

INTERNATIONAL COURT OF JUSTICE

ADVISORY PROCEEDINGS CONCERNING
OBLIGATIONS OF STATES IN RESPECT OF CLIMATE CHANGE

ORAL OBSERVATIONS BY THE PRINCIPALITY OF LIECHTENSTEIN

CHECK AGAINST DELIVERY

6 DECEMBER 2024

1. Mister President, Members of the Court, it is a great honor and privilege to appear before this Court on behalf of the Principality of Liechtenstein in these historic proceedings.
2. The matter of jurisdiction has been extensively briefed, both in the written phase of these proceedings and in the oral presentations we have heard throughout this week. As a result, Liechtenstein wishes only to briefly affirm that there are no compelling reasons for the Court to decline to exercise its advisory jurisdiction in these proceedings and it directs the Court to its written submission on the matter.
3. In fact, there is ample reason for the Court to deliver an Advisory Opinion in these circumstances. 91 States and international organizations have participated in the written proceedings – the highest number to date in advisory proceedings before the Court. More than 100 States and international organizations are giving their oral presentations here in the Great Hall of Justice. This unprecedented level of participation is a testament to the universal and far-reaching consequences of the issue of climate change and the urgent need for the Court’s guidance. An advisory opinion on the issue of climate change will also be of great assistance to the UN General Assembly and other UN bodies, which will continue to contend with climate change as they discharge their functions.
4. Liechtenstein is confident that this Court is equipped with substantial scientific evidence and a wide-ranging dossier of submissions from a diverse collection of States. It is well-positioned to deliver this advisory opinion, and to offer its authoritative guidance on one of the defining challenges of our time. It is the sincere hope of the Principality of Liechtenstein that it will do so.

5. Therefore, my main task today is to address the salient elements of Liechtenstein's Written Statement. I will focus my observations on the following six points:
- a. First, Liechtenstein's motivation for participating in this hearing and a brief reflection on our country's role in the initiative to request this Advisory Opinion from the Court;
 - b. Second, the undisputed scientific evidence that human made greenhouse gas emissions have caused global warming;
 - c. Third, why the right to self-determination must be interpreted to cover the threats and challenges posed by climate change;
 - d. Fourth, the potential effects of continued global warming on human rights;
 - e. Fifth, the obligation of states to reduce greenhouse gas emissions and to implement measures to adapt to climate change; and
 - f. Sixth, the legal consequences of a failure to address the effects of climate change and the fulfilment of climate change commitments.

I. INTRODUCTION, BACKGROUND OF THE REQUEST BEFORE THE COURT AND JURISDICTION

6. Mister President, Members of the Court, with your permission, I would now like to turn to our **first point**: Liechtenstein's participation in these proceedings is motivated by the unprecedented challenges posed by climate change. As we have already heard from many States this week, there is an urgent need for clarity on principles of international law as they apply to climate change. Anthropogenic greenhouse gases emissions have reached unsustainable levels, jeopardizing the health and human rights of current and future generations. Authoritative legal guidance from the Court is needed to help the international community correct its course.

7. Liechtenstein is proud to have served as a member of the "core group" of States which drafted the UN General Assembly's request for an advisory opinion on the legal consequences of climate change. We wish to thank those who have displayed immense leadership in bringing these questions before the Court. Without the brave direction of young people across the globe who called upon governments to address this existential crisis, we might not be gathered here today. The leadership of the Republic of Vanuatu, a fellow small State, in mobilizing support of the entire UN membership and gaining consensus for this advisory opinion request has been equally invaluable.

II. ANTROPHOGENIC GREENHOUSE GAS EMISSIONS CAUSE CLIMATE CHANGE

8. The **second point** of our observations concerns the overwhelming scientific evidence that “*human activities, principally through emissions of [greenhouse gases, GHGs], have unequivocally caused global warming*”,¹ which in turn cause serious environmental harm. In one of its most recent reports, the Intergovernmental Panel on Climate Change (IPCC) concluded, that GHGs have induced significant and rapid changes in the atmosphere, ocean, cryo- and biosphere, which have had “*widespread adverse impacts and related losses and damages to nature and people*” affecting vulnerable communities that have historically contributed the least to current climate change.²
9. As already expressed in its written submission in paragraphs 21 and 22, Liechtenstein fully recognizes the scientific evidence concerning the negative impact of human induced greenhouse gas emissions on global warming and aligns its domestic climate policy in accordance with the science presented in the publications of the IPCC.

¹ IPCC, *Climate Change 2023 Synthesis Report – Summary for Policymakers* (2023) (Dossier No. 78) (“IPCC 2023 – Synthesis Report, Summary for Policymakers”), available at https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_SPM.pdf, para. A.1. See also Inter-American Court of Human Rights, Advisory Opinion on Climate Emergency and Human Rights, *Amicus brief submitted by the UN Special Rapporteurs on Toxics and Human Rights (Marcos Orellana), Human Rights and the Environment (David Boyd), and the Right to Development (Surya Deva)* (22 November 2023) (“IACtHR Climate Advisory Opinion, UN Special Rapporteurs Amicus Brief”), available at https://www.ohchr.org/sites/default/files/documents/issues/toxicwastes/activities/IACtHR-advisory-opinion-amicus-curiae-boyd-orellana-deva_EN.pdf, para. 24.

² IPCC 2023 – Synthesis Report, Summary for Policymakers, para. A.2. See also, e.g., IPCC, *Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (Cambridge University Press 2022) (“IPCC 2022 – Contribution of Working Group II”), available at https://report.ipcc.ch/ar6/wg2/IPCC_AR6_WGII_FullReport.pdf, p. 1207.

III. THE EFFECT OF CLIMATE CHANGE ON THE RIGHT TO SELF-DETERMINATION

10. **Third**, Liechtenstein is of the view that climate change can affect the exercise of right to self-determination by disrupting the management of vital natural resources, threatening statehood and undermining livelihoods, if states do not take appropriate actions with regards to mitigation and adaptation.

11. Common Article 1 of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right to self-determination as a *jus cogens* norm. As this Court has held in the *Chagos* Advisory Opinion, in which Liechtenstein was proud to have participated, the obligation to protect the right to self-determination is thus an obligation of an *erga omnes* character.³ The nature of the right is confirmed in the Maastricht Principles on the Human Rights of Future Generations, and must also be accorded to future generations, not just protected at the present moment.⁴ Consequently, all States have an obligation to take “all necessary measures” to protect the right to self-determination.⁵

12. In 2009, the Human Rights Council noted that climate change-related impacts had a range of implications, both direct and indirect, for the effective enjoyment of human rights, including the right of self-determination.⁶ According to the Council, climate change will inevitably displace individuals, severing

³ *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019*, p. 95, at p. 139, para. 180.

⁴ Maastricht Principles on the Human Rights of Future Generations (adopted on 3 February 2023), Art. 5.

⁵ *Ibid.*, Art. 20(a).

⁶ See UN Human Rights Council, Resolution 10/4, *Human rights and climate change*, A/HRC/RES/10/4 (25 March 2009) in *Report of the Human Rights Council on its tenth session*, UN Doc. A/HRC/10/29 (9 November 2009) (Dossier No. 265), Preamble.

them from their homelands and limiting their ability to practice their culture and freely engage in economic, social, and cultural development.⁷

13. For low-lying coastal areas and for small island States, the threat posed by sea-level rise is existential.⁸

Most directly, sea-level rise threatens statehood through geographic mortality and the permanent displacement of a State's population.⁹ As the IPCC Working Group II has confirmed, “[i]n high emissions scenarios, low-lying island states may face the long-term risk of becoming uninhabitable, creating the potential for a new phenomenon of climate-induced statelessness.”¹⁰

14. It is Liechtenstein's firm understanding that the right to self-determination is inalienable and for the

presumption of continued statehood, including and in particular for States whose land territory becomes inundated by rising sea-levels, and whose populations may as a result be relocated. States are thus obliged to continue to recognize the right to self-determination of peoples also in such events.

⁷ UN Human Rights Council, Resolution 35/20, *Human rights and climate change*, UN Doc. A/HRC/RES/35/20 (7 July 2017) (Dossier No. 270), Preamble.

⁸ See ILC, *Report of the Study Group on sea-level rise in relation to international law*, A/CN.4/L.1002 (15 July 2024), para. 20; ILC, *Report of the Study Group on sea-level rise in relation to international law*, A/CN.4/L.972 (15 July 2022), para. 10; IPCC, *Climate Change 2022: Impacts, Adaptation and Vulnerability - Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (Cambridge University Press 2022) (“IPCC 2022 – Contribution of Working Group II”), p. 1100.

⁹ See generally C. Hioureas and A. Torres Camprubi, *Climate, State, and Sovereignty: Self-Determination and Sea Level Rise*, Liechtenstein Institute on Self-Determination at Princeton University (June 2021); C. Hioureas and A. Torres Camprubi, “Legal and Political Considerations on the Disappearance of States due to Sea Level Rise” in *NEW KNOWLEDGE AND CHANGING CIRCUMSTANCES IN THE LAW OF THE SEA* (2020), pp. 407-426. See also Intergovernmental Panel on Climate Change, *Climate Change 2013: The Physical Science Basis. Working Group I Contribution to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* (CUP, 2013), p. 25.

¹⁰ IPCC 2022 – Contribution of Working Group II, p. 1100.

15. Liechtenstein therefore supports the position taken by the most affected States that “statehood will cease only if another form of expression of the right to self-determination is explicitly sought and exercised by that people”¹¹ and recognizes States in their deterritorialized forms.¹²
16. As a consequence, Liechtenstein emphasizes that States which cease to meet the criteria laid out in the Montevideo Convention¹³ do not lose their statehood, as there is a strong presumption of the continuity of statehood. States’ baselines should be fixed as the sea level moves landward as a result of sea-level rise. This is consistent with a proper interpretation of the United Nations Convention on the Law of the Sea and the views expressed by a significant number of States before the Sixth Committee to the General Assembly on the Chapter of the International Law Commission on Sea-Level Rise in Relation to International Law.¹⁴
17. Moreover, under the *rebus sic stantibus* principle enshrined in Article 62(1) of the Vienna Convention on the Law of Treaties (“VCLT”),¹⁵ a fundamental change of circumstances would have no effect on existing maritime delimitation treaties. Article 62(2)(a) of the VCLT provides that a fundamental change of

¹¹ UN General Assembly, 78th Session, *Statement by Samoa on behalf of the Alliance of Small Island States (AOSIS) United Nations Security Council Open Debate on Threats to International Peace and Security: Sea-Level Rise – Implications for International Peace and Security* (14 February 2023), available at <http://tinyurl.com/2p8emvtp>, para. 11.

¹² Liechtenstein similarly supports the view set out in the Second Issue Paper that “[i]t is essential to preserve the right to self-determination of the populations of any small island developing States whose land territory is completely covered by the sea or becomes uninhabitable,” including “through the maintenance of statehood, or the implementation of other approaches that enable the populations concerned to express their will in relation to decisions that could affect their future, and that preserve their rights, including their right to maintain their identity.” International Law Commission, *Second issues paper by Patrícia Galvão Teles and Juan José Ruda Santolaria, Co-Chairs of the Study Group on sea-level rise in relation to international law*, UN Doc. A/CN.4/752 (19 April 2022) (Dossier No. 102), para. 226. The same position has been adopted by other relevant stakeholders, including the Pacific Island Forum and International Law Commission. See International Law Commission, Seventy-third session (18 April–3 June and 4 July–5 August 2022), *Report of the International Law Commission—Chapter IX: Sea-level rise in relation to international law*, UN Doc. A/77/10 (2022) (Dossier No. 101), paras. 196, 199, 201.

¹³ Namely, a permanent population, a defined territory, and a government.

¹⁴ See International Law Commission, Seventy-fourth session (24 April–2 June and 3 July–4 August 2023), *Report of the International Law Commission—Chapter VIII: Sea-level rise in relation to international law*, UN Doc. A/78/10 (Dossier No. 103A), para. 172.

¹⁵ Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, Art. 62(1) (“A fundamental change of circumstances which has occurred with regard to those existing at the time of the conclusion of a treaty, and which was not foreseen by the parties, may not be invoked as a ground for terminating or withdrawing from the treaty unless:

- a) the existence of those circumstances constituted an essential basis of the consent of the parties to be bound by the treaty; and
- b) the effect of the change is radically to transform the extent of obligations still to be performed under the treaty.”)

circumstances may not be invoked as grounds for termination or withdrawing from treaty if “the treaty establishes a boundary”.¹⁶

18. In addition to threats to statehood, climate change will also lead to drastic changes in major economic sectors, impacting people’s livelihood security, starting with the most vulnerable populations. The IPCC has found that economic impacts from climate change are already evident in sectors highly exposed to climate risks, including agriculture, forestry, fisheries, energy, tourism, and outdoor labor.¹⁷ These effects reduce work productivity and hinder economic growth, especially in lower-income countries.¹⁸

19. By destabilizing people’s means of subsistence and interfering with their control over natural resources, climate change jeopardizes the core right of self-determination, which is also essential to the enjoyment of other fundamental human rights.

¹⁶ See *Aegean Sea Continental Shelf (Greece v. Turkey)*, Judgment, I.C.J. Reports 1978, p. 3, at pp. 35-36, para. 85 (“The dispute relates to the determination of the respective areas of continental shelf over which Greece and Turkey are entitled to exercise the sovereign rights recognized by international law. ... Whether it is a land frontier or a boundary line in the continental shelf that is in question, *the process is essentially the same, and inevitably involves the same element of stability and permanence, and is subject to the rule excluding boundary agreements from fundamental change of circumstances.*”) (emphasis added). See also *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)*, Judgment, I.C.J. Reports 1991, p. 53, at pp. 73-74, paras. 62-63; *In the Matter of the Bay of Bengal Maritime Boundary Arbitration between the People’s Republic of Bangladesh and the Republic of India (Bangladesh v. India)*, PCA Case No. 2010-16, Award (7 July 2014), para. 218 (“The possibility of change in the maritime boundary established in the present case would defeat the very purpose of the delimitation.”).

¹⁷ IPCC 2023 – Synthesis Report, p. 51.

¹⁸ M. Dell *et al.*, “Temperature Shocks and Economic Growth: Evidence From the Last Half Century” (2012) 4(3) *American Economic Journal: Macroeconomics* 66, available at https://scholar.harvard.edu/files/dell/files/aej_temperature.pdf, pp. 92-93; S. Dasgupta *et al.*, “Effects of climate change on combined labour productivity and supply: an empirical, multi-model study” (July 2021) 5(7) *The Lancet* 455, available at [https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196\(21\)00170-4/fulltext](https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196(21)00170-4/fulltext).

IV. THE EFFECT OF CLIMATE CHANGE ON HUMAN RIGHTS

20. **Fourth**, Liechtenstein is of the view that the adverse effects of climate change have already and will very likely continue to impact a wide range of human rights, as detailed in Section V of the Liechtenstein Written Statement submitted to the Court.¹⁹

21. Regarding the **Right to Life**, a fundamental right protected under Article 3 of the Universal Declaration of Human Rights (UDHR) and Article 6(1) of the ICCPR²⁰ continued global warming may cause direct or indirect impacts on human lives. This is already illustrated by the increased frequency and intensity of tropical cyclones,²¹ droughts, floods, heatwaves and disease vectors, leading to more loss of human lives.²²

22. The increase of extreme weather events, land erosion, flooding and sea-level rise in low-lying island States,²³ also has the potential to threaten the **Right to Housing**, protected by Article 11 of the ICESCR.²⁴ Climate change threatens this right in numerous ways such as the risk of the destruction of homes, the risk of floodings, droughts and sea-rise level, making territories uninhabitable.²⁵

¹⁹ See Liechtenstein Written Statement, section V.

²⁰ UDHR, Art. 3; ICCPR, Art. 6(1) (“Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”).

²¹ See IPCC 2023 – Synthesis Report, pp. 46, 69.

²² Amnesty International, *Stop Burning Our Rights! What Governments and Corporations Must Do to Protect Humanity from the Climate Crisis: Executive Summary* (7 June 2021), available at <https://www.amnesty.org/en/documents/pol30/4110/2021/en/>, p. 4.

²³ UN OHCHR, *Submission of the Office of the High Commissioner for Human Rights to the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change*, available at <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/COP21.pdf>, p. 19 (citing IPCC, *Climate Change 2014 – Synthesis Report (AR5)* (2014), p. 13).

²⁴ ICCPR, Art. 17; ICESCR, Art. 11(1) (“The Parties to the present Convention recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”).

²⁵ IPCC 2022 – Contribution of Working Group II, p. 1100.

23. Storm surges, sea-level rise, coastal flooding and inland flooding in densely populated urban regions, coupled with periods of extreme heat, already disrupt livelihoods in many communities.²⁶ Thereby potentially threatening the **Right to Livelihood**, protected under Articles 7 and 11(1) of the ICESCR. Climate change may also cause occupational hazards for those pursuing their right to livelihood.²⁷

24. Liechtenstein also notes that cultural heritage sites, which are central to the enjoyment of **cultural rights**²⁸ under Article 27 (1) of the UDHR, face unprecedented risks from climate change. Many cultural sites, including buildings of historical, religious, and cultural significance, are physically vulnerable to rising sea levels and extreme weather.²⁹ To date, more than 130 World Heritage Cultural sites are directly endangered by rising sea levels.³⁰ This threat is especially acute for indigenous groups, whose cultural heritage and identity can be closely connected to their environments and traditional lands, resources, and territories.³¹

²⁶ See IPCC, *Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* (2014), available at https://www.ipcc.ch/site/assets/uploads/2018/02/SYR_AR5_FINAL_full.pdf, pp. 15, 65, 69.

²⁷ See M. El Khayat *et al.*, “Impacts of Climate Change and Heat Stress on Farmworkers’ Health: A Scoping Review” (2022) 10 *Frontiers in Public Health*, available at <https://doi.org/10.3389/fpubh.2022.782811>, p. 2; International Labour Organization, *Working on a warmer planet: The impact of heat stress on labour productivity and decent work* (2019), available at https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_711919.pdf, p. 14. See also M. Kiefer *et al.*, “Worker health and safety and climate change in the Americas: issues and research needs” (September 2016) 40(3) *Rev Panam Salud Publica* 192, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5176103/>.

²⁸ A. Markham *et al.*, *World Heritage and Tourism in a Changing Climate* (2016), available at <https://www.ucsusa.org/sites/default/files/attach/2016/05/world-heritage-and-tourism-in-a-changing-climate.pdf>, p. 11 (“Climate change is one of the most significant risks for World Heritage to emerge since the adoption of the World Heritage Convention in 1972.”).

²⁹ UN General Assembly, *Report of the Special Rapporteur in the field of cultural rights, Karima Bennouna*, UN Doc. A/75/298 (10 August 2020) (Dossier No. 326), para. 36.

³⁰ A. Markham *et al.*, *World Heritage and Tourism in a Changing Climate* (2016), available at <https://www.ucsusa.org/sites/default/files/attach/2016/05/world-heritage-and-tourism-in-a-changing-climate.pdf>, p. 14.

³¹ See UN Department of Economic and Social Affairs – Indigenous Peoples, “Climate Change” (last accessed: 14 February 2024), available at <https://www.un.org/development/desa/indigenouspeoples/climate-change.html>; “As climate crisis alters their lands, Indigenous Peoples turn to the courts,” *UNEP* (8 August 2023), available at <https://www.unep.org/news-and-stories/story/climate-crisis-alters-their-lands-indigenous-peoples-turn-courts>; A. Markham, “Cultural Heritage is a Human Right. Climate Change is Fast Eroding It.” *The Equation Blog, Union of Concerned Scientists* (27 November 2023), available at <https://blog.ucsusa.org/adam-markham/cultural-heritage-is-a-human-right-climate-change-is-fast-eroding-it/>. See also UN General Assembly, *Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*, UN Doc. A/74/161 (15 July 2019) (Dossier No. 312), para. 48; UN Human Rights Council, *Report of the Secretary-General on the impacts of climate change on the human rights of people in vulnerable situations*, UN Doc. A/HRC/50/57 (Dossier No. 292), para. 8.

25. Furthermore, climate change significantly threatens the **Right to Water and Sanitation**, particularly by affecting the core elements of safe drinking water, namely: availability, quality, accessibility, affordability and acceptability.³² The ‘quality’ dimension might be affected by the contamination of water sources and the salinization of water due to sea-level rise.³³ While, the increase of extreme weather could cause damage to water source and infrastructure, impacting ‘accessibility’,³⁴ the increased demand and competition over water will likely result in rising prices for water, affecting its ‘affordability’.³⁵ Finally, small island States, polar regions, mountainous areas like Liechtenstein, and coastal areas all have geographical characteristics that make them more vulnerable to climate change than the global average.³⁶

26. As with water security, continued climate change also has the potential to seriously undermine global food security. The effects of climate change will contribute to a decrease in food production, which in turn impacts food security and the enjoyment of the **Right to Food**, enshrined in Article 25(1) of the UDHR and Article 11(2) of the ICESCR.³⁷

³² See UN General Assembly, *Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*, UN Doc. A/74/161 (15 July 2019) (Dossier No. 312), para. 38.

³³ See, e.g., P. Arrojo Agudo, Special Rapporteur on the human rights to safe drinking water and sanitation, *Special Thematic Report 1: Outlining the impacts of climate change on water and sanitation around the world* (January 2022), available at <https://www.ohchr.org/sites/default/files/2022-01/climate-change-1-friendlyversion.pdf>, pp. 2-3.

³⁴ *Ibid.*

³⁵ *Ibid.* See also UN OHCHR, *Position Paper of the Independent Expert on human rights, water and sanitation, Ms. Catarina de Albuquerque: Climate Change and the Human Rights to Water and Sanitation*, available at https://www2.ohchr.org/english/issues/water/ieexpert/docs/climatechange_hrtws.pdf, pp. 2-3.

³⁶ P. Arrojo Agudo, Special Rapporteur on the human rights to safe drinking water and sanitation, *Special Thematic Report 1: Outlining the impacts of climate change on water and sanitation around the world* (January 2022), available at <https://www.ohchr.org/sites/default/files/2022-01/climate-change-1-friendlyversion.pdf>, p. 3.

³⁷ UDHR, Art. 25(1) (“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”); ICESCR, Art. 11(2) (“The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed: (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources; (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.”).

27. Finally, let me turn to the *Right to a Clean, Healthy, and Sustainable Environment*. A legal concept, first recognized by the 1972 Stockholm Declaration³⁸, as well as in several regional human rights systems³⁹ and Resolutions of the UN Human Rights Council and the UN General Assembly,⁴⁰ but not codified in an internationally binding legal instrument, yet. The right to a clean, healthy, and sustainable environment requires the preservation of a safe climate, clean air, clean water and adequate sanitation, healthy and sustainably produced food, non-toxic environments, and healthy biodiversity and ecosystems. As discussed throughout this section, all of these aspects are threatened by continued climate change.

28. In addition, the Right to a Clean, Healthy, and Sustainable Environment, as promoted by the resolutions of the UN Human Rights Council and the UN General Assembly,⁴¹ is of relevance for children. The rights of children to a clean, healthy and sustainable environment are impacted by climate change in ways that can affect their physical and mental health. Given that the consequences of environmental damage are very likely longstanding and difficult to reverse, the failure to secure a clean, healthy, and sustainable environment jeopardizes the ability of future generations to enjoy this right.⁴²

³⁸ Report of the UN Conference on Human Environment, Stockholm, 5-16 June 1972, *Chapter I: Declaration of the UN Conference on Human Environment*, UN Doc. A/CONF.48/14/Ref.1 (1973) (Dossier No 136), Principle 1.

³⁹ Organisation of African Unity, African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217, Art. 24; Inter-American Court of Human Rights, Advisory Opinion OC-23-17, *The Environment and Human Rights* (15 November 2017), para 59 ("Environmental degradation may cause irreparable harm to human beings; thus, a healthy environment is a fundamental right for the existence of humankind.").

⁴⁰ See e.g., UN Human Rights Council, Resolution 48/13, *The human right to a clean, healthy and sustainable environment*, UN Doc. A/HRC/RES/48/13 (8 October 2021) (Dossier No. 279); UN General Assembly, Resolution 76/300, *The human right to a clean, healthy and sustainable environment*, UN Doc. A/RES/76/300 (28 July 2022) (Dossier No. 260).

⁴¹ See e.g., UN Human Rights Council, Resolution 48/13, *The human right to a clean, healthy and sustainable environment*, UN Doc. A/HRC/RES/48/13 (8 October 2021) (Dossier No. 279); UN General Assembly, Resolution 76/300, *The human right to a clean, healthy and sustainable environment*, UN Doc. A/RES/76/300 (28 July 2022) (Dossier No. 260).

⁴² *Ibid.*

V. STATES HAVE AN OBLIGATION TO REDUCE GREENHOUSE GAS EMISSIONS AND IMPLEMENT MEASURES FOR CLIMATE ADAPTATION TO COMPLY WITH THEIR OBLIGATION TO RESPECT HUMAN RIGHTS, INCLUDING THE RIGHT TO SELF-DETERMINATION

30. **Fifth**, as a party to the United Nations Framework Convention on Climate Change (“UNFCCC”), the Kyoto-Protocol and the Paris Agreement, Liechtenstein fully aligns its domestic climate policy with the goals of these legal instruments. Especially the provision that States must do everything in their power to address climate change and, inter alia, reduce GHG emissions to limit the increase in global temperatures to well below 2°C above pre-industrial levels and pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels, as set out in the Paris Agreement (“**1.5°C Standard**”). Liechtenstein also fully agrees with the overwhelming scientific evidence that the failure to achieve the 1.5°C Standard will seriously threaten the habitability of territories around the world and might infringe a number of human rights, including the right to self-determination.

31. As recalled in the Declaration on the Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, “[e]very State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples.”⁴³ Because the adverse effects of climate change may have a significant effect on the right to self-determination, at a minimum, States are obliged to exercise due diligence and take all necessary steps to hold “the increase in the global average temperature to well below 2°C above pre-

⁴³ UN General Assembly, Resolution 2625 (XXV), *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, UN Doc. A/RES/2625(XXV) (24 October 1970), pp. 123-124.

industrial levels and [pursue] efforts to limit the temperature increase to 1.5°C above pre-industrial levels.”⁴⁴

32. Liechtenstein is of the view that states are – in accordance with their obligations under the UNFCCC, the Kyoto Protocol and the Paris Agreement – obliged to take all necessary measures, including the reduction of GHG emissions and the implementation of effective climate adaptation measures, to protect violations of the right to self-determination and the other human rights mentioned above.

33. With respect to the principle of Common but Differentiated Responsibilities, Liechtenstein is of the view that the current division of obligations between Developed States Parties (Annex I of the UNFCCC) and Developing States Parties may not reflect the current reality. Several Non-Annex-I-Parties have become major GHG emitters since the adoption of the UNFCCC in 1992.

⁴⁴ Paris Agreement, Art. 2(1)(a).

VI. THE LEGAL CONSEQUENCES OF A FAILURE TO ADDRESS THE EFFECTS OF CLIMATE CHANGE AND FULFIL CLIMATE CHANGE COMMITMENTS

34. Lastly, Liechtenstein's reiterates its observations from the Written Statement⁴⁵ that the failure to fulfil the legal obligations under international human rights and environmental law generates international responsibility. Although it might be difficult to establish full responsibility for actions that were not considered to be unlawful in the past,⁴⁶ all accountability measures must be considered. Individual claims against State responsibility for breaches of international obligations, alongside common or collective responsibilities will be crucial. Moreover, ensuring continuous statehood for Member States remains key. Potential remedies might include a collective obligation of major emitters to finance mitigation actions and adaptation measures. Finally, as highlighted in the ICJ *Pulp Mills Decision*,⁴⁷ the use of preventives measures such as environmental impact assessments can reduce transboundary environmental risks.

⁴⁵ See Liechtenstein Written Statement, para 80.

⁴⁶ International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts (2001), reproduced in *Yearbook of the International Law Commission 2001*, Vol. II (2), Art. 31.

⁴⁷ *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, 20 April 2011.

VII. CONCLUSION

35. To conclude, the legal, scientific, and humanitarian stakes of climate change are high. It is abundantly clear that anthropogenic GHG emissions are driving climate change, with potentially serious impacts for the enjoyment of fundamental human rights.

36. But these consequences are not being felt in the same way. Vulnerable communities, including low-lying States, face a higher risk of severe impacts. While climate change is fundamentally a shared global challenge, it will affect humanity differently, and not all States are in the same position to respond to the threats. This reality is highly relevant to the legal issues under consideration in these advisory proceedings.

37. While the harms of climate change are already materializing, we are far from powerless. The extent to which States come together in just the next few years to coordinate meaningful global mitigation and adaptation measures will determine fundamental human rights can be freely enjoyed by generations to come.

38. For the reasons set forth in our written submission and in this oral argument, Liechtenstein respectfully requests that the Court exercise its jurisdiction to deliver an advisory opinion recognizing the legal obligations to address climate change which flow from the universal duty to uphold human rights, while adequately taking into account the legal obligations under international climate and environment law. Liechtenstein believes such an authoritative pronouncement from this Court will aid in the ongoing negotiations related to climate change.

39. Mister President, Members of the Court, this concludes the oral presentation of the Principality of Liechtenstein. I would like to thank the Court for its kind attention.