



Developing principles for a Fossil Fuel Non-Proliferation Treaty

Background Summary for Constituency Consultations

fossilfueltreaty.org

Thank you for joining our Treaty Initiative consultation to help develop the key principles for a Fossil Fuel Non-Proliferation Treaty!

Intent of Background Note:

- To inform **innovative, in-depth and inclusive** consultations to arrive at fundamental principles to underpin the development of the Treaty Initiative, grounded in both legal theory and intersectional principles of equity and justice.
- To point towards existing **legal norms** that might provide lessons for the Treaty Initiative.
- **Not intended** to direct the consultations, but to provide contextual background.

The consultations will be crucial sources of information in their own right, and where we hope to translate the lived experiences, legal and cultural traditions of countries and communities in the Global South and major stakeholders to inform the provisions of the Treaty, outside of Euro-centric treaty models of the past.

I. Why we need a Fossil Fuel Non-Proliferation Treaty

Bold and immediate action is needed to address the climate emergency. The main cause of the climate emergency is fossil fuels – **coal, oil and gas, responsible for almost 86% of all carbon dioxide emissions in the past decade**. In 2020 climate action failure topped weapons of mass destruction, in terms of both impact and likelihood, as the greatest risk facing the world.¹ The governments and the fossil fuel industry are planning to produce more than double the coal, oil and gas than would be consistent with a 1.5°C pathway.²

Phasing-out fossil fuel production, and fast-tracking progress towards safer and more cost-effective solutions, will require unprecedented international cooperation. Underlying all of our work is the theory of change that, given the scale of the challenge, the urgency, and the fact that many countries face capacity constraints and cannot undertake the transition on their own, there is a need for international cooperation and greater global governance to manage a just transition.

While there has been **increasing discussion of managing a just transition for workforces and frontline communities** exposed to the wind down of the fossil fuel industry, management of an equitable transition must also occur on an international scale. While there is no doubt that all fossil fuel producing countries face major challenges, wealthy nations like the US, Canada, Australia, Norway and the UK, hold significant historical responsibility of fuelling the climate crisis, yet have more diversified economies, less dependence on fossil fuels, and significantly higher GDP per capita which indicates a greater capacity to transition their economies away from coal, oil and gas. By contrast, many developing countries such as Azerbaijan, Iraq, Congo and Timor Leste are far more dependent on fossil fuels for government revenue – some through state owned fossil fuel infrastructure – and also have a lower capacity to fund a transition themselves. There is a clear need for wealthier nations to transition first and fastest to leave as much time as possible for an orderly transition in the Global South, but also for financial and technical support for a global wind down of fossil fuel production. In order to negotiate and manage this complex **global transition, an international agreement is required around which countries will phase out their fossil fuels, first based on principles of equity and capacity.**



II. The pillars of the proposed Fossil Fuel Non-Proliferation Treaty

The proposed Fossil Fuel Non-Proliferation Treaty is structured around three foundational pillars:¹



Non-proliferation: Prevent the expansion of coal, oil and gas by ending all new exploration and production

The world is on track to produce more than twice as much coal, oil and gas by 2030 than is consistent with limiting the rise in global temperature to below 1.5 degree Celsius, according to the United Nations and other organizations. **An immediate end to exploration and expansion into new reserves is needed to prevent the proliferation of unnecessary and unburnable fossil fuels**, to protect workers, communities and investments from becoming stranded, and to avoid locking the world into catastrophic and irreversible climate disruption.

Fair phase out: Equitably phase out existing fossil fuel production in line with the 1.5°C global climate goal

The world's oil and gas fields and coal mines contain enough carbon to push the world beyond the Paris Agreement's temperature limits. **Phasing-out fossil fuel production must start by regulating fossil fuel supply, limiting extraction, removing subsidies for production, dismantling unnecessary infrastructure, defending the rights of Indigenous Peoples and impacted communities, and shifting support to safer alternatives**, in order to align fossil fuel supply with the goals of the Paris Agreement. Wealthy countries are the ones with the capacity to lead and support this managed phase-out of fossil fuels.

Just transition: Fast-track real solutions through scaled up access to renewable energy and a just transition for every worker, community and country so that no one is left behind

The scale of the challenge demands urgent collective action. **A peaceful and just transition calls for a clear path and a proactive plan to enable economic diversification, implement renewable energy and other reliable, cost-**

¹ The significance and relevance of three pillars of the fossil fuel treaty has been discussed in more detail in **Annexure**, attached at the end of the document for reference.

effective low-carbon solutions, and to support every worker, community and country. We can either intentionally develop new ways to meet our needs or lose the window of opportunity to ensure a safe climate, healthy economy and sustainable future.

These three pillars draw inspiration from the Nuclear Non-Proliferation Treaty but the proposed Treaty on fossil fuels also pulls lessons from multiple other recent international frameworks to manage major global threats such as the Treaty on the Prohibition of Nuclear Weapons, the Mine Ban Treaty and the Montreal Protocol on Substances that Deplete the Ozone Layer.

III. Cross Cutting Elements

The three pillars have many cross-cutting elements, rooted in the protection of human rights and equity. We have included human rights considerations in the rights and power section below, and equity considerations are referenced throughout the document. This document, which includes a more detailed annexure, aims to point out some of the cross-cutting themes, as well as legal principles that underpin the pillars. These arise from existing legal agreements, jurisprudence or persuasive literature. As indicated above, these are provided to consider lessons learned, but the consultations will go beyond this with the consultations intended to be crucial sources of information in their own right.

IV. Rights and Power

Climate change is one of the greatest threats to human rights of our generation, posing a serious risk to the rights to life, health (as well as access to medicines, and access to healthcare services), food (and nutrition), self-determination, development (including access to transportation), water and sanitation (including access to safe drinking water), housing, education and training, decent work, social protection and an adequate standard of living of individuals and communities across the world.³ Impoverishment, living with a disability, younger and older people, Indigenous peoples, People of Colour, and those marginalised by gender (women and girls), national or social origin, health or other status, experience magnified exposure to climate change linked harms.⁴ Effective and meaningful participation where such communities can co-design, implement, monitor and evaluate policies that pursue climate action in a way that protects and promotes rights and sustainable outcomes is crucial.⁵

Regarding the threat posed by climate change to the right to life,⁶ the European Court of Human Rights has, in environmental law contexts, deemed the failure of states to adequately prevent foreseeable loss of life as constituting a violation of the right to life.⁷ The principle has also been invoked by national courts in numerous instances.⁸ The Office of the United Nations High Commissioner for Human Rights (**OHCHR**) has emphasised in the context of the Convention on the Rights of the Child that “the negative impacts of climate change... trigger obligations among all duty bearers to take action to protect all children from its actual and foreseeable effects.”⁹ The duty to protect life also implies that state parties should take appropriate measures to address the general conditions in society that may

give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity.¹⁰ Climate change also poses threats to the right to culture, protected under Article 27 of the International Covenant on Civil and Political Rights. This poses particular threats to Indigenous communities given that their culture, religion, and traditional way of life are intimately intertwined with their ancestral lands.¹¹

In addition, fossil fuels undermine all 17 SDGs. As the primary driver of climate change and air pollution, and a major contributor to biodiversity loss, fossil fuels have a detrimental impact on all the SDGs. The direct impacts of the exploration, extraction, refining, transportation and combustion of fossil fuels also impact every SDG. In addition, Fossil fuel companies are expected to spend \$527 billion on new fossil gas exploration and \$405 billion on oil exploration by 2030.²³ This will lock economies into emissions for decades at a time when they need to decrease urgently. Fossil fuel firms do not play by the rules, avoiding tax, spreading misinformation, enjoying tax exemptions and suing governments pursuing ambitious climate action. In 2019–2020, 62 fossil fuel companies paid zero tax in Australia despite receiving revenues of \$81.4 billion. We need a Treaty that prioritises people, not profit.¹²

V. Closing

We hope that this document has provided a helpful outline of some of the principles that are already linked to and associated with the Treaty Initiative. Further information about the legal norms, rights and principles relevant to the three pillars of the Treaty Initiative are provided in the Annexure immediately below. During our consultation process, we look forward to hearing from you more deeply about the additional elements – from your experience and knowledge – that must inform the development of any equitable, just, and impactful new treaty. The development of a set of fundamental principles to underpin the development of the Treaty is an important and essential next step towards the Treaty.

Annexure

The three pillars of the Fossil Fuel Non-Proliferation Treaty and related laws, rights and principles.

A. Non-proliferation: Don't add to the problem. End new exploration & expansion into new fossil fuel reserves.

In 2020, climate action failure topped weapons of mass destruction, in terms of both impact and likelihood, making it the greatest risk facing the world according to the 2020 WEF Global Risk Report.¹³ The language of non-proliferation in this first pillar of the Treaty develops a framing of fossil fuels as being equivalent to weapons of mass destruction and calls for the immediate end of exploration and expansion into new fossil fuel reserves. It builds upon – and aims to learn from – the experiences of the *Treaty on the Non-Proliferation of Nuclear Weapons* and the *Treaty on the Prohibition of Nuclear Weapons*.

The Preamble to the *UNFCCC* notes that “States have... the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.”¹⁴ The International Court of Justice has also, on several occasions, reaffirmed this “no harm” obligation.¹⁵ It also appears in the proposed treaty to end plastic pollution,¹⁶ and is reflected in both Principle 21 of the *Stockholm Declaration on the Human Environment*¹⁷ and Principle 2 of the *Rio Declaration on Environment and Development*.¹⁸

States must take necessary and proportionate measures¹⁹ but as, the Hague District Court in *Shell* stated, there is “no room for weighing interests”, namely the desirability or undesirability of emissions reductions due to the urgent threat posed by climate change.²⁰ In the *Urgenda* case, the Dutch Supreme Court emphasised the importance of mitigation measures, as opposed to a reliance on adaptation measures, in order for a State to be able to abide by its duty of care towards its citizens and emissions reduction obligations:

“adaptation measures will only allow the State to protect its citizens from the consequences of climate change to a limited level. If the current greenhouse gas emissions continue in the same manner, global warming will take such a form that the costs of adaptation will become disproportionately high. Adaptation measures will therefore not be sufficient to protect citizens against the aforementioned consequences in the long term. The only effective remedy against hazardous climate change is to reduce the emission of greenhouse gases.”²¹

The Inter-American Court on Human Rights has recognised that it is often impossible to restore the status quo that existed before the environmental damage has occurred, prevention must be the main policy regarding the protection of the environment.²² IPCC reports make clear that every increment of warming undermines the safe and sustainable livelihood of future generations.²³ The challenges from delayed actions to reduce GHG emissions include the risk of cost escalation, being locked-into carbon-emitting infrastructure, stranded assets, and reduced flexibility in future response options in the medium to long-term.²⁴

The harm prevention principle, extends beyond a state's borders²⁵ where there are harmful foreseeable cross-border effects.²⁶ The harm prevention principle requires appropriate and proportional due diligence.²⁷ Some authors argue that, given the enormous risk of potentially irreversible climate change impacts at temperatures above 1.5 °C, the due diligence obligation is correspondingly high, creating a "strong pull towards more stringent targets within the range of fair shares."²⁸

The International Court of Justice has outlined the preventative element of the "no harm" rule,²⁹ which the International Law Association (ILA) has summarised the following way:

*"Where social and economic development plans, programs or projects may result in significant emissions of GHGs or cause serious damage to the environment through climate change, States have a duty to prevent such harm or, at a minimum, to employ due diligence efforts to mitigate climate change impact."*³⁰

The ILA has also highlighted the need to take preventative action to avoid harms, and the responsibility of states to compensate victims when serious, foreseeable and avoidable harms do occur.³¹ In 2011, the International Tribunal for the Law of the Sea held that the precautionary principle could be considered a "part of customary international law."³² The Non-binding Oslo Principles on Global Obligations to Reduce Climate Change were developed and promoted by leading legal experts in recognition that climate change poses grave risks of "irreversible harm to humanity, including present and future generations, to the environment, including other living species and the entire natural habitat, and to the global economy." The principles put forward at that meeting stated that the precautionary principle requires:

"1) GHG emissions be reduced to the extent, and at a pace, necessary to protect against the threats of climate change that can still be avoided; and 2) the level of reductions of GHG emissions required to achieve this should be based on any credible and realistic worst-case scenario accepted by a substantial number of eminent climate change experts."

Further, it explains that "[t]he measures required by the precautionary principle should be adopted without regard to the cost, unless that cost is completely disproportionate to the reduction in emissions that will be brought about by expanding it."³³

The ILA has also proposed Strengthened Legal Principles for Climate Change (the Principles). Regarding precaution, the Principles introduce criteria triggers on the obligation to act where there is; (1) reasonable foreseeability of damage falling short of conclusive scientific proof, and (2) a threat of serious or irreversible damage.³⁴

In a joint statement on climate change with other treaty bodies, the UN Human Rights Committee recognised that "to avoid the risk of irreversible and large-scale systemic impacts, urgent and decisive climate action is required."³⁵ Such action includes effective contribution to phasing out fossil fuels, promoting renewable energy, regulating and holding accountable private actors and discontinuing financial incentives or investments in activities and infrastructure which are not consistent with low GHG emissions pathways.³⁶ They unanimously recognized that "State parties have obligations, including extraterritorial obligations to respect, protect and fulfill all human rights of all peoples", including

a duty to “prevent foreseeable human rights harm caused by climate change, [and] to regulate activities contributing to such harm.”³⁷

B. Fair phase out: Reduce the existing threat. Equitably phase out existing stockpiles and productions in line with 1.5°C.

This second pillar of the Treaty is about an equitable, managed phase-out of fossil fuel production. This is achieved by regulating fossil fuel supply, limiting extraction, removing production subsidies, dismantling unnecessary infrastructure, and shifting support to safer and more sustainable alternatives. As a starting point, we can learn from the UNFCCC, where in Article 2, State Parties to the Convention agreed that the “ultimate objective” of the Convention is achieving the “stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.”³⁸ The Convention also acknowledges that the “global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response.”³⁹ The Paris Agreement resolves to hold the increase in global average temperature to “well below 2°C” above pre-industrial levels, and to pursue efforts towards a 1.5°C temperature limit.⁴⁰ The International Energy Agency has said unequivocally that exploitation and development of new oil and gas fields must stop and no new coal-fired power stations can be built if the world is to stay within the safest possible limits of global heating still attainable.⁴¹

Underpinning both the Convention and the Paris Agreement are notions of equity. The “Common but Differentiated Responsibilities and Respective Capabilities and their social and economic conditions” (**CBDR-RC**) principle⁴² is one such articulation, also appearing in Principle 7 of the Rio Declaration which asserts the primacy of developed country responsibilities:

“States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth’s ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.”⁴³

The Paris Agreement contains references to the CBDR-RC principle in a preambular recital, and in provisions relating to the purpose of the agreement, progression and long-term low greenhouse gas strategies.⁴⁴ Article 2, which sets the long-term temperature goal and frames the implementation of the entire agreement, reads “[t]his Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.”⁴⁵

The importance of global cooperation and the combined effort of states (as well as non-state actors operating within them) in preventing humanitarian catastrophes, has also been noted by the International Court of Justice in a number of decisions.⁴⁶ The UN Human Rights Committee has asserted that the failure of States to effectively address climate

change through international cooperation would prevent individual States from meeting their duties to protect and fulfill their human rights obligations.⁴⁷ The Human Rights Committee has also acknowledged that international cooperation to address the adverse impacts of climate change, is – in particular – necessary so as to facilitate climate change adaptation and mitigation, in order to meet the special needs and circumstances of developing countries.⁴⁸

The Dutch Supreme Court's decision in *Urgenda* found that the right to life and a private and family life can be threatened by climate change,⁴⁹ and that the gap between current and desired emissions "means that more reduction measures have to be taken on an international level. It compels all countries... to implement the reduction measures to the fullest extent possible."⁵⁰ The UN Committee on Economic, Social and Cultural Rights (which monitors State Parties compliance with the International Covenant on Economic Social and Cultural Rights) has noted that:

"Complying with human rights obligations in the context of climate change... requires respecting human rights, by refraining from the adoption of measures that could worsen climate change; protecting human rights, by effectively regulating private actors to ensure that their actions do not worsen climate change; and fulfilling human rights, by adopting policies that can channel modes of production and consumption towards a more environmentally sustainable pathway."⁵¹

In a joint statement on climate change with other treaty bodies, the UN Human Rights Committee recognised that

"In order for States to comply with their human rights obligations, and to realise the objectives of the Paris Agreement, they must adopt and implement policies aimed at reducing emissions, which reflect the highest possible ambition, foster climate resilience and ensure that public and private investments are consistent with a pathway towards low carbon emissions and climate resilient development."⁵²

The OHCHR has stated that "[c]limate change can only be effectively addressed through cooperation," and that such was particularly important for low-income countries due to the significantly higher risks these States face.⁵³ The International Law Commission has made clear that the principle of good faith, and the "spirit of partnership" are central to the climate change regime.⁵⁴ Global cooperation is enabled by equity.⁵⁵ The Rogeji Report notes that "Major economies... have a unique responsibility to mitigate climate change, because they exercise an outsized influence. The G20, to which each respondent is a member, make up 84% of all global emissions."⁵⁶

C. Just transition: Accelerate an equitable transition. Increase access to renewable energy and other low carbon solutions. Develop just transition plans.

Finally, the third pillar of the Treaty is about a peaceful and just transition to 100% renewable energy with clear paths and proactive plans to support workers and communities, enable economic diversification and foster alternative development trajectories. For the International Labour Organisation, a just transition means greening the economy in a way that is as fair and inclusive as possible to everyone concerned, creating decent work opportunities and leaving no one behind. It involves maximising the social and economic opportunities of climate action, while minimising and

carefully managing any challenges – including through effective social dialogue among all groups impacted, and respect for fundamental labour principles and rights.⁵⁷ It is based on the notion that acting together, governments, employers and workers can safeguard the environment for present and future generations, eradicate poverty and promote social justice.

The *Guidelines for a just transition towards environmentally sustainable economies and societies for all*,⁵⁸ prepared following an ILO Tripartite Meeting of Experts in 2015, is one key document reflecting the views and perspectives of governments, employers, and workers' organisations. As a globally endorsed framework, the Guidelines outline principles and potential policy entry-points to promote and manage a just transition that supports fossil fuel workers to transition to a renewable energy economy, among other things. The guidelines cover a range of areas central to addressing environmental, economic and social sustainability simultaneously: macroeconomic and growth policies; industrial and sectoral policies; enterprise development policies; skills development; occupational safety and health; social protection; active labour market policies; rights; and social dialogue and collaboration between governments, employers and workers.

Current macroeconomic policies have curtailed justice centered initiatives, however. For example, continued austerity limits the provision of social protection, which has disproportionate impacts on women and marginalised communities most exposed to climate change impacts.⁵⁹ In addition, trade and investment rules have protected coal, oil and gas investments despite our knowledge about the harms they pose.⁶⁰ Principle 16 of the Rio Declaration (1992) states that:

“National authorities should endeavour to promote the internalisation of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.”⁶¹

Carbon majors are disproportionately responsible for GHG production.⁶² The obligation of polluters to prevent, reduce and repair pollution is noted in a number of conventions.⁶³ The Philippines National Human Rights Commission found that Carbon Majors could be held legally liable for violating human rights.⁶⁴ In a related example, United Nations Convention on the Law of the Sea (UNCLOS) requires States to “take measures necessary” to prevent the pollution of the marine environment from any source and to ensure that activities within their jurisdiction and control do not cause pollution damage to other states or their environment,⁶⁵ including the release of toxic, harmful or noxious substances from land-based or atmospheric sources such as greenhouse gasses.⁶⁶ States can be held to account for failing to regulate companies that fail to prevent foreseeable threats to the life of the victims.⁶⁷ The Dutch Supreme Court in *Kalmijnen* acknowledged that a business enterprise can be considered individually, partially responsible for emissions, and that this is determined by the level of “control and influence” it has over emissions.⁶⁸ This may be considered in terms of the company's size, extent of its leverage in addressing the adverse impact, and the scale, scope and irremediable character of the impact itself.⁶⁹ The Hague District Court in *Shell* acknowledged that the reduction obligation may require a drastic policy change or financial sacrifice on the part of a company, given the threats and risks to human rights proposed by dangerous climate change.⁷⁰ The way in which companies are held

responsible, must not penalise workers, and a just transition model aims to protect their rights and well-being – as well as those of communities more broadly – ensuring sustainability aligns with social justice.

Endnotes

¹ WEF Global Risk Report (2020) (risk = likelihood x impact), http://www3.weforum.org/docs/WEF_Global_Risk_Report_2020.pdf

² <https://productiongap.org>

³ UN Human Rights Special Procedures, 'Safe Climate: A Report of the Special Rapporteur on Human Rights and the Environment' (1 October 2019) UN Doc A/74/161.

⁴ UN Human Rights Council, Resolutions on human rights and climate change, 'Resolution 10/4,' (2009), 'Resolution 18/22,' (2011) and 'Resolution 26/27,' (2014), 'Resolution 29/15,' (2015) and 'Resolution 32/33,' (2016).

⁵ *The Environment and Human Rights*, Advisory Opinion OC-23/17, Inter-American Court of Human Rights Series A No 23 (15 November 2017) para 102, 104(h).

⁶ UNGA Resolution 18/22 (September 2011) UN Doc A/HRC/RES/18/22. See also, Vienna Convention on the Law of Treaties (adopted 22 May 1969, entered into force 27 January 1980) art31(3)(c), which establishes the interpretative principle that treaty obligations should 'be taken into account, together with any context: any relevant rules of international law applicable to the relation between the parties' – in this way, obligations set out in human rights treaties must be considered, and indeed inform, the interpretation of parties' environmental obligations. See also, K da Costa and P Pospieszna, 'Finding the missing thread: The inclusion of a Human Rights-Based Approach in tackling climate change mitigation, adaptation and disaster risk reduction' (Input Paper, February 2014) in 'United Nations Global Assessment Report on Disaster Risk Reduction 2015 – Making Development Sustainable: The Future of Disaster Risk Management' (GAR15) (4th edn, United Nations Office for Disaster Risk Reduction 2015); UNGA Resolution 69/283 Sendai Framework for Disaster Risk Reduction 2015–2030 (3 June 2015) UN Doc A/RES/69/283 para 19(c); The Nansen Initiative, 'Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change' (Vol I, December 2015); UNGA Resolution 69/313 Addis Ababa Action Agenda (17 August 2015) UN Doc A/RES/69/313.

⁷ UNHRC Resolution 7/23 (28 March 2008) UN Doc A/HRC/RES/7/23; UNHRC Resolution 26/27 (15 July 2014) UN Doc A/HRC/26/27; UNHRC Resolution 29/15 (22 July 2015) UN Doc A/HRC/RES/29/15; UNHRC Resolution 32/33 (18 July 2016) UN Doc A/HRC/RES/32/33; UNHRC Resolution 35/20 (7 July 2017) UN Doc A/HRC/RES/35/20; UNHRC Resolution 38/4 (16 July 2018) UN Doc A/HRC/RES/38/4; UNHRC Resolution 42/21 (23 July 2019) UN Doc A/HRC/RES/42/21; UNHRC Resolution 44/7 (23 July 2020) UN Doc A/HRC/RES/44/7; UNHRC Resolution 47/24 (26 July 2021) UN Doc A/HRC/RES/47/24.

⁸ *Ioane Teitiota v New Zealand* (23 September 2020) Communication No. 2278/2016 CCPR/C/127/D/2728/2016 para 9.4. As regards Article 6 ICCPR, see *Case of the Yakye Axa Indigenous Community v. Paraguay* Inter-American Court of Human Rights Series C No 125 (June 17, 2005) para 168; *Indigenous and Tribal Peoples' Rights over their Ancestral Lands and Natural Resources* (Norms and Jurisprudence of the Inter-American Human Rights System) Inter-American Court of Human Rights Series L No 5/2 (30 December 2009) para 56. See also, UN Human Rights Committee, 'General Comment No 36 (2018) article 6 of the International Covenant on Civil and Political Rights, on the right to life' (30 October 2018) UN Doc CCPR/C/GC/36 para 62. As regards Article 17 ICCPR, see *Norma Portillo Cáceres v Paraguay* (20 September 2019) Communication No. 2751/2016 UN Doc CCPR/C/126/D/2751/2016 para 7.7.

⁹ *Öneryıldız v Turkey* (30 November 2004) 41 EHRR 20 para 90; *Budayeva and Others v. Russia* App no 15339/02, 21166/02, 20058/02, 11673/02 and 15343/02 (ECtHR, 20 March 2008) para 129–132, 149; *Fadeyeva v Russia* (2007) 45 EHRR 10 para 134; *Taşkın and others v Turkey* (10 November 2004) 42 EHRR 50 para 126; *López Ostra v. Spain* (9 December 1994) 20 EHRR 277 para 58; *Tătar v Romania* App No 67021/01 (ECtHR, 27 January 2009) para 120.

¹⁰ UN Human Rights Committee, 'General comment No 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life' (30 October 2018) UN Doc CCPR/C/GC/36 para 62.

¹¹ *Plan B Earth and Others v Secretary of State for Transport* [2020] EWCA Civ 214 para 258–259; *Sharma by her litigation Representative Sister Marie Brigid Arthur v Minister for the Environment* [2021] FCA 560 para 398; *Neubauer et al v Germany* [2021] BvR 2656/18/1 para 90, 135–37; *Sarah Thomson v Minister for Climate Change Issues* (2017) NZHC 733 para 88–94; *Future Generations*

v Ministry of the Environment and Others [2018] STC4360-2018 para 11.1; *Urgenda Foundation v State of the Netherlands* (20 December 2019) ECLI:NL:HR:2019:2006 paras 5.7.3, 7.2.5, 7.2.10.

¹² Freddie Daley and Charlie Lawrie, 'Fuelling Failure: How coal, oil and gas sabotage all seventeen Sustainable Development Goals' (2022, University of Sussex).

https://static1.squarespace.com/static/5dd3cc5b7fd99372fbb04561/t/629621606337cb2779a632f9/1654006125016/FFN_MVSA003+Report+-+Fossil+Fuels+vs.+the+Sustainable+Development+Goals_V4-FA-Screen-Single.pdf

¹³ UN Human Rights Committee, 'General comment No 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life' (30 October 2018) UN Doc CCPR/C/GC/36 para 26; UN Committee on the Rights of the Child, General Comment No 16 (2013) on State Obligations regarding the impact of the business sector on children's rights' (17 April 2013) UN Doc CRC/C/GC/16 para 2(c), 3 and 31; UN Committee on the Rights of the Child, 'General Comment No 7 (2013) on implementing rights in early childhood' (20 September 2006) UN Doc CRC/C/GC/7/Rev.1 para 10, where it was noted that the right to survival and development must be implemented in a holistic manner, through the enforcement of all the other provisions of the Convention, including rights to... a healthy and safe environment. See also *Saachi et al v Argentina et al* (2019) Communication No 104/2019 UN Doc CRC/C/88/D/104/2019 para 24.

¹⁴ UN Human Rights Committee, 'General comment No 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life' (30 October 2018) UN Doc CCPR/C/GC/36 para 62.

¹⁵ *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya* (2 February 2010) African Commission on Human and Peoples' Rights 276/2003 para 156, citing extensively *Mayagna (Sumo) Awas Tingni Community v Nicaragua*, Inter-American Court of Human Rights Series C No 79 (August 3 2001) para 149 ('[T]he close ties of indigenous people with the land must be recognized and understood as the fundamental basis of their cultures, their spiritual life, their integrity, and their economic survival. For indigenous communities, relations to the land are not merely a matter of possession and production but a material and spiritual element which they must fully enjoy, even to preserve their cultural legacy and transmit it to future generations.'). See also, *Chief Bernard Ominayak and the Lubicon Lake Band v. Canada* (26 March 1990) Communication No 167/1984 U.N. Doc. CCPR/C/38/D/167/1984 para 32; *Portillo Cáceres v Paraguay* (20 September 2019) Communication No. 2751/2016 CCPR/C/126/D/2751/2016 para 7.5; United Nations Human Rights Office of the High Commissioner, 'General comment No 23 (2016) on the right to just and favourable conditions of work' (2016) UN Doc E/C.12/GC/23 para 7-9.

¹⁶ World Economic Forum, 'The Global Risks Report 2020' (15th edn, 2020) 7.

¹⁷ United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 24 March 1994) (1992) 31 ILM 849, 1.

¹⁸ *Trail Smelter Arbitration (United States v Canada)* [1938] 3 RIAA 1905; *Legality of the Threat or Use of Nuclear Weapons (Advisory Opinion)* [1996] ICJ Rep 226, 241-2, 246; *Pulp Mills on the River Uruguay (Argentina v Uruguay)* [2006] ICJ Rep 156, 14. See also, *Gabčíkovo-Nagymaros Project (Hungary v Slovakia)* [1997] ICJ Rep 7; *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v Nicaragua)* (Merit) [2015] ICJ Rep 665.

¹⁹ United Nations Environment Programme, 'End plastic pollution: Towards an international legally binding instrument' (2 March 2022) UNEP/EA.5/L.23/Rev.1 preambular recital 4.

²⁰ 'Report of the United Nations Conference on the Human Environment' UN Conference on the Human Environment (Stockholm 5 June-16 June 1972) (1973) UN Doc A/CONF.48/14/Rev 1, Annex II para 7.

²¹ 'Report of the United Nations Conference on Environment and Development' UN Conference on Environment and Development (Rio de Janeiro 3 June-14 June 1992) (12 August 1992) UN Doc A/CONF.151/26 (vol i), Annex I Principle 2.

²² *Legality of the Threat or Use of Nuclear Weapons (Advisory Opinion)* [1996] ICJ Rep 226, 242 para 30.

²³ *Milieudefensie et al v Royal Dutch Shell PLC* (26 May 2021) ECLI:NL:RBDHA:2021:5337 para 4.3.5.

²⁴ *Urgenda Foundation v State of the Netherlands* (20 December 2019) ECLI:NL:HR:2019:2006 para 4.75.

²⁵ *The Environment and Human Rights*, Advisory Opinion OC-23/17, Inter-American Court of Human Rights Series A No 23 (15 November 2017) para 130.

²⁶ IPCC, 2021: Summary for Policymakers. In: *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* [Masson-Delmotte, V., P. Zhai, A. Pirani, S.L. Connors, C. Péan, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M.I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J.B.R. Matthews, T.K. Maycock, T. Waterfield, O.

Yelekçi, R. Yu, and B. Zhou (eds.)). Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 3–32, doi:10.1017/9781009157896.001; See also, Joeri Rogelj et al, 'Estimating and tracking the remaining carbon budget for stringent climate targets' (2019) 571 Nature 335, 335.

²⁷ IPCC, 'Summary for Policymakers' in 'Global Warming of 1.5°C – An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty' (IPCC, 2018).

²⁸ UNCHR, 'General Comment No 31 on The Nature of the General Legal Obligation Imposed on States Parties to the Covenant' (29 March 2004) UN Doc CCPR/C/21/Rev.1/Add.13 para 10.

²⁹ ICJ, 'Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights' (adopted 28 September 2011) Principle 9[b]. These principles have been recognized as a 'key tool in addressing complex contemporary cross-border challenges' by the OHCHR <<https://www.ohchr.org/en/press-releases/2013/09/human-rights-beyond-borders-un-experts-call-world-governments-be-guided>>.

³⁰ ILC, 'Responsibility of States for Internationally Wrongful Acts' (adopted by the International Law Commission at its 53rd session, 2001) Commentary to Draft Article 3A para 11.

³¹ Lavanya Rajamani et al, 'National 'fair shares' in reducing greenhouse gas emissions within the principled framework of international environmental law' (2021) 21(8) Climate Policy 983, 993.

³² *Pulp Mills on the River Uruguay (Argentina v Uruguay)* [2006] ICJ Rep 156, 14.

³³ *Pulp Mills on the River Uruguay (Argentina v Uruguay)* [2006] ICJ Rep 156, 14.

³⁴ International Law Association, Declaration of Legal Principles Relating to Climate Change, Resolution 2/2014 (Washington D.C., the United States of America), 7–11 April 2014. See also Convention on Long-Range Transboundary Air Pollution (adopted 13 November 1979, entered into force 16 March 1983) 1302 UNTS 217; Montreal Protocol to the Vienna Convention for the Protection of the Zone Layer (adopted 15 September 1987, entered into force 1 January 1989) 1522 UNTS 3; International Convention on Oil Pollution Preparedness, Response and Co-operation (adopted 30 November 1990, entered into force 18 October 1995) 1891 UNTS 77 (OPRC Convention) preamble recognises the polluter pays principle as a 'general principle of international environmental law'; Convention for the Protection of the Marine Environment of the North-East Atlantic (adopted 22 September 1992, entered into force 25 March 1998) 2354 UNTS 67 (OSPAR Convention) art 2(2)(b); Convention on the Protection of the Marine Environment of the Baltic Sea Area (adopted 22 March 1974, entered into force 3 May 1980) 1507 UNTS 166; Convention on the Protection of the Black Sea against Pollution (adopted 21 April 1992, entered into force 15 January 1994) 1764 UNTS 3 (Bucharest Convention); Convention on the Protection and Use of Transboundary Watercourses and International Lakes (adopted 17 March 1992, entered into force 6 October 1996) 1936 UNTS 269; Protocol on Civil Liability and Compensation for Damage caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters (adopted 21 May 2003, not yet in force) UNTS Doc ECE/MP.WAT/11-ECE/CP.TEIA/9, art 4; Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment (21 November 1993) ETS No 150 art 11; Report of the United Nations Conference on Environment and Development' UN Conference on Environment and Development (Rio de Janeiro 3 June–14 June 1992) (12 August 1992) UN Doc A/CONF151/26 (Vol.1); UNGA Res 56/13 (14 December 2012) UN Doc A/RES/56/13. See also, Consolidated Version of The Treaty on the Functioning of the European Union (26 October 2012) OJ C326/49 (TFEU) art 191, which notes that environmental protection shall be based 'on the precautionary principle and the principles that preventative action should be taken', and recognises the polluter pays principle; 'Council Recommendation 75/EURATOM, ECSC, EEC of 3 March 1975 regarding cost allocation and action by public authorities on environmental matters' (1975) 18 OJ L169 1–4; 'Council Directive 75/442/EEC of 15 July 1975 on waste' (1975) 18 OJ L194 38–41; 'Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste' (1999) 42 OJ L312 art 10; 'Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy' (2000) 43 OJ L327 art 9; 'Communication from the Commission to the Council and Parliament and the Economic and Social Committee: Green Paper on Remedying Environmental Damage' (14 May 1993) COM/93/47; 'White Paper on Environmental Liability' (9 February 2000) COM/2000/66; 'Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage' (21 April 2004) OJ L143.

³⁵ *Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area* (Advisory Opinion of the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea of 1 February 2011) ITLOS para 135. See also UNGA 'Intergenerational solidarity and the needs of future generations: report of the Secretary-General' (5 August 2013) UN Doc A/68/322.

³⁶ Oslo Principles on Global Obligations to Reduce Climate Change (1 March 2015) Principle 1.

³⁷ Committee on Legal Principles Relating to Change, 'Resolution 2/2014 Declaration of Legal Principles Relating to Climate Change' in International Law Association of the Seventy-Sixth Conference (Washington 7-11 April 2014) (International Law Association, Washington 2014) Draft Article 7B.

³⁸ Committee on the Elimination of Discrimination Against Women, Committee on Economic, Social and Cultural Rights, Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, Committee on the Rights of the Child, Committee on the Rights of Persons, with Disabilities, 'Joint Statement on Human Rights and Climate Change' (16 September 2019) UN Doc HRI/2019/1 para 5.

³⁹ Committee on the Elimination of Discrimination Against Women, Committee on Economic, Social and Cultural Rights, Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, Committee on the Rights of the Child, Committee on the Rights of Persons, with Disabilities, 'Joint Statement on Human Rights and Climate Change' (16 September 2019) UN Doc HRI/2019/1 para 12.

⁴⁰ Committee on the Elimination of Discrimination Against Women, Committee on Economic, Social and Cultural Rights, Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, Committee on the Rights of the Child, Committee on the Rights of Persons, with Disabilities, 'Joint Statement on Human Rights and Climate Change' (16 September 2019) UN Doc HRI/2019/1 para 10. See also *Ilascu and Others v Moldova and Russia* (2005) 40 EHRR 1030 para 317; *Andreou v Turkey* App no 45653/99 (ECtHR, (3 June 2008)); *Bastidas Meneses v Ecuador* (Petition 189-03) Inter-American Court of Human Rights Report No 153/11 paras 10-11, 18 (2011); UN Human Rights Committee, 'General Comment No 36 (2018) article 6 of the International Covenant on Civil and Political Rights, on the right to life' (30 October 2018) UN Doc CCPR/C/GC/36 para 22. See also, UN Human Rights Committee 'Report of the Working Group on the Universal Periodic Review' (26 September 2019) UN Doc A/HRC/42/12.

⁴¹ United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 24 March 1994) (1992) 31 ILM 849 art 2.

⁴² United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 24 March 1994) (1992) 31 ILM 849 preambular recital 6.

⁴³ United Nations Framework Convention on Climate Change, 'Adoption of the Paris Agreement' (29 January 2016) UNFCCC 21st Session Decision 1/CP.21 FCCC/CP/2015/10/Add.1, 2.

⁴⁴ International Energy Association, 'Net Zero by 2050: A Roadmap for the Global Energy Sector' (May 2021).

⁴⁵ United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 24 March 1994) (1992) 31 ILM 849; United Nations Framework Convention on Climate Change, 'Adoption of the Paris Agreement' (29 January 2016) UNFCCC 21st Session Decision 1/CP.21 FCCC/CP/2015/10/Add.1.

⁴⁶ 'Report of the United Nations on Environment and Development' United Nations Conference on Environment and Development (Rio de Janeiro 3 June-14 June 1992) (12 August 1992) UN Doc A/CONF.151/26 (vol i), Annex I Principle 7. See also, UNGA Res 70/1 (25 September 2015) UN Doc A/RES/70/1; 'Report of United Nations Conference on Sustainable Development' United Nations Conference on Sustainable Development (Rio de Janeiro, 20 June-22 June 2012) (28 September 2012) UN Doc A/CONF.216/16 Principle 7.

⁴⁷ Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016) preambular recital 3, art 2(2), art 4(3), art 4(19).

⁴⁸ Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016), art 2(2). See also art 4(1), art 4(4), art 4(19).

⁴⁹ *Gabčikovo-Nagymaros Project (Hungary v Slovakia)* [1997] ICJ Rep 7 para 140, *Case Concerning App. of the Convention on the Prevention and Punishment of the Crime of Genocide Bosnia (Bosnia and Herzegovina v. Serbia and Montenegro)* (Judgment) [2007] ICJ Rep 43 para 430. See also Commentary on the Maastricht Principles, 14; *The Mavromattis Palestine Concessions (Greece v Britain)* [1924] PCIJ Rep Series B No.2, 3 para 21.

⁵⁰ UNGA 'Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment' (2016) UN Doc A/HRC/37/58 para 57.

⁵¹ UNGA Resolution 26/27 (15 July 2014) UN Doc A/HRC/RES/26/27 3.

⁵² *Urgenda Foundation v State of the Netherlands* (20 December 2019) ECLI:NL:HR:2019:2006 para. 5.6.2.

⁵³ *Urgenda Foundation v State of the Netherlands* (20 December 2019) ECLI:NL:HR:2019:2006 para. 4.79.

⁵⁴ UNESCO, 'Climate change and the International Covenant on Economic, Social, and Cultural Rights - Statement by the Committee on Economic, Social, and Cultural Rights' (31 October 2018) UN Doc E/C.12/2018/1 para 10.

⁵⁵ Committee on the Elimination of Discrimination Against Women, Committee on Economic, Social and Cultural Rights, Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, Committee on the Rights of the Child, Committee on the Rights of Persons, with Disabilities, 'Joint Statement on Human Rights and Climate Change' (16 September 2019) UN Doc HRI/2019/1 para 11.

⁵⁶ OHCHR, 'Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights' (15 January 2009) UN Doc A/HRC/10/61 para 84.

⁵⁷ Committee on Legal Principles Relating to Change, 'Resolution 2/2014 Declaration of Legal Principles Relating to Climate Change' in International Law Association of the Seventy-Sixth Conference (Washington 7-11 April 2014) (International Law Association, Washington 2014) Draft Article 8; 'Report of the United Nations Conference on Environment and Development' UN Conference on Environment and Development (Rio de Janeiro 3 June-14 June 1992) (12 August 1992) UN Doc A/CONF151/26 (vol i), Annex I Principle 27; Lavanya Rajamani et al, 'National 'fair shares' in reducing greenhouse gas emissions within the principled framework of international environmental law' (2021) 21(8) Climate Policy 983, 995.

⁵⁸ Harald Winkler, 'Putting equity into practice in the global stocktake under the Paris Agreement' (2020) 20(1) Climate Policy 24-132.

⁵⁹ Joeri Rogelj et al, 'Estimating and tracking the remaining carbon budget for stringent climate targets' (2019) 571 Nature 335, 336 Table 1. See also Richard Heede, 'Tracing anthropogenic carbon dioxide and methane emissions to fossil fuel and cement producers 1854-2010' (2014) 122 Climatic Change 229-241; Richard Heede, *Carbon Majors: Accounting for carbon and methane emissions 1854-2010 - Methods & Results Report* (Climate Mitigation Services 2014) where it is noted that The influence G20 members exert over the climate crisis can be measured by the carbon footprint of the private industries over which they exercise jurisdiction; just 90 fossil fuel and cement producers are responsible for 63% of all GHG emitted from 1751-2010. Of these, the top 50 investor-owned entities are all nationals of G20 states).

⁶⁰ ILO Guidelines for a just transition towards environmentally sustainable economies and societies for all (ILO, 2015) para 6-8, 15.

⁶¹ ILO Guidelines for a just transition towards environmentally sustainable economies and societies for all (ILO, 2015).

⁶² Iolanda Fresnillo, 'Out of service How public services and human rights are being threatened by the growing debt crisis' (Eurodad, 17 February 2020); Christina Kingston, Irikana Godspower, Victory Dienne and Kato Gogo Kingston, 'The impacts of the World Bank and IMF Structural Adjustment Programmes on Africa: The case study of Cote d'Ivoire, Senegal, Uganda and Zimbabwe' (2011) 1(2) Sacha Journal of Policy and Strategic Studies 110-130; Isabel Ortiz and Matthew Cummins, 'Austerity: The New Normal - A Renewed Washington Consensus 2010-24' (October 2019), Initiative for Policy Dialogue (IPD) International Confederation of Trade Unions (ITUC) Public Services International (PSI) European Network on Debt and Development (EURODAD) and The Bretton Woods Project (BWP) Working Paper.

⁶³ Cecilia Olivet et al, 'One Treaty to rule them all' (Corporate Europe Observatory and the Transnational Institute 12 June 2018).

⁶⁴ 'Report of the United Nations Conference on Environment and Development' UN Conference on Environment and Development (Rio de Janeiro 3 June-14 June 1992) (12 August 1992) UN Doc A/CONF151/26 (vol i) Annex I Principle 16.

⁶⁵ Richard Heede, 'Update of Carbon Majors 1965-2018' (Press Release, Climate Accountability Institute 9 December 2020).

⁶⁶ Convention for the Protection of the Marine Environment of the North-East Atlantic (adopted 22 September 1992, entered into force 25 March 1998) 2354 UNTS I-42279 (OSPAR Convention) art 2.2(b); Convention on the Protection and Use of Transboundary Watercourses and International Lakes (adopted 17 March 1992, entered into force 6 October 1996) 1936 UNTS 269 art 2(5)(b); Convention on the Protection of the Marine Environment of the Baltic Sea Area (adopted 22 March 1974, entered into force 3 May 1980) 1507 UNTS I-25986 art 2(5); Agreements concerning the Protection of the Scheldt and Meuse Rivers (1994) Documents du Conseil Regional Wallon, Session 1994-1995, 330(1) 11-26 art 3(2)(d); Barcelona Convention for the Protection of the Mediterranean Sea against Pollution (adopted 16 February 1976, as amended 10 June 1995 and entered into force 9 July 2004) 1102 UNTS 27 art 4(3)(a); Athens Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities (adopted 17 May 1980, as amended in Syracuse on 7 March 1996 and entered into force 11 May 2008) 1328 UNTS 119, recital 5; Lugano Convention on Civil Liability for Damage Resulting From Activities Dangerous to the Environment (DATE 1993) OJ L339/3 preamble sets out the 'desirability of providing for strict liability in this field taking into account the "Polluter-Pays" Principle'; Association of South-East Asian Nations (ASEAN) Agreement on the Conservation of Nature and Natural Resources (9 July 1985) art 10(d); Convention on the Protection of the Alps (Alpine Convention) (12 March 1996) OJ L61 art 2(1); Porto Agreement to establish the European Economic Area (EEA) (3 January 1994) OJ L001 art 73; Convention on Co-operation for the Protection and Sustainable Use of the Danube River L342 (Danube River Protection Convention) (12 December 1997) OJ L342 art 4(4); 1966 Protocol to the Convention

on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Convention) (as amended 29 December 1972) 11 ILM 1294 art 3(2) states that 'Taking into account the approach that the polluter should, in principle, bear the cost of pollution, each contracting Party shall endeavour to promote practices whereby those it has authorised to engage in dumping or incineration at sea bear the costs of meeting the prevention and control requirements for the authorised activities, having due regard to the public interest'; Rotterdam Convention on the Protection of the Rhine (Rotterdam Convention) (16 November 2000) OJ L289 art 4.

⁶⁷ Commission on Human Rights of the Philippines, 'Final Report in the National Inquiry on Climate Change' (6 May 2022) CHR-NI-2016-0001.

⁶⁸ UN Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3 art 194(1).

⁶⁹ UN Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3 a207 and a212 respectively.

⁷⁰ Portillo Cáceres v Paraguay (20 September 2019) Communication No. 2751/2016 CCPR/C/126/D/2751/2016 para 7.5.