

INVESTOR BRIEFING

INTERNATIONAL COURT OF JUSTICE (ICJ) ADVISORY OPINION ON THE LEGAL OBLIGATIONS OF STATES UNDER INTERNATIONAL LAW IN RELATION TO CLIMATE CHANGE

August 2025

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In the development of this paper, authors have consulted legal experts and the Zero Lawyers Alliance Secretariat.

While the policy recommendations herein have been developed to be globally applicable, the PRI recognises that the way in which policy reforms are implemented may vary by jurisdiction and according to local circumstances. Similarly, the PRI recognises that there may be circumstances where there are merits to allowing market-led initiatives to precede regulatory requirements.

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ABOUT THE PRI

The Principles for Responsible Investment (PRI) works with its international network of signatories to put the six Principles for Responsible Investment into practice. Its goals are to understand the investment implications of environmental, social and governance (ESG) issues and to support signatories in integrating these issues into investment and ownership decisions. The PRI acts in the long-term interests of its signatories, of the financial markets and economies in which they operate and ultimately of the environment and society as a whole.

The six Principles for Responsible Investment are a voluntary and aspirational set of investment principles that offer a menu of possible actions for incorporating ESG issues into investment practice. The Principles were developed by investors, for investors. In implementing them, signatories contribute to developing a more sustainable global financial system. More information: www.unpri.org

ABOUT THIS BRIEFING

This investor briefing outlines the International Court of Justice (ICJ) Advisory Opinion on the *Obligation of States in Respect to Climate Change* and the consequences of failing to meet them. While nonbinding, ICJ opinions carry significant weight and are often treated as authoritative interpretations of international law. Notable for its unprecedented global engagement, this opinion may shape climate policy, regulation, and litigation for years to come, with impacts varying by jurisdiction. Investors should monitor potential shifts arising from this opinion in international climate negotiations, domestic policy and regulatory reforms, and litigation risk relating to both States and private actors.

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SUMMARY FOR INVESTORS

On 23 July 2025, the International Court of Justice (ICJ) issued an advisory opinion on the legal obligations of States under international law in relation to climate change. Although formally directed at States, the opinion carries implications for private actors, such as companies and institutional investors, as it potentially strengthens the legal and normative foundation for regulatory action and corporate accountability. While impacts will vary by jurisdiction, there is increased potential for climate-related litigation between States, and against governments and private actors. It might also increase transition risks as regulatory frameworks adjust to align with strengthened international legal obligations.

Requested by the UN General Assembly and unanimously adopted by all 15 judges, the opinion affirms that States have binding obligations to protect the climate system and broader environment from anthropogenic greenhouse gas emissions. These duties arise not only under climate treaties, but also customary international law, the law of the sea, environmental treaties and international human rights law.

Importantly, the ICJ clarified that States breaching these obligations may give rise to the entire panoply of legal consequences, including ceasing the wrongful conduct and making full reparation—through restoring the situation to what it was before, paying compensation, or providing an acknowledgment of the breach—where a sufficiently direct causal link to harm can be demonstrated.

Investors concerned about rising risks or potential opportunities may wish to engage governments for clarity on their interpretation of the opinion and planned actions.

STATES' OBLIGATIONS REGARDING CLIMATE CHANGE

- **States' climate obligations are grounded in multiple sources of international law.** The Court affirmed that legal duties to protect the climate system arise not only from climate treaties such as the UNFCCC, the Paris Agreement, and the Kyoto Protocol, but also from customary international law and other applicable international law such as international human rights law.
- **Climate treaties impose binding obligations on Parties to address climate change caused by anthropogenic greenhouse gas (GHG) emissions.** These instruments require States to:
 - **Pursue the threshold of 1.5°C above pre-industrial levels**, with the Court interpreting this as the Parties' agreed **primary temperature goal** under the Paris Agreement. While Article 2.1(a) refers to keeping warming "well below 2°C" and "pursuing efforts to limit to 1.5°C", the Court emphasised the 1.5°C limit given the robust evidence that every increment of warming significantly increases harm to people, ecosystems and the climate system, strengthening the legal basis for holding States and private actors accountable for contributing to such harm;
 - Submit and maintain successive and progressive nationally determined contributions (NDCs) that reflect their **highest possible ambition** and, when taken together, are capable of realising the 1.5°C goal. The discretion of States in the preparation of NDCs is limited;
 - Exercise due diligence in preparing and implementing those NDCs, using all available means and in light of common but differentiated responsibilities and historic emissions.
- **States are bound by customary international law even if they are not parties to climate change treaties. International law requires States to:**
 - Prevent significant harm to the environment. Based on the best available science, climate change poses high risks of serious and irreversible harm to the environment. This requires the application of a stringent standard of due diligence, which means States, to the best of

their ability, must adopt appropriate legislative and regulatory measures and ensure their enforcement and the exercise of administrative control.

- Co-operate with each other in good faith to prevent significant harm to the climate system and other parts of the environment. The duty to co-operate requires sustained and continuous forms of co-operation, of which treaties and coordinated implementation are a principal expression. While not required to conclude treaties, States are required to make good faith efforts to arrive at appropriate forms of collective action.
- **Obligations under human rights are also engaged:** States must respect and protect the enjoyment of human rights by taking necessary measures to protect the climate system and other parts of the environment, with due account given to the protection of human rights, the adoption of standards and legislation, and the regulation of the activities of private actors.

CONSEQUENCES FOR STATES BREACHING THEIR OBLIGATIONS

- **A breach of a State's climate-related obligations, as identified by the ICJ, could constitute an internationally wrongful act, giving rise to State responsibility and the duty to:**
 - Cease the wrongful act, particularly breaches that are ongoing;
 - Provide assurances and guarantees of non-repetition, if circumstances so require; and
 - Make full reparation to injured States in the form of restoring the situation to what it was before, paying compensation, or providing an acknowledgment of the breach, provided that the general conditions of the law of State responsibility are met, including that a sufficiently direct and certain causal nexus can be shown between the wrongful act and injury.
- **The ICJ cited examples that may constitute internationally wrongful acts, including:**
 - Failure by States to take appropriate action to protect the climate system from GHG emissions, including through fossil fuel production or consumption, the granting of exploration licences or the provision of fossil fuel subsidies;
 - Failure by States to act with due diligence by not adopting or enforcing appropriate regulatory or legislative measures to mitigate emissions by public or private actors under its jurisdiction.

IMPLICATIONS FOR STATES

Impact on international climate negotiations

The opinion may influence future international negotiations on climate change by reinforcing that States do not have unlimited discretion in setting NDCs. Instead, NDCs must reflect each country's **highest possible ambition** grounded in the **best available science** and in accordance with legal obligations under both treaty and customary international law. This could lead to upward pressure on ambition in NDC updates and greater alignment between pledges and national policy reforms. The opinion's effect on multilateral cooperation will become clearer in the months ahead.

Impact on legislation and regulation

The opinion affirms that States have binding obligations to prevent significant climate harm by regulating both public and private actors. To fulfil their obligations, States will be required to review and develop national legislative and regulatory frameworks that enforce emissions reductions and exercise control over public and private actors within their jurisdiction. This increases the legal pressure on governments to align domestic legislation and regulation with science-based pathways.

Potential effects on litigation

The opinion may increase litigation risks (with [3118 cases](#) to date filed against both States and non-state actors across the globe), especially for States that are slow or unwilling to fulfil their climate-related obligations. However, its exact impact will only become clear over time and will likely vary across jurisdictions, reflecting differences in how international law is recognised and how judicial procedures operate. The opinion reinforces the legal basis for State-to-State disputes before international courts and may also strengthen claims by individuals or groups against States under human rights treaties. States that are not parties to international climate treaties or human rights treaties are not exempted, given the applicability of customary international law. The applicability of international law varies across jurisdictions. In some jurisdictions, customary international law could be referenced in domestic courts, provided certain conditions are met, or may serve as a persuasive tool for lawyers. Some domestic courts may cite the opinion in litigation in jurisdictions where international law is persuasive or drives legislative interpretation. The affirmation of duties to prevent harm and regulate private actors could also feed into government accountability cases.

IMPLICATIONS FOR COMPANIES & INSTITUTIONAL INVESTORS

Potential effects on the regulatory and policy environment

The opinion signals to policy makers that States should regulate private actors' conduct contributing to climate harm. It affirms that State failure to regulate private actors—such as fossil fuel producers and financiers—may potentially lead to a breach of international law. This may accelerate regulatory reform targeting high-emitting sectors and the economic transition towards a sustainable future. Companies operating in or dependent on fossil fuel-intensive activities could face growing pressure nationally and internationally to demonstrate alignment with the Paris Agreement, through credible transition plans, disclosure, and operational change. Changes in the policy environment may translate into transition risks and opportunities for companies and investors in affected sectors.

Potential effects on the litigation risk landscape

While the opinion addresses States, it may expand the legal risk landscape for corporates. State-owned enterprises or other private actors that are under the direction, control or instruction of States could face litigation risks in relation to their contribution to States' breach of climate-related and human rights-related obligations, particularly those involving fossil fuel production, consumption and the granting of exploration licences or the provision of fossil fuel subsidies. Investors may also face liability or reputational risk if connected to operations or projects deemed incompatible with States' climate obligations, especially in relation to licensing, financing, or infrastructure development. Between 2015 and the end of 2023, [230 strategic climate cases](#) had been filed against companies.

The opinion may also affect investors through [Investor-State disputes](#) based on investment treaties. In such cases, investors may seek compensation where regulatory or other state measures harmed their investments. Where States take measures to reduce emissions which provoke investor claims, it is possible that States will refer to the ICJ's opinion to argue that these measures were introduced to comply with their international law obligations. This highlights the importance for companies and investors to conduct due diligence to identify significant climate or environment-related impacts of their business and investment. They may also need to address their exposure to potential transition risks from legal or policy changes arising from States' alignment to climate-related obligations.

Potential for new investment opportunities in the net-zero transition

As States respond to their obligations through climate regulation and policy, an increased demand for climate-aligned investment is possible. States taking measures in line with the opinion could make long-term climate and transition investments, and adaptation investments, more attractive. Investors positioned to support credible transition pathways—through capital allocation, stewardship, and engagement—stand to benefit from the policy shifts likely to be catalysed by this opinion.

ANNEX A: FURTHER CONTEXT OF THE ICJ ADVISORY OPINION

PROCEDURAL BACKGROUND OF THE ADVISORY OPINION

The advisory opinion was requested by the United Nations General Assembly (UNGA) through Resolution A/RES/77/276, adopted on 29 March 2023 with support from 193 UN Member States. The initiative was led by the Republic of Vanuatu and originated from a campaign by Pacific Island law students seeking clarification on the obligations of States under international law in relation to climate change. Following the formal request, the International Court of Justice (ICJ) opened written proceedings, during which over 90 States and a wide range of international organisations and civil society actors submitted legal arguments. Public oral hearings were held in The Hague in December 2024, marking one of the most widely engaged advisory proceedings in the Court's history. On 23 July 2025, the ICJ delivered its unanimous opinion, with all 15 judges agreeing on the key legal findings. The opinion addresses both the scope of States' obligations to protect the climate system and the legal consequences arising from a breach of those obligations under international law.

LEGAL EFFECTS OF ADVISORY OPINIONS

Advisory opinions, by nature, are not binding. The requesting organ, in this case, the UN General Assembly, remains free to decide, as it sees fit, what effect to give to these opinions.

However, ICJ advisory opinions carry great legal weight and are usually cited as authoritative interpretations of international law. ICJ is the judicial organ of the UN and is the only court of general jurisdiction in the world, with decades of experience interpreting general international law.¹ ICJ advisory opinions have been frequently cited by domestic courts and international tribunals as they provide authoritative guidance on complex legal questions, offering clarity on international obligations. This advisory opinion, like many ICJ advisory opinions, may influence the development of international law, shape national policies, and guide future litigation.²

Among the 29 advisory opinions issued since 1946, this advisory opinion stands out in the Court's history for the extraordinary level of global engagement and consensus it generated.

- The United Nations General Assembly, through a resolution adopted by a consensus of 193 UN Member States, requested this advisory opinion, reflecting a substantial level of demand and urgency for judicial clarification regarding States' obligations on climate change.
- The written phase of the proceedings and public hearings saw the highest level of participation from States and international organisations in this Court's history, as well as that of its predecessor, the Permanent Court of International Justice.
- The unanimous nature of the Court's opinion is only the fifth such ruling in its history.

¹ Article 92, UN Charter; Article 38(1) of Statute of ICJ

² Maria Antonia Tigre and Armando Rocha, [The Role of Advisory Opinions in International Law in the Context of Climate Crisis](#) (Brill, 2025)

WHAT THE ADVISORY OPINION DOES NOT COVER

The opinion established the general legal framework applicable to States that fail to meet their international obligations to protect the climate system. However, it does not involve findings on individual cases and does not prejudge the merits of any future claims that may be brought.

The advisory opinion does not identify the legal entitlements of individuals or non-State actors to invoke State responsibility for climate-related harms. Such legal entitlements depend rather on the specific treaties and other legal instruments that create procedural and substantive rights and obligations governing the relationship between the states and individuals concerned.