [300]; see also Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law Advisory Opinion, ITLOS, 21 May 2024 [COSIS], [257].

10 *ibid* [272].

11 *ibid* [409].

12 *Corfu Channel (UK v Albania)* (Judgment) [1949] ICJ Rep 4 [22].

13 *Legality of the Threat or Use of Nuclear Weapons* (Advisory Opinion) [1996] ICJ Rep 226, [29]. See *Obligations of States* (n 1) [272]. The Court also cites *Trail Smelter (US v Canada)* (1941) 3 *RIAA* 1938, 1965; *Pulp Mills on the River Uruguay (Argentina v Uruguay)* (Judgment) [2010] ICJ Rep 14 [101]; *Certain Activities*

integral and vitally important part of the environment and ... must be protected for present and future generations',<sup>14</sup> the Court reasons, the general 'duty to prevent significant harm to the environment also applies to the climate system'.<sup>15</sup>

The second, related duty identified by the Court is 'the duty of States to co-operate for the protection of the environment'.<sup>16</sup> Here again, the Court relies on previous decisions that identified a similar duty 'in the context of a resource shared by a limited number of States' (eg a watercourse) as 'an important complement to the substantive obligations' on the prevention of significant environmental harm.<sup>17</sup> This duty of cooperation applies *a fortiori* 'to the climate system, which is a resource shared by all States'.<sup>18</sup> The Court observes that this duty 'is intrinsically linked to the duty to prevent significant harm to the environment, because uncoordinated individual efforts by States may not lead to a meaningful result'.<sup>19</sup>

The Court identifies other obligations as implications of the duty of prevention and previous judicial decisions, including an obligation to take 'appropriate rules and measures'—in particular, 'to regulate the conduct of public and private operators within the States' jurisdiction or control'—and to implement 'effective enforcement and monitoring mechanisms to ensure their implementation'.<sup>20</sup> The Court also notes the need for States 'to actively pursue the scientific information necessary for them to assess the probability and seriousness of harm'.<sup>21</sup> And the Court suggests that the duty of prevention may imply a requirement to carry out environmental impact assessments (EIAs)<sup>22</sup> and an obligation of 'notification and consultation',<sup>23</sup> although it acknowledges that 'certain features' of climate change 'may affect the appropriateness of certain forms of environmental risk assessment'.<sup>24</sup>

### 3. Prevention as an obligation of conduct

The Court approaches the duty of prevention as an obligation of conduct (or due diligence), which the Court describes as an obligation for States to 'use their best efforts', in contrast to an obligation of result, which would require a State to 'bring about a particular result'.<sup>25</sup> Accordingly, States must 'act ... with due diligence',<sup>26</sup> including by taking 'appropriate' measures.<sup>27</sup> This characterization of the duty of prevention is consistent with previous decisions<sup>28</sup> and the climate law literature.<sup>29</sup> As the Court points out, characterizing the duty of

*Carried Out by Nicaragua in the Border Area (Costa Rica v Nicaragua) and Construction of a Road in Costa Rica along the San Juan River (Nicaragua v Costa Rica)* (Judgment) [2015] ICJ Rep 665 [104].

14 *Obligations of States* (n 1) [273].

15 *ibid.*

16 *ibid* [301].

17 *ibid* [301], citing *Dispute over the Status and Use of the Waters of the Silala (Chile v Bolivia)* (Judgment) [2022] ICJ Rep 614, [101]; *Pulp Mills* (n 13) [81].

18 *Obligations of States* (n 1) [302].

19 *ibid* [141].

20 *ibid* [282].

21 *ibid* [283].

22 *Obligations of States* (n 1) [297].

23 *ibid* [299].

24 *ibid* [298]; see generally Benoit Mayer, *Environmental Assessment as a Tool for Climate Change Mitigation* (OUP 2024) 84–90 et passim.

25 *Obligations of States* (n 1) [203].

26 *ibid* [280].

27 *ibid* [282].

28 *Pulp Mills* (n 13) [101], [204]; *Certain activities* (n 13) [104]; *Responsibilities and Obligations of States with respect to Activities in the Area* (Advisory Opinion) [2011] ITLOS Reports 10, [110]; Request for Advisory Opinion by the Sub-Regional Fisheries Commission (Advisory Opinion) [2015] ITLOS Reports 4, [125]; *South China Sea (Philippines v China)* (2016) 170 ILR 1, [944]; COSIS (n 9) [396].

29 Mayer, *International Law Obligations on Climate Change Mitigation* (n 3) 189–91; Benoit Mayer, 'Obligations of Conduct in the International Law on Climate Change: A Defence' (2018) 27 RECIEL 130, 132–34.

prevention as an obligation of conduct does not make it any less binding or necessarily any less demanding.<sup>30</sup> by definition, ‘all obligations... are legally binding... regardless of whether the obligation in question is one of result or one of conduct’.<sup>31</sup> A State can be held responsible for the breach of its duty of prevention if it ‘fails to take all measures which were within its power to prevent the significant harm’.<sup>32</sup>

A difficulty in applying an obligation of conduct is to assess the adequacy of a State’s efforts. What measures are ‘within the power’ of a State, or what constitutes its ‘best efforts’ (or even ‘highest possible ambition’,<sup>33</sup> in the terms of the Paris Agreement), depend on multiple national circumstances, including economic, social, political, geographic, demographic, and technological constraints, among other things. Nonetheless, the Court is certainly right to note that the content of the duty of prevention ‘should be determined objectively’<sup>34</sup>—the very existence of a legal obligation arguably implies that compliance can be assessed objectively. Yet, as the Court acknowledges, ‘[t]he determination of what is required by due diligence ultimately calls for an assessment *in concreto* of what is reasonable under the specific circumstances in which a State finds itself’,<sup>35</sup> and this assessment ‘may be a complex operation’.<sup>36</sup>

The Court provides limited guidance on how this assessment could be carried out, leaving more detailed finding for hypothetical future contentious proceedings. The court asserts that the standard of due diligence applicable in relation to the duty of prevention is a ‘stringent’ one,<sup>37</sup> on the ground that climate change poses a risk ‘to all States’ and ‘of a general and urgent character’.<sup>38</sup> It acknowledges that ‘the capabilities of a State are a key factor, as reflected in the principle of common but differentiated responsibilities and respective capabilities, for the determination of the applicable standard of due diligence’.<sup>39</sup> Judge Xue further emphasizes that ‘[d]omestic situations differ considerably, especially between the developed and developing worlds’.<sup>40</sup> On the other hand, Judges Bhandari and Cleveland highlight that differentiation criteria ‘do... not exempt any State from measures that are necessary, consistent with their capabilities and national circumstances, to fulfil... stringent due diligence obligations’.<sup>41</sup> These general statements largely reflect principles embedded in climate treaties,<sup>42</sup> but, like climate treaties, they do not define a complete formula to determine what precisely can be expected from a given State or even how an ‘assessment *in concreto*’ could be carried out, thus potentially fuelling opposite political arguments in ways that could impede international negotiations.<sup>43</sup>

30 See eg Mayer, *International Law Obligations on Climate Change Mitigation* (n 3) 198–204; COSIS (n 9) [257].

31 *Obligations of States* (n 1) [207].

32 *ibid* [409].

33 Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016) 3156 UNTS 79, art 4(3).

34 *Obligations of States* (n 1) [300]. See also COSIS (n 9) [257].

35 *Obligations of States* (n 1) [137], citing *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia v Serbia)* (Judgment) (2007) ICJ Rep 221, [430].

36 *Obligations of States* (n 1) [300].

37 *ibid* [138].

38 *ibid* [137].

39 *ibid* [290].

40 *ibid*, Separate Opinion Judge Xue [46].

41 *ibid*, Joint Declaration of Judges Bhandari and Cleveland [27].

42 See eg United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 21 March 1994) 1771 UNTS 107, art 3(1); Paris Agreement (n 33) art 4(3).

43 Benoit Mayer, ‘Advisory Proceedings on Climate Change: Pushing International Justice to the Edge’, German Yearbook of International Law (forthcoming), section III.B.

#### 4. The content of the duty of prevention

One way of assessing the content of the duty of prevention is to assess whether the State is doing its ‘fair share’<sup>44</sup> in global efforts to mitigate climate change. In *Urgenda*, the Supreme Court of the Netherlands held that the national government had to achieve a 25 per cent emission reduction target by 2020, compared with 1990, to comply with international human rights law, which the Court interpreted in the light of customary international law.<sup>45</sup> Yet few courts have followed *Urgenda*; most have been concerned that imposing an emission-reduction target on the government exceeded the scope of judicial functions or the capacity of a court to conduct complex arbitrages between climate and other policy priorities.<sup>46</sup> Similarly, the Advisory Opinion does not suggest that an international court or tribunal should determine a State’s fair share in global efforts on climate change mitigation. To the contrary, Judge Nolte rejects the possibility of deriving ‘fixed quantitative mitigation obligations ... from [a State’s] general customary duty alone’,<sup>47</sup> as doing so would require courts ‘to engage in climate policy’.<sup>48</sup>

Rather, the Advisory Opinion provides support for another way through which courts could assess compliance with the duty of prevention. It suggests that a court could review the adequacy of a State’s climate action by relying on the State’s own determination of what constitutes its fair share, with a focus on internal consistency in the State’s conduct, and by assessing compliance with more specific obligations and standards related to the mitigation of climate change. Thus, the Court suggests that ‘relevant elements, individually and in combination, provide guidance for the identification of an appropriate standard of conduct for different situations’.<sup>49</sup> One element underlying this approach is the Court’s insistence on the ‘functional link’ between different rules of customary international law and their ‘mutually supportive’ nature,<sup>50</sup> which suggests that the breach of a specific obligation could be viewed as suggesting a breach of the general duty of prevention. In particular, the Court notes that ‘[t]he duty to exercise due diligence in preventing significant harm to the environment requires States to take not only substantive measures, but also certain procedural steps’,<sup>51</sup> such as, potentially, imposing an EIA requirement on relevant activities.<sup>52</sup>

What the ICJ seems to be hinting at, is a set of indicia to determine whether, as a whole, a State is acting with due diligence.<sup>53</sup> This set-of-indica approach is based on the expectation that a State exercising due diligence will take certain steps to fulfil this obligation. Any repeated failure to take such steps would then justify a rebuttable presumption that the State is not exercising due diligence. In relation to the duty of prevention, a State could be expected to reflect global goals through long-term national strategies and medium-term targets, and pursuing such targets through adequate policies and consistent measures. Relevant indicia could include the performance of specific treaty or customary obligations (eg the EIA requirement), but also the implementation of what the Court refers to as ‘non-binding

44 See eg Lavany Rajamani and others, ‘National “Fair Shares” in Reducing Greenhouse Gas Emissions within the Principled Framework of International Environmental Law’ (2021) 21 Climate Policy 983.

45 *Urgenda v the Netherlands* (Supreme Court, 20 December 2019) ECLI:NL:HR:2019:2007, (2020) 59 ILM 811.

46 Benoit Mayer, ‘Prompting Climate Change Mitigation through Litigation’ (2023) 72 ICLQ 233.

47 *Obligations of States* (n 1) Declaration of Judge Nolte [12].

48 *ibid*, Declaration of Judge Nolte [13].

49 *ibid* [300].

50 *Obligations of States* (n 1) [289], citing *Pulp Mills* (n 13) [79].

51 *Obligations of States* (n 1) [295].

52 *ibid* [298]. See also *ibid*, Joint Declaration of Judges Bhandari and Cleveland [15].

53 See Mayer, *International Law Obligations on Climate Change Mitigation* (n 3) 206–226; Benoit Mayer, ‘The Pitfalls of Ineffective Conceptualization: The Case of the Distinction between Procedure and Substance’ (2022) 33 EJIL 1307, 1320–25.

norms’,<sup>54</sup> namely standards that are the logical implications of due diligence (eg ‘[t]ransitioning away from fossil fuels in energy systems’).<sup>55</sup> A State which falls short of these standards would not, therefore, be acting with due diligence. The European Court of Human Rights applied a similar approach in *Verein KlimaSeniorinnen v Switzerland*.<sup>56</sup> In assessing whether Switzerland had complied with its obligations under Article 8 of the European Convention of Human Rights, to protect the private and family life of the applicants, the Court relied on several ‘critical lacunae’ in the conduct of Switzerland to indicate that, as a whole, the State was not complying with its obligation.<sup>57</sup>

## 5. Links with climate treaties

When applying a set-of-indicia method to assess a State’s compliance with the duty of prevention, many relevant indicia will naturally relate to the implementation of climate treaties. In particular, these treaties invite the adoption of long-term low greenhouse gas (GHG) emission development strategies,<sup>58</sup> require the adoption of nationally determined contributions (NDCs),<sup>59</sup> prescribe that these NDCs will reflect the Party’s ‘highest possible ambition’ and represent a progression beyond the party’s previous NDC,<sup>60</sup> and require parties ‘to act with due diligence in taking necessary measures to achieve the objectives set out in their ... NDCs’.<sup>61</sup> They also call upon parties to provide financial and technical support and capacity-building<sup>62</sup> and require them to communicate national GHG inventories and information on national action and support provided or received.<sup>63</sup>

In this regard, a thorny issue concerns the weight of compliance with climate treaties in the assessment of compliance with the customary duty of prevention. The Court remained ambivalent when finding that ‘compliance in full and in good faith by a State with the climate change treaties ... suggests that this State *substantially* complies with the general customary duties to prevent significant environmental harm and to co-operate’.<sup>64</sup> On the other hand, the Court found that a State that does not participate in climate treaties or cooperate with other States in an ‘equivalent’ way would bear ‘the full burden of demonstrating that its policies and practices are in conformity with its customary obligations’.<sup>65</sup> These remarks support Judge Nolte’s view that climate treaties ‘guide the determination of the content and the application’ of, and ‘give substance to[, ] general customary obligations’.<sup>66</sup>

Crucially, the Court rejects the view that ‘customary obligations would be fulfilled simply by States complying with their obligations under the climate change treaties’.<sup>67</sup> Addressing the specific customary duty of cooperation, the Court suggests that States should consider the need to negotiate ‘further treaty-based obligations’<sup>68</sup> and to define ‘concrete emission

54 *Obligations of States* (n 1) [287], citing *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)* (Judgment) [1997] ICJ Rep 7 [140].

55 Decision 1/CMA.5, ‘Outcome of the first global stocktake’ (13 December 2023) UN Doc FCCC/PA/CMA/2023/16/Add.1, 2, [28(d)].

56 *Verein KlimaSeniorinnen v Switzerland* (ECtHR, 9 April 2024) Application No 53600/20, [551].

57 *ibid* [573].

58 Paris Agreement (n 33) art 4(19).

59 *ibid* art 4(2).

60 *ibid* art 4(3); *Obligations of States* (n 1) [240].

61 *Obligations of States* (n 1) [252], interpreting Paris Agreement (n 33) art 4(2).

62 UNFCCC (n 42) art 4(3)–(5); Paris Agreement (n 33) arts 9–11; *Obligations of States* (n 1) [217], [264]–[267].

63 UNFCCC (n 42) art 4(1)(a), 12; Paris Agreement (n 33) art 13; *Obligations of States* (n 1) [202]–[203]

64 *Obligations of States* (n 1) [314] (emphasis added).

65 *ibid* [315].

66 *ibid*, Declaration Judge Nolte [8].

67 *ibid* [315].

68 *ibid* [307].

reduction targets or a methodology for determining contributions of individual States'.<sup>69</sup> Beyond that, Judges Charlesworth, Brant, Cleveland, and Aurescu argued that 'a State's compliance with its commitments under the climate change treaties does not automatically imply or presume compliance with its customary obligations in relation to climate change mitigation'.<sup>70</sup> Whether this view is convincing depends largely on how one interprets the Paris Agreement. As Judge Tladi notes, '[a]pplying a stringent standard of due diligence requires the setting of NDCs which are sufficiently high so as to be capable of contributing to the achievement of the object and purpose of the Paris Agreement'.<sup>71</sup> If this and other requirements are already embedded in the Paris Agreement—as the ICJ suggests<sup>72</sup>—a State fully complying with its treaty commitments would likely also be complying with its customary duty of prevention.

## 6. Implications for sectoral policies

The Court also discusses the implications of the duty of prevention for particular sectors and activities, with a particular emphasis on the fossil fuel sector.<sup>73</sup> Specifically, the Court notes that '[f]ailure of a State to take appropriate action to protect the climate system from GHG emissions—including through fossil fuel production, fossil fuel consumption, the granting of fossil fuel exploration licences or the provision of fossil fuel subsidies—may constitute an internationally wrongful act which is attributable to that State'.<sup>74</sup> The Court did not find that these activities are, *per se*, a breach of international law.<sup>75</sup> Indeed, no treaty obligation rules out such activities, and general State practice does not suggest that the production or consumption of fossil fuels is unlawful. Rather, the Court seems to be suggesting that a State's failure to take such measures could be a relevant element as part of an overall assessment of a State's compliance with its general obligation on climate change mitigation.

Some judges supported a stronger approach to regulating the fossil fuel sector. In particular, Judges Bhandari and Cleveland argued more forcefully against fossil fuels, finding 'it ... unimaginable that States can achieve ... their obligation to prevent significant harm to the environment under customary international law without a rapid and drastic reduction in—and the phasing out of—fossil fuel production and dependency'.<sup>76</sup> Judge Yusuf similarly singled out 'regulations of fossil fuel production, fossil fuel consumption and the granting of subsidies or exploration licenses for fossil fuels' among possible evidence of 'appropriate action to protect the climate system'.<sup>77</sup>

It is obvious that climate policies should generally address the fossil fuel sector, but it is also important for States to consider sources of emission that are not related to fossil fuels (eg deforestation, agriculture, waste, and some industrial processes), which represent about a third of GHG emissions on a global scale,<sup>78</sup> and considerably more in some countries.<sup>79</sup>

69 *ibid* [305].

70 *ibid*, Joint Declaration of Judges Charlesworth, Brant, Cleveland, and Aurescu [10].

71 *Obligations of States* (n 1) Declaration of Judge Tladi [23].

72 See *ibid* [230]–[254], [260]–[267].

73 For an analysis of the implications of the Advisory Opinion for the fossil fuel sector, see: Oliver Hailes, 'Fossil Fuel Abolition in International Law and Arbitration' (2026) 00 *Journal of Environmental Law* x.

74 *Obligations of States* (n 1) [427].

75 *ibid* [427].

76 *ibid*, Joint Declaration Judges Bhandari and Cleveland [1].

77 *ibid*, Separate Opinion Judge Yusuf [40].

78 See *Obligations of States* (n 1) [81].

79 Non fossil fuel related emissions represent more than half of territorial emissions in about two dozen countries, including least-developed countries (eg Ethiopia, Mauritania, and Myanmar) and other lower-middle income economies (eg Cambodia, Nicaragua, and Pakistan) with low emission levels, but also richer countries with high levels of GHG emissions in absolute terms (eg Argentina and Brazil) or on a per capita basis

Judge Cleveland does emphasize that '[p]reserving and enhancing carbon sinks', such as forests, is 'essential to the fulfilment' of the duty of prevention.<sup>80</sup> She also sheds light on 'the significant contributions of armed conflicts and other military activities'.<sup>81</sup> Various other sources of emissions are not mentioned by the Court or its members—including from ozone-depleting substances and their substitutes, meat production, rice cultivation, cement production, and landfilling—although they may also be critical components of national policies and measures on the mitigation of climate change. Rather than singling out one or several sectors, an overall assessment of a State's compliance with its customary obligation on climate change mitigation should consider how a State addresses key categories of emissions by sources and removals by sinks within its territory and control.

## 7. Conclusion

The ICJ's Advisory Opinion on climate change confirms that customary international law is an important source of obligations of States on the mitigation of climate change. It identifies the duty to prevent significant harm to the climate system as a central obligation, which requires States to exercise their best efforts to mitigate climate change. Yet the judges struggle to articulate the contents of this obligation in clear and specific terms, leaving this difficult task for any future contentious proceedings. Surely, a court could assess compliance with the duty of prevention by relying on a set of indicia: a State could be presumed to be in breach of this duty based on critical lacunae in its efforts to mitigate climate change. Yet there remain many questions as to what indicia to use and how much weight to give, for instance, to the implementation of procedural treaty commitments (eg to report information) or to implementation of sectoral standards (eg phasing out fossil fuel subsidies). Future national and international court decisions will likely have opportunities to explore this question further in the coming years.

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(eg Ireland, New Zealand, and Uruguay). See Monica Crippa and others, *GHG Emissions of All World Countries—2025 Report* (Publications Office of the European Union 2025).

<sup>80</sup> *Obligations of States* (n 1) Declaration Judge Cleveland [10].

<sup>81</sup> *ibid*, Declaration Judge Cleveland [18].