



African Future Policies Hub

COP30 SERIES

The ICJ Advisory Opinion: Shaping a New Trajectory in Climate Finance, Policy and Action

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This brief was prepared by David Kaluba, CEO of ClinEarth Consulting, with peer review by Maria Nkhonjera from the African Future Policies Hub



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List of Abbreviations

AF	Adaptation Fund
B2B	Baku to Bélem
CBDR-RC	Common but Differentiated Responsibilities and Respective Capabilities
COP30	30th Conference of the Parties
EU	European Union
FRLD	Fund for Responding to Loss and Damage
GCF	Global Climate Fund
GEF	Global Environment Facility
GGA	Global Goal on Adaptation
GHG	Greenhouse gas
GST	Global Stocktake
ICJ	International Court of Justice
IP	Intellectual Property
LDC	Least Developed Countries
MOI	Means of Implementation
NCQG	New Collective Quantified Goal
NAP	National Adaptation Plans
NDC	Nationally Determined Contributions
SIDS	Small Island Developing States
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change
UNGA	United Nations General Assembly



1

Introduction

The International Court of Justice Advisory Opinion on Obligations of States in Respect of Climate Change marks a pivotal moment for global climate governance. Beyond its implications for climate finance under the UNFCCC, it reinforces the principle of CBDR-RC and restitution—highlighting the urgency to align policy, finance and climate action.

Developments such as the International Court of Justice (ICJ) Advisory Opinion on Obligations of States in Respect of Climate Change, the reallocation of public finance budgets and evolving dynamics in climate diplomacy have significant implications for the global climate finance agenda. These shifts are particularly significant for Africa given the current financing landscape, the 30th Conference of the Parties (COP30) as a pivotal milestone for Nationally Determined Contributions (NDC) ambition, as well as the broader context of upholding principles of equity and fairness in global climate action. The ICJ Advisory Opinion has significant implications for climate finance under the UNFCCC.

It reaffirms the principle of Common but Differentiated Responsibilities (CBDR-RC) and the importance of restitution. Now more than ever, aligning policy, finance, and climate action is essential.

Within this context, this policy brief provides context to the ICJ ruling and its potential implications on the climate finance landscape. This is in turn discussed in relation to the following: (i) the Baku-to-Belém (B2B) Roadmap (ii) financing the new cycle of NDCs and (iii) strengthening multilateral negotiations under the COP through policy and negotiations guidance.





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Significance of the ICJ Advisory Opinion for Global Climate Finance

In July 2025, the International Court of Justice (ICJ) handed down its Advisory Opinion on the Obligations of States in respect to Climate Change. This ruling, initiated by the Pacific island of Vanuatu and supported by youth groups, comes after years of campaigning and centres on several key points: states' obligations, legal consequences, existing treaties and the duty to prevent harm. Regarding state obligations, the Court was asked to clarify the duty of states under international law to protect the climate system and environment from anthropogenic greenhouse gas (GHG) emissions for present and future generations.

The Court was further requested to determine the legal consequences for states that breach these obligations and cause harm to other countries, particularly Small Island Developing States (SIDS), and vulnerable populations. The case referenced various international treaties, including the United Nations (UN) Charter, Paris Agreement, and UN Convention on the Law of the Sea, as well as customary international and human rights law. The applicants argued that states have a duty to prevent significant harm to the environment and protect human rights, including the right to a clean, healthy and sustainable environment. The case aimed to hold states accountable for their actions and omissions contributing to climate change, with potential implications for climate litigation and policy.

The ICJ ruling affirmed that states have an obligation to prevent significant environmental damage and to cooperate in good faith to curb climate change. States are further required to act with due diligence and use all means at their disposal to prevent activities that cause significant harm to the climate system. The ruling also notes that the Paris Agreement and the United Nations Framework Convention on Climate Change (UNFCCC) impose binding obligations on states to mitigate GHG emissions and adapt to climate change, and that states that breach their climate obligations may be required to cease the wrongful conduct, offer guarantees of non-repetition, and make full reparation, including compensation for loss and damage.

On more specific sectoral grounds, the ruling highlights that fossil fuel production, consumption, and subsidies may constitute an internationally wrongful act attributable to states. Finally, the court observed that states have obligations under international human rights law to protect the climate system and other parts of the environment, ensuring the effective enjoyment of human rights.

The Court also made various climate finance-specific findings: (i) the duty to provide financial support to developing countries forms part of the legal duty between states to cooperate, (ii) this duty is



Path to the ICJ Ruling

TIMELINE FOR THE LANDMARK ADVISORY OPINION ON THE OBLIGATIONS OF STATES IN RESPECT OF CLIMATE CHANGE

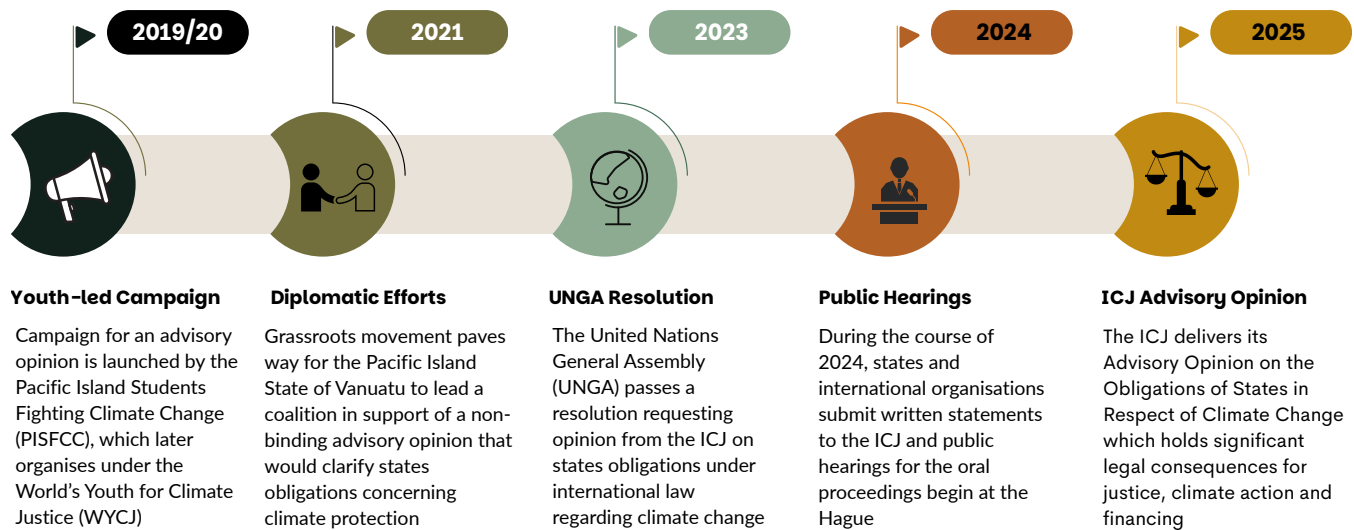


Figure 1: Road to the ICJ Ruling. Source: Authors illustration using Earth.Org and and OpinioJuris

embedded in customary international law and treaty law, meaning it applies to states even if they have exited the Paris Agreement, and (iii) importantly while the court did not set out an amount of finance that would satisfy the requirements of Article 9, it stated that the amount must be provided "in a manner and at a level that allows for the achievement of the objectives listed in Article 2." this includes the achievement of the 1.5 degree temperature goal, and that this amount can be evaluated using several factors including "the capacity of developed States and the needs of developing States."

It should be noted that although the ICJ Advisory Opinion is non-binding, it carries significant legal weight and can strongly influence both domestic and international climate policies. The ruling can also inform future climate-related disputes and decisions. Therefore, the application of the fundamental elements of the ruling must commence in earnest with understanding the status of the

negotiations on climate change. The advisory ruling by the ICJ makes important conclusions that reinforces the call by developing countries for scaled up mobilisation and provision of climate finance based on the provisions of the Convention and the Paris Agreement. Key elements of the ruling that closely link to means of implementation (MOI) in general, and climate finance in particular include reparations delivered in the form of restitution, compensation and satisfaction. Although climate actions and obligations are guided by the Paris Agreement and UNFCCC, an Advisory Opinion by an international court of law provides legal and moral authority to shape climate action.

The following sections explore the implications of the ICJ ruling on global climate finance with focus on: (i) the Baku to Belém (B2B) Roadmap (ii) Financing the third generation Nationally Determined Contributions (NDCs), and (iii) Strengthening negotiations under the COP with policy and negotiations guidance.



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Baku to Belém (B2B) Roadmap

The ruling by the ICJ on the Obligations of States in Respect of Climate Change [1] has profound implications on the implementation of decisions of the COP under the UNFCCC, particularly those relating to mobilisation and provision of climate finance. The ICJ ruling has challenged the sliding momentum on obligations of Parties on the provision of means of implementation such as finance, technology transfer and capacity building. COP30 offers a window to reflect on the call by the ICJ and “get back to basics”. This is crucial because climate finance delivery under the UNFCCC has suffered uncertainties and a lack of predictability since the Cancun Agreement in 2010 [2]. The landscape for climate finance has worsened in the last decade, particularly since the adoption of the Paris Agreement in 2015. The challenge is further observed in the weaknesses associated with the delivery of the US\$100 billion pledge, which was committed to in the Copenhagen Accord in 2009, and formalised under the Cancun Agreements in 2010.

Furthermore, the ICJ ruling follows key conclusions from UNFCCC processes, particularly those relating to outcomes of the first global stocktake (GST) and the new collective quantified goal (NCQG). The GST outcome highlights Parties' concerns over

the growing gaps between the needs of developing country Parties and support provided and mobilised,[3] in addition to non-fulfilment of the US\$100 billion pledge and the insufficiency of MOI (finance, technology transfer and capacity building)[4].

The GST puts estimates of climate finance needs for developing countries between US\$5.8 trillion and US\$5.9 trillion pre-2030. Adaptation finance needs alone range from US\$215 billion to US\$387 billion annually through 2030. This is in addition to the US\$4.3 trillion per year required for clean energy up to 2030, and US\$5 trillion per year through 2050, to reach net zero emissions by 2050. The NCQG outcomes lay out two fundamental finance related decisions covering the (i) scaling up of financing to developing country Parties for climate action from all public and private sources to at least US\$1.3 trillion per year by 2035 and (ii) sets a goal, in extension of the US\$100 billion contained in the Cancun Agreement, for developed countries to take the lead in delivering at least US\$300 billion per year by 2035 for developing country Parties for climate action.[5]

[1] The initiative to seek the opinion of the International Court of Justice (ICJ) on Obligations of States in Respect of Climate was led by the Republic of Vanuatu supported by grassroots youth groups and other countries.

[2] The Cancun Agreement contains obligations by developed countries to mobilize and provide scaled-up funds in the short and long term to enable developing countries to take greater and effective action on climate mitigation and adaptation. The Agreement also established the Green Climate Fund to provide support to developing countries to assist them in mitigating climate change and adapt to its impacts.

[3] Global Stocktake outcome, paragraph 67.

[4] FCCC/PA/CMA/2023.L.17.

[5] FCCC/PA/CMA/2024/L.22.



Baku to Belém Roadmap to 1.3T

KEY PRIORITIES

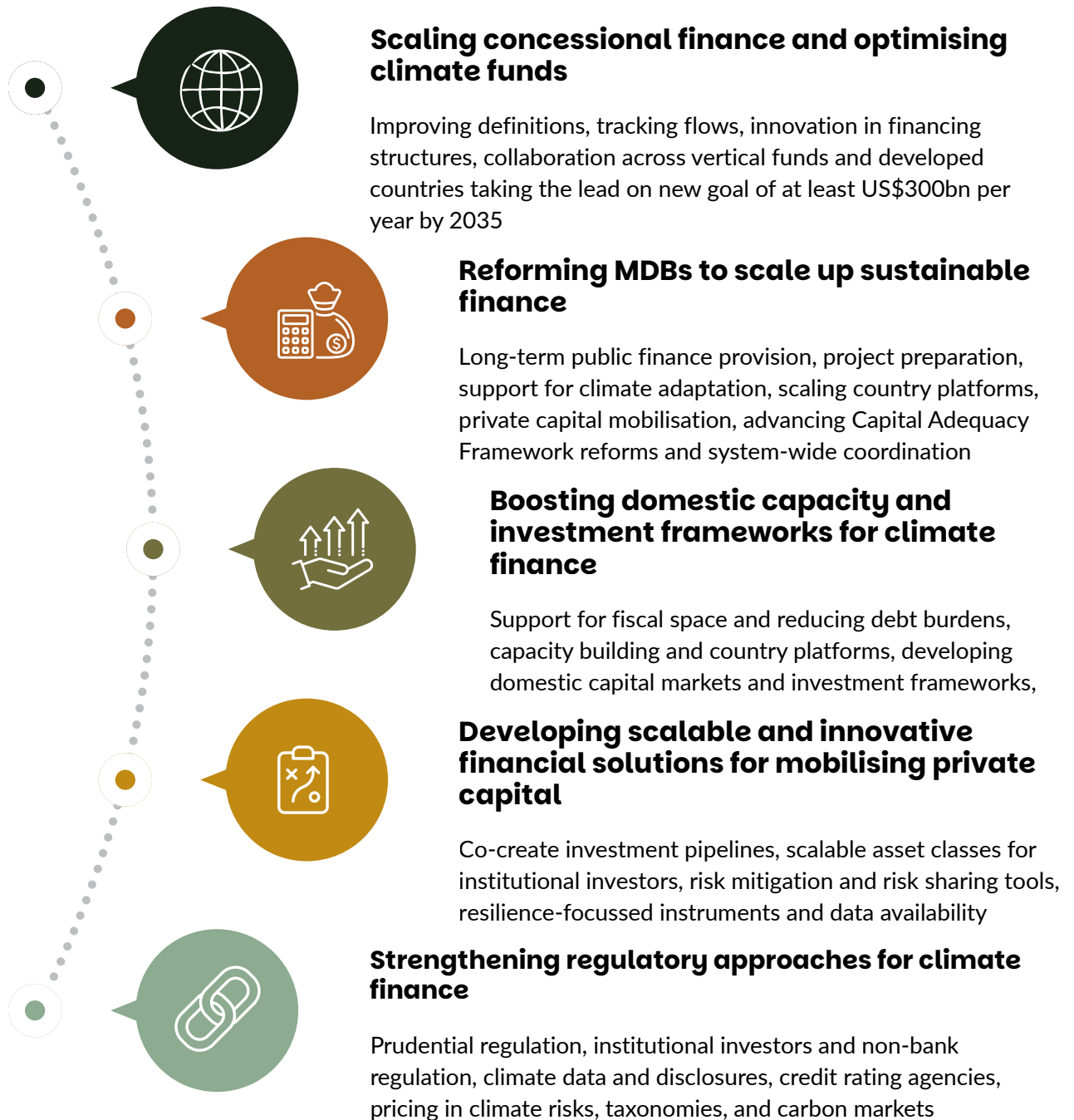


Figure 2: Key priorities of the Baku to Belém Roadmap to 1.3T. Source: COP30 Circle of Finance Minister Report, 2025



In making the case for a “return to the basics”, the ICJ ruling has alluded to the importance of obligations of states in relation to cooperation in adaptation and loss and damage, education, training and public awareness. Financial support is also recognised as an important component of cooperation among states [6], grounded in international and treaty law and expected to be provided at a level that meets Article 2 goals of the Paris Agreement. In particular, the reference to “developed countries shall” in paragraphs 5-7 of Article 9 underscores the legally binding obligation to provide financial assistance to developing countries. This means that states or Parties are obligated to comply with the terms of the decision or agreement and adhere to the climate obligations including taking necessary actions to mitigate climate change.

This is fundamental to the implementation of commitments as proposed in the agreements, whether under the UNFCCC, the Kyoto Protocol, Paris Agreement or other subsidiary COP decisions.

Beyond establishing obligations, measures for accountability must also be implemented, alongside mechanisms to ensure enforceability of these obligations to enhance predictability of support and the achievement of envisaged

outcomes. These obligations should govern and serve as the foundation of the B2B implementation roadmap, guiding concrete actions beyond it culminating in a non-negotiated report.

In its current form, the B2B Roadmap Report towards US\$1.3 trillion provides little scope for binding targets or interim milestones. It also leaves significant transparency and accountability gaps in achieving the agreed ambition.[7] The Roadmap intersects with multiple initiatives, including UNFCCC financial mechanisms, MDB reforms, domestic capital mobilisation, and private-sector investment frameworks, which creates potential ambiguity with how finance delivered aligns with structures and obligations of the Paris Agreement. The risk, too, is that mobilisation of private finance in particular may be challenging in many contexts, as is evident in Africa’s climate finance landscape.

The key challenge is translating aspiration into action, ensuring sufficient political commitment and structural reform to close financing gaps before 2035.

[6] Articles 4, paragraph 5, Article 9, paragraph 1.

[7] Report of the COP30 Circle of Finance Ministers on the Baku to Belém Roadmap to 1.3T.



4

Financing NDCs Post ICJ Ruling and COP30

COP30 is expected to consider the status of climate efforts towards the temperature goal based on the NDCs submitted by countries. So far, 64 out of 196 Parties have submitted their NDCs 3.0, but some major emitters, including China and the European Union (EU), are still pending or have incomplete submissions. Overall, NDCs aim to support the global goal of limiting warming to well below 2°C and pursuing efforts to limit it to 1.5°C above pre-industrial levels, while promoting sustainable development and poverty eradication. The ICJ ruling has significant implications for financing NDCs post-COP30, including enhanced accountability, rationalisation of the climate finance goal, strengthened support for vulnerable nations, progress on the Global Goal on Adaptation (GGA), as well as loss and damage funding.

The ICJ ruling emphasises that countries must strive to implement their NDCs with the highest possible ambition possible, making them more accountable for their climate commitments. The ruling reinforces that developed countries, not the broader category of “all actors” should take the lead. By its reference to various COP decisions, it affirms the need to target US\$1.3 trillion annually, while emphasising the importance of grant-based finance and technology transfer. The opinion highlights the need for sufficient and predictable finance to support vulnerable nations in

implementing their NDCs and adapting to climate change. It further encourages countries to adopt ambitious adaptation goals.

The Advisory Opinion further emphasises the need for funding loss and damage, operationalising the Fund for Responding to Loss and Damage (FRLD), and ensuring adequate support for countries facing climate-related disasters. It establishes a legal foundation for countries to prioritise climate action, increase ambition, and ensure accountability in implementing their NDCs.

The scope and findings of the latest NDC Synthesis Report by the UNFCCC raises important questions about equity and fair-burden sharing in financing NDCs, particularly as the costed needs outlined require substantial international support[8]. On the other hand, the report offers no substantive analysis on the climate finance commitments expected from developed country Parties, which leaves a critical gap in assessing the balance of responsibilities. While this lack of clarity makes it difficult for developing countries to align their NDCs to predictable and adequate financing, developed countries should remain guided by principles and obligations of the UNFCCC. The ICJ ruling now provides clarity on the duties of states to act consistently with the principles of equity and common but differentiated responsibilities.

[8] UNFCCC, 2025: Nationally determined contributions under the Paris Agreement - Synthesis Report



5

Policy and Negotiation Guidance

Ahead of COP30, the ICJ ruling should guide the discourse and shape negotiations, shifting the tone from confrontation to one of cooperation as repeatedly emphasised by the Court. This is in view of the independent nature of the Advisory Opinion which articulates clear obligations of states in addressing the climate crisis. It not only sheds light on previous decisions but also provides a solid foundation for future engagement among Parties, both within and outside negotiating fora. In the context of the NDCs, it is apparent that ambitious goals contained in the NDC must attract the requisite finance towards mitigation and adaptation, and support for technology transfer and capacity building.

The ICJ ruling identifies two broad themes as key obligations for states that should guide decisions at COP30. These include (i) restitution, compensation and satisfaction and (ii) respect for the principle of common but differentiated responsibilities and respective capabilities.

(i) Restitution, Compensation and Satisfaction

The ICJ opinion underscores states' responsibility for their climate actions, including providing restitution, compensation, and satisfaction for harm caused. The Court's recommendation of practical measures—such as restitution, compensation and satisfaction—reflects the imperative of justice within climate finance discourse under the UNFCCC. In practice, implementing actions related to the ICJ's ruling within the financial mechanisms of the Convention and the Paris

Agreement necessitates careful consideration of several interrelated issues such as the attribution of loss and damage to vulnerable countries, fair burden-sharing, and increased accountability.

(ii) Respect for the Principle of CBDR-RC

Weakening emphasis on justice as an important precondition for the provision and delivery of climate finance, coupled with the slowing pace of Parties' commitments to implement ambitious goals on emission reductions makes the ruling by the ICJ even more critical. The conclusions of the ICJ is a clarion call for renewed commitments by Parties to aspirations of the Convention, the Kyoto Protocol and the Paris Agreement. The principle of CBDR-RC is governed by Article 4 of the Convention and is further reinforced by Articles 2.1(c) and 9.1 of the Paris Agreement. Article 2.1 lays out obligations of Parties within the context of the CBDR-RC and specific national and regional development priorities.[9]

The ICJ opinion has reaffirmed the principle of CBDR-RC, which is a cornerstone of the UNFCCC. This principle recognises that countries have different capacities and historical responsibilities for GHG emissions. Accordingly, states with greater capacities have the obligation to provide climate finance to vulnerable countries to support their efforts to mitigate and adapt to climate change. On this basis, developed countries are also accountable for addressing climate-induced loss and damage, which is a critical component of climate finance discussions under the UNFCCC.

[9] United Nations Framework Convention on Climate Change, Article 4, paragraph 1



ICJ Advisory Opinion

CLIMATE FINANCE-SPECIFIC FINDINGS



Figure 3: ICJ Ruling, Climate finance-specific findings Source: Authors illustration

The practical implementation of these key elements of the ruling within the climate finance discourse would involve interrogating how restitution, compensation, satisfaction and the principle of common but differentiated responsibilities and respective capabilities can be applied to global climate finance delivery. Some points of entry include: Strengthening finance obligations under the NCQG and B2B Roadmap, (ii) scaling adaptation and resilience commitments, (iii) enhancing access to operating entities, (iv) improving transparency and accountability mechanisms, and (v) anchoring equity and justice principles in climate action.

Strengthening Finance Obligations under the NCQG and B2B Roadmap

The latest NDC Synthesis Report underscores that the NCQG, as agreed, remains grossly inadequate. It further reaffirms the centrality of international public finance based on conditionalities that Parties have outlined in their NDCs. Despite long-standing commitments there is a significant shortfall in the fulfilment of developed country obligations and a lack of clarity regarding the modalities for delivering climate finance. The ICJ Advisory Opinion provides a further important legal and normative foundation to reinforce these



obligations under the framework of international law.

It is necessary, then, that the NCQG and B2B roadmap toward US\$1.3 trillion is firmly embedded within the broader context of the Convention: Specifically, Article 2.1(C) (aligning financial flows with the Paris Agreement). Article 2.2 (anchoring in the principles of equity and fair-burden sharing) and Article 9 (reflecting established obligations for developed countries).

Developing countries and the African continent should call for: (ii) demonstrated leadership and delivery by developed countries in mobilising and providing US\$300 billion annually by 2035 to enable countries to implement NDCs, National Adaptation Plans (NAPs), and (ii) adoption of a clear, time-bound roadmap for implementing the climate finance target of US\$1.3 trillion by 2035, with transparent guidelines and milestones. In the context of reparations and equity, climate finance should be delivered primarily in the form of grants, and highly concessional resources.

Scaling Adaptation and Resilience Commitments

To close the widening resilience gap, COP30 will require strong political commitments on adaptation finance for the post-2030 period. This comes at a critical time when progress toward doubling adaptation finance is lagging and adaptation finance needs are compounding. COP30 will aim to advance the development of indicators governing the GGA and consider the support for NAPs, including the provisions of the NDCs. Critical to both the development of GGA indicators and implementation of the NAPs is the provision of affordable, accessible and available

finance that is adequate for effective adaptation action. This underpins equity and justice in climate finance, as recognised by the International Court of Justice.

Accelerating Obligations in Relation to Loss and Damage

The ICJ strengthens legal grounding on the obligations of Parties on loss and damage, framing them not as acts of charity but as tool for reparative justice. In practice, this entails measures for ensuring adequate and predictable funding for countries facing climate-related disasters. These measures must address challenges associated with providing emergency grant-based finance instruments and support for undertaking recovery and rehabilitation of infrastructure, ecosystems and biodiversity. Reducing the cost of accessing finance, alongside debt relief, are essential to enable effective recovery.

Enhancing Access to Operating Entities

Streamlined access to financial resources through simplified approval procedures, enhanced readiness support and direct access are crucial for effective climate finance delivery. Operating entities under the financial mechanism, including the Global Climate Fund (GCF), Global Environment Facility (GEF), Adaptation Fund (AF) and the FRLD, have the potential to provide access to highly concessional and grant-based resources. The missing link, however, is the predictability and sustainability of finance, which relies on global cooperation. COP30



must provide clear guidance to operating entities of the financial mechanism to strengthen access to resources through increased accountability of climate finance commitments and the effective allocation of funds.

Improving Transparency and Accountability Mechanisms

The ICJ places emphasis on transparency and accountability of states' obligations on climate change as it relates to due diligence, transparency in climate action and disclosures, regulation of private actors and international cooperation to prevent climate harm [10]. Accountability measures must be

implemented in tandem with mechanisms that ensure enforceability of obligations. Such measures will enhance the predictability of support and be crucial for delivering new and additional resources to developing country Parties.

Anchoring Equity and Justice Principles in Climate Action

In accordance with the core principle of the global climate regime, developing countries should continue to assert the imperative of equity and justice in climate action and transitions. These underlying principles should be explicitly reflected as Parties work towards delivering US\$300 billion and US\$1.3 trillion in annual climate finance to developing countries.

[10] Oxfam International, 2025: International Court of Justice climate ruling a powerful tool for holding countries to account. www.oxfam.org



6

Conclusion

COP30 is earmarked to be another “implementation COP” with emphasis on ambitious NDCs to close the GHG emissions gap. The balance between closing the emissions gap and providing adequate resources must be clear for all Parties. Climate finance underpins a global common good, enshrined in the welfare of populations and ecosystems that sustain its beneficiaries. In this context, the ICJ ruling is both timely and critical to shaping a new direction of climate finance discourse at the COP30 in Brazil, as well as beyond the framework of the UNFCCC. The Court’s impartial advisory opinion underscores the importance of cooperation to achieve

sustainable development that delivers environmental benefits. Climate finance negotiations must stress the critical role of reparations in the form of restitution, compensation and satisfaction as a key component of a balanced outcome. Equally, the principle of CBDR-RC should anchor negotiations in fairness. This remains central to ensuring obligations are met and responsibility is shared equitably among Parties.





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