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STATES' OBLIGATIONS IN RELATION TO NATIONALLY DETERMINED CONTRIBUTIONS UNDER THE PARIS AGREEMENT



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States' Obligations in Relation to Nationally Determined Contributions under the Paris Agreement

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Abstract: This research paper examines States' obligations in relation to nationally determined contributions (NDCs) – one of the core institutions within the architecture of the Paris Agreement through which States set out their national climate targets and indicators. Particular attention is paid to the interpretation of Article 4(2) of the Paris Agreement in light of the negotiating history and recent advisory opinions on States' obligations in respect of climate change. Other treaty provisions are also considered in order to identify whether the Paris Agreement lays down requirements for NDCs and objective criteria for assessing their content. The paper further analyzes the operation of existing mechanisms for ensuring transparency of action and support, facilitating implementation of treaty provisions, and assessing collective progress in addressing climate change, with a view to determining whether the Paris Agreement provides for the assessment of NDCs, their effectiveness, and their adequacy in relation to the Agreement's objectives.

Keywords: climate change, nationally determined contributions, Paris Agreement, NDCs, ambition, progression

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Abbreviations

CBDRRC-NC	Common but differentiated responsibilities and respective capabilities, in the light of different national circumstances
Draft Paris Outcome	Draft Paris Outcome. Revised draft conclusions proposed by the Co-Chairs. Ad Hoc Working Group on the Durban Platform for Enhanced Action Second session, part twelve Paris, 29 November to 5 December 2015. FCCC/ADP/2015/L.6/Rev.1
Enhanced transparency framework	Enhanced transparency framework for action and support
Geneva text	Negotiating text. Agenda item 3. Implementation of all the elements of decision 1/CP.17. Ad Hoc Working Group on the Durban Platform for Enhanced Action. Second session, part eight. Geneva, 8–13 February 2015. FCCC/ADP/2015/1
GHG	Greenhouse gases
GST	Global stocktake
IACtHR	Inter-American Court of Human Rights
ICJ	International Court of Justice
ICJ Climate Change Advisory Opinion	Obligations of States in respect of Climate Change. Advisory Opinion of 23 July 2025
ICTU	Information necessary for clarity, transparency and understanding
ITLOS	International Tribunal for the Law of the Sea
ITLOS Climate Change Advisory Opinion	Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law, Advisory Opinion of 21 May 2024
NDC	Nationally Determined Contribution
PAICC	Paris Agreement Implementation and Compliance Committee
Secretariat Synthesis Report	Nationally determined contributions under the Paris Agreement. Synthesis report by the secretariat. Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Seventh session, Belém, 10–21 November 2025. FCCC/PA/CMA/2025/8
UNFCCC	United Nations Framework Convention on Climate Change 1992
VCLT	Vienna Convention on the Law of Treaties 1969

Introduction

The Paris Agreement¹ is a hybrid international treaty embracing provisions of various types. Among them are those that directly prescribe specific course of conduct or action programme, thereby establishing international legal obligations, as well as those that reflect the consensus reached on the goals and outcomes of co-operation, certain expectations from the individual and collective efforts of States, but without creating new obligations. Provisions that do not establish legally binding requirements may nevertheless provide the necessary context for interpreting the Paris Agreement and be used as criteria for assessing its implementation.

Among the Agreement's diverse provisions, Article 4 on nationally determined contributions (**NDCs**) occupies a central position. Like the Agreement itself, NDCs combine several characteristics: they are a manifestation of States' political ambitions and commitments towards combating climate change while also entailing certain legal obligations.

The nature of NDCs remained unclear until the final days of negotiations on the Paris Agreement. In the draft text, there were still formulations which, on the one hand, left the preparation and implementation of NDCs entirely to the discretion of States, and on the other hand, envisaged a multilateral process for the approval of the climate goals and programmes of each State at the international level.² The full name of "NDC" also remained unclear: would it be a "commitment" or a "contribution" – without prejudice to its legal nature.

After the adoption of the Paris Agreement, questions surrounding NDCs and related obligations remained unresolved. Further discussions on the characteristics of NDCs, attempts to create common templates for presenting information on climate strategies, as well as detailed academic discussions³ on the interpretation of Article 4(2) of the Paris Agreement – all this indicates that the essence of one of the key institutions of the Agreement still requires further clarification.

This uncertainty is one of the factors contributing to the fact that the efforts of individual countries to combat climate change do not correspond to their objective capabilities, taking into account differentiated responsibility, which in turn hinders the achievement of collective goals. Recent clarifications by international courts (International Court of Justice (**ICJ**), the International Tribunal for the Law of the Sea (**ITLOS**), and the Inter-American Court of Human Rights (**IACtHR**)) resolve a number of controversial issues, but still do not provide a comprehensive picture and exhaustive explanation of States' obligations with regard to NDCs and the legal nature of the latter.⁴ Recent practice of States

¹ Paris Agreement of 12 December 2015 (entered into force for the Russian Federation on 7 October 2019).

² Draft Paris Outcome. Revised draft conclusions proposed by the Co-Chairs. Ad Hoc Working Group on the Durban Platform for Enhanced Action. Second session, part twelve Paris, 29 November to 5 December 2015. FCCC/ADP/2015/L.6/Rev.1 (**Draft Paris Outcome**). [URL](#)

³ See, for example, Bodansky, D. (2016). *The Legal Character of the Paris Agreement*. RECIEL 25 (2), pp. 142–150; Bodansky, D., Rajamani, L. (2018). *The Issues that Never Die*. Carbon & Climate Law Review, Vol. 12, No. 3, pp. 184–190; Mayer, B. (2018). *International Law Obligations Arising in relation to Nationally Determined Contributions*. Transnational Environmental Law, 7(2), 251–275; Mayer, B. (2024). *The 'Highest Possible Ambition' on Climate Change Mitigation as Legal Standard*. ICLQ vol 73, April 2024 pp. 285–317; Rajamani, L. (2020). *Innovation and experimentation in the international climate change regime*. The Hague Academy of International Law. Leiden: Brill | Nijhoff; Voigt, C., Ferreira, F. (2016). *'Dynamic Differentiation': The Principles of CBDR-RC, Progression and Highest Possible Ambition in the Paris Agreement*. Transnational Environmental Law, 5:2, 285–303; Voigt, C. (2016). *The Paris Agreement: What is the standard of conduct for parties?* QIL 26 (2016); Zaman, S. T. (2023). *Exploring the Legal Nature of Nationally Determined Contributions (NDCs) under the International Law*. Yearbook of International Environmental Law, Volume 26, 2015, 98–126.

⁴ Furthermore, the reaction of States to advisory opinions, particularly of the ICJ, is not clear-cut and does not allow one to conclude that there is universal support for the Court's conclusions. The decisions of the 30th session of the Conference of the Parties to the UNFCCC contain not only no references, but also no wording similar to that used by the Court in its opinion (which is particularly evident in the context of the 1.5°C temperature goal). Attempts to include references to the ICJ advisory opinion in decisions on the Loss and Damage Fund (Article 8 of the Paris Agreement) were blocked by the Arab Group. See Did the ICJ advisory opinion shift the dial at COP30? (2025). Wave. [URL](#). Moreover, Vanuatu's proposed draft UN General Assembly resolution supporting the ICJ advisory opinion was met

shows that, despite the universally recognized mandatory nature of NDC submission under Article 4(2), many Parties to the Agreement ignore submission deadlines and fail to update their climate strategies. The situation of widespread failure to communicate NDC 3.0 was reflected in the Secretariat's Synthesis Report on the Nationally Determined Contributions under the Paris Agreement communicated as of 30 September 2025 (**Secretariat Synthesis Report**),⁵ and was discussed at the 30th session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, but no substantive decision was reached on this matter.⁶

This study analyzes Article 4 of the Paris Agreement in terms of the obligations of States with regard to NDCs. The objective is to identify these obligations and the criteria for assessing NDCs' substance provided for in the Agreement, as well as to determine whether there are mechanisms in its architecture to carry out such an assessment.

The research paper focuses on the interpretation of the Paris Agreement in accordance with the provisions of the Vienna Convention on the Law of Treaties (**VCLT**)⁷ and also takes into account the ongoing negotiation process under the United Nations Framework Convention on Climate Change (**UNFCCC**)⁸ and the advisory opinions of the ICJ, the ITLOS, and the IACtHR on the obligations of States in respect of climate change.

This work may be useful to experts in the field of international law, as well as researchers interested in the development of the multilateral climate change legal regime. For practitioners, the material may be of particular interest in light of the ongoing intergovernmental discussions on the characteristics of the NDCs under the auspices of the UNFCCC.

with strong opposition from a number of States. See US pressures Vanuatu at UN over ICJ's landmark climate change ruling (2026). Aljazeera. [URL](#). Notwithstanding this opposition, on the date of translation of this research paper the resolution has been adopted, as contained in document A/80/L.65. [URL](#). It was adopted with 141 votes in favor, 28 abstentions, and 8 votes against.

⁵ See Nationally determined contributions under the Paris Agreement. Synthesis report by the secretariat. Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Seventh session, Belém, 10–21 November 2025. FCCC/PA/CMA/2025/8, para. 27. [URL](#)

⁶ Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on its seventh session, held in Belém from 10 to 22 November 2025. Addendum. Part two: Action taken by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its seventh session. FCCC/PA/CMA/2025/19/Add.1. Decision 1/CMA.7. Global Mutirão: Uniting humanity in a global mobilization against climate change. Para. 16. [URL](#)

⁷ In accordance with Articles 31–33 of the VCLT, in this paper the focus will be given to the ordinary meanings of the terms used in the Agreement in their context and in light of the object and purpose of the Paris Agreement, to the subsequent practice, the negotiating history, and the circumstances of the treaty's conclusion. A comparison will also be made between the authentic texts of the Paris Agreement in different languages (mainly English, French, and Russian). Vienna Convention on the Law of Treaties of 23 May 1969 (entered into force for the Russian Federation on 29 April 1986).

⁸ United Nations Framework Convention on Climate Change of 9 May 1992 (entered into force for the Russian Federation on 28 December 1994).

Summary

1. The determination of national climate targets and programmes within the architecture of the Paris Agreement occurs primarily through the preparation, communication, and maintenance of consistent NDCs, whose effective implementation directly influences collective progress towards achieving the temperature goal of the Paris Agreement and the ultimate goal of the UNFCCC.
2. Article 4(2) establishes two different types of international legal obligations in relation to NDCs (**paras 17-23 below**). The first sentence of the article contains an obligation of result, the fulfillment of which is linked to the fact of preparing and communicating the NDCs. The second sentence requires States to do their best to implement the NDCs, i.e., it contains an obligation of conduct.
3. This interpretation of Article 4(2) of the Paris Agreement does not mean that it is sufficient for States to set approximate targets based on a purely subjective assessment of their capabilities and commitments, and that the achievement of these targets is a matter of political choice. According to the conclusions of the ITLOS and the ICJ, the fulfillment of obligations of conduct entails the requirement to exercise the best possible efforts, take necessary measures and apply available means to achieve a specific goal.⁹ As noted by the ICJ, in the context of Article 4(2) of the Paris Agreement, this means that States must be proactive and pursue domestic measures capable of achieving the targets set in their NDCs¹⁰ (**paras 29-38 below**).
4. Both the obligation to prepare NDCs, i.e., to formulate national climate targets, and the obligation to implement them are subject to a stringent standard of due diligence (**paras 32-33 below**). In its application to other climate change obligations of States, the ICJ has formulated several elements of the due diligence standard:
 - i. taking appropriate preventive measures (where necessary) and applying the precautionary principle;
 - ii. taking into account the most relevant and available scientific knowledge and technology;
 - iii. assessment of the risks of adverse environmental impact;
 - iv. co-operation (in particular, via notifications and consultations);
 - v. application of international standards and norms relevant to the specific area;
 - vi. creating an appropriate regulatory mechanism and maintaining a certain level of vigilance in its implementation and monitoring of its enforcement;
 - vii. taking into account the capabilities of the State and other national circumstances.¹¹
5. The content of the NDCs is not entirely left to the discretion of States. In addition to being subject to a stringent due diligence standard, the discretion of States is limited by the

⁹ ITLOS. Responsibilities and obligations of States with respect to activities in the Area, Advisory Opinion, 1 February 2011, ITLOS Reports 2011, p. 10, paras 110–11. [URL](#); ITLOS. Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law, Advisory Opinion, 21 May 2024 (**ITLOS Climate Change Advisory Opinion**), para. 233. [URL](#); ICJ. Obligations of States in respect of Climate Change. Advisory Opinion of 23 July 2025 (**ICJ Climate Change Advisory Opinion**), paras 251–254. [URL](#)

¹⁰ ICJ Climate Change Advisory Opinion, para. 253

¹¹ Ibid., paras 136, 138, 247, 280–300.

obligation to reflect in the NDCs a number of normative expectations, requirements, and principles contained in the Agreement (**paras 39-70 below**). These include the highest possible ambition and progression over time (Article 4(3)); the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances (**CBDRRC-NC**) (Article 4(3)); provision of information necessary for clarity, transparency and understanding (**ICTU**) (Article 4(8)); consideration of the outcomes of the global stocktake (**GST**) (Article 4(9)); and adequacy in the light of the temperature goal of the Paris Agreement.

6. The highest possible ambition entails that the goals and plans set out in the NDCs are proportionate to the temperature goal and, at the same time, demonstrate the greatest capacity of the State to implement climate policy in light of its national circumstances (**paras 46-58 below**). The provision on progression in Article 4(3) requires States to progressively enhance their measures to prevent climate change. The negotiating history and the conclusions of international courts indicate that the Paris Agreement generally prohibits States from lessening their targets compared to those previously set (in the previous NDCs).
7. The CBDRRC-NC principle allows for taking into account, in the process of NDCs' preparation, the specificities of economic and technological development, geographical and climatic conditions, and other factors that determine a country's ability to take certain measures to combat climate change (**paras 59-63 below**). This principle also entails that NDC targets and measures to achieve them must consider a State's historical and current contribution to cumulative greenhouse gas (**GHG**) emissions. But in the context of co-operation, CBDRRC-NC cannot serve as a basis for considering the measures taken as voluntary and not subject to objective assessment.¹²
8. The ICTU requirement has been sufficiently developed during the 2015-2018 negotiation process and is enshrined in Decision 4/CMA.1.¹³ It is reflected in the relevant tables in countries' NDCs, which describe in detail climate indicators, planned programs, procedural issues, the country's contribution to achieving the ultimate goal of the UNFCCC, the ambition and fairness of the State's individual efforts, including compliance with Article 4(3) of the Agreement (**paras 64-65 below**).
9. Article 4(9) of the Paris Agreement establishes an obligation to ensure that NDCs are informed by the outcomes of the GST. The requirement of NDCs being "informed" means that when drafting NDCs Parties are not only to take note of the identified during GST cycle gaps between the ambition and the results, but also to compare one's own efforts with the collective progress achieved and, based on that, in adjusting one's climate targets and main policy directions to close the gap between current achievements and the long-term goals of the Paris Agreement. Based on the NDCs submitted after 2023, States identify increasing renewable energy capacity, accelerating efforts towards transitioning away from fossil fuels, and intensifying efforts to achieve global net zero emissions as priority development pathways (**paras 66-68 below**).
10. The discretion of States in determining the national climate strategies and their implementation is not absolute. However, the Paris Agreement does not provide for a mechanism to assess the contributions of each individual State in terms of their proportionality to the temperature goal, their adequacy in the context of collective efforts to

¹² Ibid., para. 306.

¹³ UNFCCC. Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on the third part of its first session, held in Katowice from 2 to 15 December 2018. Addendum 1. Part two: Action taken by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Decision 4/CMA.1. Further guidance in relation to the mitigation section of decision 1/CP.21. Annex I. FCCC/PA/CMA/2018/3/Add.1. [URL](#)

combat climate change, and their substantive reflection of the requirements and normative expectations prescribed by the Agreement.

11. None of the mechanisms for tracking progress and implementation of obligations under the Paris Agreement has a mandate to examine the NDCs of individual Parties in substance (**paras 71-85 below**). The GST is designed to assess collective progress and cannot consider the individual efforts of States. The enhanced transparency framework for action and support analyzes the reports submitted by Parties to ensure that they contain the necessary information, without further substantive assessment. The Paris Agreement Implementation and Compliance Committee (**PAICC**) also does not have the mandate to examine the conformity of NDCs with the temperature goal and the effectiveness of measures to implement them. Furthermore, the Committee has no means of enforcement (sanctions), even if States violate the Paris Agreement, for example, by failing to submit their successive NDCs.

I. Obligations in relation to NDCs under Article 4 of the Paris Agreement

1. The Nature of the Main Provisions on NDCs in the Paris Agreement

12. Article 3 of the Paris Agreement establishes the general characteristics of nationally determined contributions applicable to both climate change mitigation and other areas (adaptation, resilience building, technology transfer, capacity building, financial assistance, transparency of actions and support).¹⁴ According to this article, NDCs are a means of communicating the individual contributions of the Parties to the Agreement to the “global response to climate change,” expressed in “ambitious efforts”. Without establishing a separate substantive obligation (in addition to those already established by Articles 4, 7, 9–11, and 13), Article 3 at the same time extends the requirement for progression (“progression over time”) to all collective actions by States in the context of climate change, supplementing the existing provisions on consistent progress in the area of mitigation and climate finance.¹⁵
13. In a narrow sense, the legal institution of NDCs is mainly enshrined in Article 4 on mitigation. A number of paragraphs of this article contain legal obligations, while others express the understanding and expectations regarding the nature of international co-operation and the individual capabilities of States.¹⁶
14. The international legal obligations relating to NDCs are set out in paragraphs 2, 8, 9, 13, 15–18. This is indicated by the verbs used in the authentic texts in different languages: in the English text, the verb “shall” is used, while in the Russian and French texts, the verbs are used in the present tense in the form of a specific prescription of certain conduct.¹⁷ The ICJ confirmed that “shall” directly indicates the legally binding nature of the rule.¹⁸
15. Article 4(3), which supplements the provisions on progression and ambition in Article 3 of the Agreement, expresses certain expectations of States and does not contain any obligations. In the authentic texts in English, Russian and French, the verbs are expressed in the future tense. The shift from “shall” to “will” in the latest versions of the negotiating text indicates that States deliberately excluded international legal obligations from this paragraph, but at the same time

¹⁴ In Article 3 the term “nationally determined contributions” is used in a broad sense to refer to the individual efforts of States in a number of areas of co-operation, as detailed in Articles 4, 7, 9, 10, 11, and 13 of the Agreement.

¹⁵ Klein, D. et al. (2017). *The Paris Agreement on Climate Change: Analysis and Commentary*. Oxford University Press, pp. 138–139.

¹⁶ The following works provide a detailed description of each of the paragraphs of Article 4: Klein, D. et al. (2017). *The Paris Agreement on Climate Change: Analysis and Commentary*. Oxford University Press; Calster, G.V. et al. (2021). *The Paris Agreement on Climate Change: A Commentary*. Edward Elgar Publishing Limited.

¹⁷ See, for example, Article 4(8): “In communicating their nationally determined contributions, all Parties **shall provide** the information necessary for clarity, transparency and understanding in accordance with decision 1/CP.21 and any relevant decisions of the Conference of the Parties serving as the meeting of the Parties to this Agreement.” / «При сообщении своих определяемых на национальном уровне вкладов все Стороны **представляют** информацию, необходимую для обеспечения ясности, транспарентности и понимания, в соответствии с решением 1/CP.21 и любыми соответствующими решениями Конференции Сторон, действующей в качестве совещания Сторон настоящего Соглашения» / “En communiquant leurs contributions déterminées au niveau national, toutes les Parties **présentent** l’information nécessaire à la clarté, la transparence et la compréhension conformément à la décision 1/CP.21 et à toutes les décisions pertinentes de la Conférence des Parties agissant comme réunion des Parties au présent Accord.” (*Emphasis added.*)

¹⁸ ICJ Climate Change Advisory Opinion, para. 202; Immunities and Criminal Proceedings (Equatorial Guinea v. France). Preliminary Objections, Judgment, I.C.J. Reports 2018, p. 292, para. 92. It is noteworthy that none of the States that participated in the ICJ advisory proceedings on the obligations of States in relation to climate change objected to the conclusion that Article 4(2) contains an international legal obligation. The positions of the States can be found on the ICJ website. [URL](#)

did not express expectations of ambition and progression in modal forms (avoiding the use of “should” and “may”).¹⁹

16. As will be shown below, the choice of future tense, the place of these provisions in the Paris Agreement, and the subsequent practice of their implementation by the Parties – this all suggests that the provisions of Article 4(3) are binding in the sense that ambition and progression constitute the normative context for the fulfillment of States’ obligations with regard to NDCs and influence their substantive content.²⁰

2. Two Types of Obligations under Article 4(2) of the Paris Agreement

17. The central provision governing the mitigation actions of States is Article 4(2) of the Paris Agreement. It contains two obligations that are different in nature but are key to the architecture of the Agreement. According to Article 4(2):

“Each Party shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions.”

18. The first sentence of this paragraph prescribes obligations to prepare, communicate, and maintain NDC. This is an **obligation of result**,²¹ which defines the specific actions that States must take to fulfill it. The second sentence contains an **obligation of conduct** to achieve the goals set in NDC.²²
19. The division of obligations into obligations of result and of conduct originated in Roman law and was further developed in the Napoleonic Code²³ and subsequently in international law. The ICJ²⁴ and the ITLOS²⁵ have already dealt with such obligations and issued their decisions and advisory opinions²⁶ on them.
20. With regard to international treaties, the obligations of result require the achievement of the outcome set out in the agreement, which may be formulated as a specific goal, action, or series of sequential actions.²⁷ The choice of means to achieve such an outcome is left to the discretion of

¹⁹ Negotiating text. Agenda item 3. Implementation of all the elements of decision 1/CP.17. Ad Hoc Working Group on the Durban Platform for Enhanced Action. Second session, part eight. Geneva, 8-13 February 2015. FCCC/ADP/2015/1. (**Geneva text**). Para. 20. [URL](#); Draft agreement and draft decision on workstreams 1 and 2 of the Ad Hoc Working Group on the Durban Platform for Enhanced Action. Ad Hoc Working Group on the Durban Platform for Enhanced Action. Second session, part eleven. 19–23 October 2015. Bonn, Germany. Article 3, paras 4-5. [URL](#); Rajamani, L. (2016). The 2015 Paris Agreement: Interplay Between Hard, Soft and Non-Obligations. *Journal of Environmental Law*, 28, 337–358, p. 355, footnote 77.

²⁰ See **Section II**.

²¹ ICJ Climate Change Advisory Opinion, para. 235.

²² *Ibid.*, para. 252.

²³ Mayer, B. (2018) *Obligations of Conduct in the International Law on Climate Change: A Defense*. *Review of European, Comparative and International Environmental Law*, 27(2), 130–140, p. 131.

²⁴ See, for example, *LaGrand (Germany v. United States of America)*, Judgment, I.C.J. Reports 2001, p. 466; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, p. 43; *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment, I.C.J. Reports 2010, p. 14; ICJ Climate Change Advisory Opinion.

²⁵ ITLOS. Responsibilities and obligations of States with respect to activities in the Area, Advisory Opinion, 1 February 2011, ITLOS Reports 2011, p. 108; ITLOS Climate Change Advisory Opinion.

²⁶ See also Caracciolo, I. (2025). *Obligations under International Law. Courses of the Summer School on Public International Law*. International and Comparative Law Research Center. [URL](#)

²⁷ Second Report on State Responsibility by Mr. James Crawford, Special Rapporteur. International Law Commission Fifty-first session Geneva, 3 May – 23 July 1999. A/CN.4/498. Pp. 23–24. [URL](#)

the obligated States.²⁸ Such obligations are formulated in cases where a State can guarantee the achievement of the result regardless of external factors and possible obstacles, and the objective set is in itself achievable under current and foreseeable conditions of socio-economic and technological development.²⁹

21. The obligations of conduct, on the other hand, require States to make certain efforts to achieve a goal established in the agreement (e.g., creating or preventing a certain situation).³⁰ These are obligations of aspiration,³¹ in which the State's adherence to a certain course of conduct is sometimes more important than the achievement of a specific indicator (which does not negate the importance of achieving the prescribed result).³² Obligations of conduct are often invoked in the following situations:
 - i. The goal pursued is unattainable or difficult to achieve and there are no guarantees to achieving in light of the existing circumstances or the specifics of the subject area.³³ A classic example here is a doctor's duty to cure a patient: in such a situation, the doctor can only apply all their knowledge and efforts to stabilize the patient's condition, but cannot guarantee a complete recovery due to the individual characteristics of the patient's organism.³⁴
 - ii. The achievement of the result does not depend directly on the State, but on the conduct of actors under the control or jurisdiction of the State; such obligations then require measures to be taken to promote and ensure compliance with the relevant rules and obligations on behalf of those actors.³⁵ This is typical of human rights, where States are obliged to provide protection not only from acts of the State itself and persons and entities whose conduct can be attributed to the State under international law, but also from acts committed by private actors. In such cases, States are obliged to take all measures to prevent, punish, investigate, or compensate for the harm caused by such acts.³⁶
22. Thus, responsibility for failure to comply with an obligation of result arises if the objective set out in the treaty is not achieved. A breach of an obligation of conduct may occur even if the result set out in the norm or other objective is achieved, but the State has not made sufficient efforts to implement the treaty norm.³⁷
23. The assessment of the fulfillment of obligations of conduct is complicated by the need to examine the actions of the State from the perspective of their efficiency, proportionality, and

²⁸ Crawford, J. (2013). *State Responsibility. The General Part*. Cambridge University Press. Pp. 220–221.

²⁹ Second Report on State Responsibility by Mr. James Crawford, Special Rapporteur. International Law Commission Fifty-first session Geneva, 3 May – 23 July 1999. A/CN.4/498. Para. 57. [URL](#)

³⁰ Zaman, T. (2024). *Do NDCs Submitted by the Parties Under the Paris Agreement Imply Binding Commitments? A Legal Analysis*. Am. U. Int'l L. Rev. Vol. 39: Iss. 4, Article 5. Pp. 809–810.

³¹ Economides, C. P. (2010). *Content of the Obligation: Obligations of Means and Obligations of Result* in Crawford J., Pellet A. *Oxford Commentaries on International Law. The Law of International Responsibility*. Oxford University Press. P. 377.

³² ILA. Second Report of July 2016 by Stephens, T. and French, D. ILA Study Group on Due Diligence in International Law, p. 2.

³³ Mayer, B. *Obligations of Conduct in the International Law on Climate Change: A Defense*. Pp. 131–132.

³⁴ Ibid.

³⁵ ITLOS. Responsibilities and obligations of States with respect to activities in the Area, Advisory Opinion, 1 February 2011, ITLOS Reports 2011, p. 10, paras 110–116.

³⁶ Human Rights Committee. The Nature of the General Legal Obligation Imposed on States Parties to the Covenant. General Comment No. 31. Adopted on 29 March 2004 (2187th meeting). CCPR/C/21/Rev.1/Add. 13. Paras 6-8. [URL](#)

³⁷ Mayer, B. *Obligations of Conduct in the International Law on Climate Change: A Defense*. P. 141; ICJ Climate Change Advisory Opinion, para. 208.

adequacy.³⁸ Obligations of conduct are most often associated with the duty to act in accordance with the standard of due diligence,³⁹ which requires States to make all necessary and possible efforts to achieve the goal. The content of due diligence, as well as the adequacy of actions under the obligation of conduct, are determined by a number of factors, including but not limited to the wording of the rule itself prescribing the conduct,⁴⁰ other provisions serving the purposes of treaty interpretation (e.g., object and purpose, objectives of the treaty, if specified, results expected from States), and the level of scientific knowledge.⁴¹

3. “Obligatory” Nature of NDCs

3.1. NDC Preparation and Communication

24. The division of obligations into obligations of result and of conduct is crucial for the Parties to the Paris Agreement, as it directly affects the content of the behavior prescribed by the Agreement and the bindingness of climate targets. The first sentence of Article 4(2) contains an obligation of result: each Party shall prepare, communicate, and maintain NDCs. As noted by the ICJ in its advisory opinion of 23 July 2025, the absence of NDCs is a breach of a treaty obligation.⁴²
25. At the time of conducting this research, no such violations had been identified.⁴³ All Parties to the Paris Agreement had submitted their first NDCs.⁴⁴ At the same time, as of August 2025, 163 countries had not prepared their next NDCs (the deadline for submission was February 2025).⁴⁵ By the end of the 30th session of the Conference of the Parties to the UNFCCC (November 2025), 122 of the 195 Parties to the Agreement had submitted their NDCs.⁴⁶ Despite the obvious inconsistency with Article 4(2), the situation, although publicized, was resolved in a rather “soft” format: PAICC held consultations with the Parties on an individual basis and identified difficulties

³⁸ Mayer, B. (2022). *International Law Obligations on Climate Change Mitigation*. Oxford University Press, pp. 185-186; Voigt, C. (2016). *The Paris Agreement: What is the standard of conduct for parties?* QIL 26 (2016), 17–28. P. 20.

³⁹ ITLOS Climate Change Advisory Opinion, p. 83, paras 233-235; Rajamani, L. (2020). *Innovation and experimentation in the international climate change regime*. The Hague Academy of International Law. Leiden: Brill | Nijhoff. P. 116.

⁴⁰ Besson, S. (2023). *Due Diligence in International Law*. Brill | Nijhoff. P. 102.

⁴¹ ITLOS. Responsibilities and obligations of States with respect to activities in the Area, Advisory Opinion, 1 February 2011, ITLOS Reports 2011, p. 108, para. 117; ITLOS Climate Change Advisory Opinion, para. 239.

⁴² ICJ Climate Change Advisory Opinion, para. 236.

⁴³ Only in 2023 did the PAICC establish that the Holy See had not communicated its NDC, whereupon the Committee sent a notification requesting that the situation be rectified. The Holy See responded promptly and submitted its NDC within the deadline set by the PAICC. Annual report of the Paris Agreement Implementation and Compliance Committee to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, Fifth session, United Arab Emirates, 30 November to 12 December 2023. FCCC/PA/CMA/2023/4. Paras 12, 22–24. [URL](#)

⁴⁴ All NDCs are published in electronic format in a public registry. [URL](#)

⁴⁵ PAICC. Report of the 14th meeting of the Paris Agreement Implementation and Compliance Committee, 15–18 July 2025. PAICC/2025/M14/3. P. 5, footnote 13. [URL](#)

⁴⁶ Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on its seventh session, held in Belém from 10 to 22 November 2025. Addendum. Part two: Action taken by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its seventh session. FCCC/PA/CMA/2025/19/Add.1. Decision 1/CMA.7. Global Mutirão: Uniting humanity in a global mobilization against climate change. Para. 16. [URL](#)

hindering the preparation of new NDCs,⁴⁷ while at the Conference of the Parties itself, only concerns and calls to remedy the situation were expressed.

3.2. NDC Content

26. Just to prepare and communicate the NDCs is not sufficient to fulfill the obligations under Article 4(2). In interpreting Article 4 of the Paris Agreement, the ICJ concluded that the discretion of States in formulating NDCs is not absolute and is subject to a standard of due diligence, which is stringent in view of the seriousness of the threat posed by climate change.⁴⁸
27. The Court determined that States must set targets and goals in their NDCs that are consistent with their obligations under the Paris Agreement and meet the requirements and expectations set out in the Agreement. All NDCs prepared in this way and taken together must be capable of achieving the 1.5°C temperature goal and the ultimate goal of the UNFCCC.⁴⁹
28. The content of NDCs is evaluated for the reflection of the following elements: expectations regarding the behavior of States as prescribed by the Paris Agreement, the principles of the Agreement, and the requirements for the inclusion of certain information in NDCs.⁵⁰ These elements include the highest possible ambition and progression (Article 4(3)); CDBRRC-NC principle (Article 4(3)); consideration of GST outcomes (Articles 4(9) and 14(3)); reflection of ICTU in accordance with Decision 1/CP.21 and other decisions of the Conference of the Parties on this matter (Article 4(8)).

3.3. NDC Implementation

29. In NDCs, States set, among other things, climate change mitigation targets for a five-year period and establish desired indicators that will reflect their ambitious efforts. These expected outcomes are not, in themselves, international legal obligations (unless countries have explicitly given them that status).⁵¹ However, this does not make them mere declarations – the establishment of targets alone is not sufficient to fulfill the obligations under the Paris Agreement. The first sentence of Article 4(2) explicitly states that each Party shall prepare, communicate and maintain NDCs that it “intends to achieve” and, accordingly, the targets and indicators set out therein also fall within such intent.
30. The second sentence of Article 4(2) of the Paris Agreement establishes an obligation of conduct regarding the implementation of NDCs. It requires States to “pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions.”
31. According to the ICJ, this means that States are obliged to make all necessary efforts to achieve the goals set out in the NDCs, but just the failure to achieve them does not in itself constitute an internationally wrongful act.⁵² This conclusion is confirmed by the fact that the sentence uses

⁴⁷ Annual report of the Paris Agreement Implementation and Compliance Committee to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Seventh session, Belém, 10–21 November 2025. FCCC/PA/CMA/2025/9. Paras 57-71. [URL](#)

⁴⁸ ICJ Climate Change Advisory Opinion, paras 245-246.

⁴⁹ *Ibid.*, paras 245-247.

⁵⁰ ICJ Climate Change Advisory Opinion, paras 239-249.

⁵¹ See **para. 37 below**.

⁵² ICJ Climate Change Advisory Opinion, para. 253. The ICJ reached this conclusion by interpreting the phrase “to pursue domestic mitigation measures.” In its advisory opinion of 21 May 2024, the Tribunal reached a similar conclusion with regard to the verb “to endeavor” used in Article 194(1) of the UN Convention on the Law of the Sea of 10 December, 1982 (entered into force for the Russian Federation on 11 April 1997). See ITLOS Climate Change Advisory Opinion, para. 230. The verbs “to endeavor” and “to pursue”

the verb “to pursue” together with “with the aim of achieving” instead of, for example, “to implement,” as was the case in one of the versions of the final draft of the Paris Agreement.⁵³ This double “relief” of the obligation indicates the absence of an obligation to achieve the targets set in NDCs.

32. However, this does not mean that the Parties to the Paris Agreement need only formulate NDCs and take minimal action to implement them in order to comply with the treaty provisions. The obligation of conduct, as set out in the second sentence of Article 4(2) of the Agreement, is subject to a stringent standard of due diligence and does indeed require significant efforts by States.
33. Among the elements that constitute this standard and determine the conduct of States with regard to the implementation of the NDCs, the ICJ named the following:
 - i. taking preventive measures and applying the precautionary principle;
 - ii. taking into account the most relevant and available scientific knowledge and technology;
 - iii. taking into account relevant international rules and standards;
 - iv. conducting risk assessments;
 - v. co-operation, including through consultation and notification of other States;
 - vi. taking into account the capabilities and other national circumstances of States, including their historical and current contributions to climate change;
 - vii. the adequacy of measures taken to establish regulatory and administrative national mechanisms, enforcement and monitoring institutions, including with regard to private actors and their conduct.⁵⁴
34. The nature of the obligations regarding the implementation of the NDCs was one of the stumbling blocks in the negotiation process. The draft negotiating text in December 2014 contained an **obligation of result to achieve** the NDCs. In most of the proposed options, the list of mandatory actions included preparation, communication, preservation, and **fulfillment** of commitments/contributions.⁵⁵ Also, instead of the word “contribution,” the term “commitment” was promoted in the title of the NDC, including for the purpose of making the institution binding.⁵⁶
35. These options were retained in the final draft text of the Paris Agreement, which was submitted to the 21st session of the Conference of the Parties to the UNFCCC in December 2015.⁵⁷ Major emitters, including the United States, China, and India, opposed the binding nature of the NDCs:⁵⁸ for some, this was due to the unsuccessful experience of the Kyoto

both mean to make an effort (physical or intellectual) to achieve a goal. See Endeavor, pursue. In Garner, B.A. (2014). *Black's Law Dictionary* (10th., pp. 644); Endeavor, pursue. In *Shorter Oxford English Dictionary* (6th., V. 1, p. 829, V. 2, pp. 2411–2412).

⁵³ Geneva text, para. 21.

⁵⁴ ICJ Climate Change Advisory Opinion, paras 134-138, 253-254, 280-300.

⁵⁵ UNFCCC. Report of the Conference of the Parties on its twentieth session, held in Lima from 1 to 14 December 2014. Addendum. Part two: Action taken by the Conference of the Parties at its twentieth session. FCCC/CP/2014/10/Add.1. Decision 1/CP.20. Lima Call for Climate Action. Annex. Elements for a draft negotiating text. Paras 8, 16. [URL](#)

⁵⁶ Ibid.

⁵⁷ Draft Paris Outcome, article 3.

⁵⁸ Jepsen, H., Lundgren, M., Monheim, K., Walker, H. (2021). *Negotiating Paris Agreement: The Insider Stories*. Cambridge University Press. Pp. 128–129, 142–144.

Protocol, for others, it was due to their unwillingness to take on unbearable obligations. On the contrary, the European Union and many developing countries⁵⁹ advocated for mandatory climate change mitigation targets.⁶⁰ As a result, the content of the NDCs does not constitute an international legal obligation, and failure to achieve the targets set out in them does not automatically constitute a violation of the Paris Agreement. At the same time, the NDCs are not purely voluntary political declarations,⁶¹ as States are obliged to take all possible measures to implement them.

36. The choice between “commitments” and “contributions” in favor of the latter was also dictated by the need to avoid bindingness.⁶² At the same time, the term “contribution” describes measures determined by the State at the national level, while “commitments” are usually established at the international level.⁶³ Moreover, “contribution” better reflects the idea of effective participation by each State in achieving collective progress in combating climate change.
37. Thus, the goals and plans set out in the NDCs do not constitute a separate international legal obligation, and failure to achieve them does not constitute a breach of the obligation to implement the NDCs. At the same time, this does not prevent States from independently assigning such a status to them. For example, the European Union (and its Member States) considers its own quantitative targets for reducing anthropogenic GHG emissions to be binding at the international level, as it is explicitly stated in its NDCs.⁶⁴
38. This does not mean that some Parties to the Paris Agreement must implement their NDCs, while others need only prepare, communicate, and maintain their NDCs in order to comply with the Agreement. According to Article 4(2), all Parties to the Paris Agreement have an obligation of conduct to achieve the objectives of their NDCs. This means that they are required to make all possible and necessary efforts to achieve them. In implementing the targets set out in their NDCs, countries must adhere to a standard of due diligence, which requires them to make the best possible efforts to implement their NDCs and pursue effective national climate policies capable of ensuring the collective achievement of the temperature goal. The latter may be exercised in a way of establishing national regulations backed by judicial and administrative means of enforcement.⁶⁵

⁵⁹ For example, Small Island Developing States explicitly advocated for the binding nature of climate targets in their oral statement on 29 November 2015. See Statement by Maldives on behalf of the Alliance of Small Island States at the Opening of the Ad Hoc Working Group on the Durban Platform for Enhanced Action, p. 2. [URL](#)

⁶⁰ Zaman, S. T. *Exploring the Legal Nature of Nationally Determined Contributions (NDCs) under International Law*. P. 107.

⁶¹ Bodansky, D. (2016). *The Paris climate change Agreement: a new hope?* American Journal of International Law, 110(2), 288–319. P. 25.

⁶² Rajamani, L. (2015). *Negotiating the 2015 Climate Agreement: Issues relating to Legal Form and Nature*. Cape Town. MAPS. P. 15.

⁶³ New Zealand mentioned the difference between national and international levels of determination of States' obligations to mitigate climate change in 2013. See Submission to the Ad Hoc Working Group on the Durban Platform for Enhanced Action. New Zealand. Work Stream 1. September 2013, para. 14. [URL](#)

⁶⁴ Intended Nationally Determined Contribution of the EU and its Member States. Submission by Latvia and the European Commission on behalf of the European Union and its Member States. Riga, 6 March 2015. Para. 1. [URL](#); The update of the nationally determined contribution of the European Union and its Member States. Submission by Spain and the European Union and its Member States. Madrid, 16 October 2023. Paras 16, 28. [URL](#)

⁶⁵ ICJ Climate Change Advisory Opinion, paras 252-254.

II. Criteria for Appropriate NDCs: requirements, expectations, and principles

39. The history of the adoption of the Paris Agreement demonstrates the desire of most States to leave the substantive content of NDCs entirely to their own discretion. Thus, proposals for international approval of NDCs as part of their multilateral review and for the creation of a mechanism to assess the proportionality of individual contributions to the Agreement's goals were rejected.
40. According to paragraphs 26 and 28 of Decision 1/CP.21 (decision on the adoption of the Paris Agreement), the characteristics of NDCs were to be the subject of further negotiations after 2015.⁶⁶ However, the guidance on the characteristics of NDCs developed in 2015–2018 in accordance with paragraph 28 of the decision has not led to the establishment of criteria for assessing the substantive content of NDCs;⁶⁷ rather, it refers to the format for presenting information⁶⁸ (**paras 64-65 below**). Work under paragraph 26 of Decision 1/CP.21 has only begun in 2024 and is currently at the stage of collecting written positions from the Parties to the Agreement.
41. An analysis of the positions submitted indicates that most States seek to retain discretion in the preparation of the NDCs and to conduct negotiations primarily in the context of technical, rather than legal clarification of the requirements and expectations regarding the NDCs, without further elaboration of their substantive content (e.g., progression and the highest possible ambition).⁶⁹ Thus, the discussion on the characteristics of NDCs will presumably boil down to compiling a list of elements that need to be reflected in the information reported, rather than attempting to define their precise content.
42. However, as noted by the ICJ, the discretion of States in determining their NDCs is not absolute: it is limited by the requirements and expectations set forth in the Paris Agreement for the preparation of NDCs and is subject to the stringent standard of due diligence.⁷⁰ The first group of “constraints” includes moving forward beyond the current NDCs (expectation of

⁶⁶ UNFCCC. Report of the Conference of the Parties on its twenty-first session, held in Paris from 30 November to 13 December 2015. Addendum. Part two: Action taken by the Conference of the Parties at its twenty-first session. Decision 1/CP.21. Adoption of the Paris Agreement. FCCC/CP/2015/10/Add.1, paras 26, 28. [URL](#)

⁶⁷ Paragraph 28 of the Decision 1/CP.21 mandates the Ad Hoc Working Group on the Paris Agreement “to develop further guidance for the information to be provided by Parties in order to facilitate clarity, transparency and understanding of nationally determined contributions for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session.” Accordingly, following the 2015–2018 negotiation process, Decision 4/CMA.1 adopted guidelines that essentially clarify the requirements of Article 4(8) of the Paris Agreement.

⁶⁸ See, for example, Non-paper on agenda item 3 of the Ad Hoc Working Group on the Paris Agreement: Further guidance in relation to the mitigation section of decision 1/CP.21 on: (a) features of nationally determined contributions, as specified in paragraph 26(b) information to facilitate clarity, transparency and understanding of nationally determined contributions, as specified in paragraph 28(c) accounting for Parties' nationally determined contributions, as specified in paragraph 31. Non-paper by the co-facilitators. APA.2017. 5.InformalNote. P. 4. [URL](#)

⁶⁹ See, for example, Input from Chile. CMA 6, agenda item 7. Further guidance on features of nationally determined contributions, referred to in paragraph 26 of decision 1/CP.21. Compilation of in-session submissions. CRP.CMA6.i7.1. Pp. 9–10. [URL](#); LMDC's Input. Ibid., pp. 19–20; Views of Argentina, Brazil and Uruguay on APA Agenda Item 3. Further guidance in relation to article 4 of the Paris Agreement on: (a) features of nationally determined contributions (b) information to facilitate clarity, transparency and understanding of nationally determined contributions (c) accounting for Parties' nationally determined contributions. [URL](#); Non-paper on agenda item 3 of the Ad Hoc Working Group on the Paris Agreement: Further guidance in relation to the mitigation section of decision 1/CP.21 on: (a) features of nationally determined contributions, as specified in paragraph 26(b) information to facilitate clarity, transparency and understanding of nationally determined contributions, as specified in paragraph 28(c) accounting for Parties' nationally determined contributions, as specified in paragraph 31. Non-paper by the co-facilitators. APA.2017. 5.InformalNote. P. 2. [URL](#)

⁷⁰ ICJ Climate Change Advisory Opinion, paras 240-248.

progression); expectation of the highest possible ambition; taking into account the GST outcomes; ICTU; and the adequacy of the national contribution in the light of the Paris Agreement temperature goal.⁷¹ The standard of due diligence, as well as the CBDRRC-NC principle, is closely linked to the concept of national circumstances and allows for the historical and current contribution of a State to climate change, its level of socio-economic development, and other circumstances to be taken into account in the preparation and implementation of NDCs.⁷²

43. The superficial drafting of NDCs (without taking into account the standard of due diligence and the above-mentioned requirements and expectations) does not in itself constitute proper implementation of Article 4(2) of the Paris Agreement.⁷³
44. At the same time, it should be noted that the reflection of the elements related to the substantive content of NDCs is left to the discretion of States and depends directly on their individual capabilities and previous achievements in combating climate change. Thus, neither the Agreement itself nor subsequent practice provides precise definitions of progression and the highest possible ambition, and analysis of the NDCs submitted only allows us to identify the most common examples, but not to formulate a general rule.
45. Thus, the discretion of States in drafting NDCs is not absolute, but at the same time it is not strictly limited, given that the requirements and expectations for NDCs prescribed by the Paris Agreement are substantively determined by the Parties in the light of national circumstances.

4. Expectations of Progression and the Highest Possible Ambition

46. According to Article 4(3) of the Paris Agreement,

“Each Party’s successive nationally determined contribution will represent a progression beyond the Party’s then current nationally determined contribution and reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in light of different national circumstances.”
47. This paragraph contains several elements: the expectation of progression (moving forward beyond the current NDCs); the expectation of the highest possible ambition, and the CBDRRC-NC principle.
48. The legal nature of these provisions remains ambiguous. The negotiating history indicates that States deliberately refused to impose legal obligations regarding the highest possible ambition and progression (**paras 14-16 above**). At the same time, the use of “predictive” future tense verbs indicates that States agreed that they expected each individual Party’s NDCs to express progression and the highest possible ambition. Since these elements are included in the context for the implementation of Article 4(2) obligations, they are often referred to as normative expectations.⁷⁴

⁷¹ Ibid.

⁷² Ibid., paras 247-248.

⁷³ Ibid., para. 236.

⁷⁴ This term can be found, for example, in the following papers: Klein, D. et al. (2017). *The Paris Agreement on Climate Change: Analysis and Commentary*. Oxford University Press, p. 78; Bodansky, D., Rajamani, L. *The Issues that Never Die*. P. 185; Brunnée, J. *Legal Argumentation in the Evolving Climate Regime* in Johnstone, I., Ratner, S. (2021). *Talking International Law: Legal Argumentation Outside the Courtroom* (Oxford University Press), pp. 257-259; Rajamani, L. *Innovation and experimentation in the international climate change regime*. Pp. 167–168.

49. The expectation of moving forward beyond the current NDC, otherwise known as the principle of progression, means that each subsequent NDC reflects higher targets and enhanced action of the State.⁷⁵ Taking into account the negotiating history, it can be concluded that, as a general rule, the Paris Agreement prohibits the setting of less ambitious targets and indicators.⁷⁶ The conclusion that regression is prohibited was reached by the IACtHR.⁷⁷
50. By the highest possible ambition, the ICJ means the ability of each individual State's NDCs to make a sufficient contribution to achieving the temperature goal.⁷⁸ At the same time, it entails not only the adequacy of the contribution in relation to collective progress, but also in its effectiveness and maximum achievability in comparison with the individual efforts of each State.⁷⁹
51. Although the analysis of the highest possible ambition and progression are concentrated on slightly different aspects – the former one is about assessment of the adequacy of individual contributions to collective achievements, and the latter is about comparison of State's own efforts, – in practice, States often approach these two elements as a dual criterion.⁸⁰
52. The expectation of the highest possible ambition, beyond the main text of the NDCs, is revealed in the ICTU table and formulated as a response to questions about how the State considers its contribution to be fair and ambitious and how the NDCs comply with Article 4(3) of the Paris Agreement (**paras 64-65 below**). The answers to these questions and, in fact, the expression of the highest possible ambition range from a simple statement that the NDCs and the goals set therein are ambitious to a fully detailed explanation of the effectiveness of the measures implemented and planned and their proportionality to national capabilities and the temperature goal of the Paris Agreement.
53. After the analysis of NDCs⁸¹ the following observations have been made:
- i. The most often case on ambition expectation reflection is the simple statement that a particular State's NDC is ambitious⁸² in light of the goal of reducing anthropogenic GHG emissions. However, there are also more detailed responses:

⁷⁵ ICJ Climate Change Advisory Opinion, para. 241.

⁷⁶ In the final drafts, the expectation of progression was applied only to the increase of efforts. Thus, in the Geneva text, one can find the expressions "Parties... shall progressively enhance the level of ambition" (paras 19, 21.4). Paragraphs 180-181 of the same draft reflect several options for lessening ambitions – all of them are related either to emergency situations, special circumstances, or apply only to a group of developing countries, thus not forming a general rule. As will be shown below, these options were rejected by the States (**paras 57-58 below**).

⁷⁷ Interestingly, the IACtHR confirmed that regression is generally contrary to the provisions of the Paris Agreement, but it is permissible in exceptional cases and must be objectively justified (in relation to national circumstances). See IACtHR. Advisory Opinion OC-32/25 of 29 May 2025, para. 331. [URL](#)

⁷⁸ ICJ Climate Change Advisory Opinion, para. 242.

⁷⁹ Voigt, C., Ferreira, F. 'Dynamic Differentiation': *The Principles of CBDR-RC, Progression and Highest Possible Ambition in the Paris Agreement*. Pp. 295–296.

⁸⁰ Rogelj, J., Schönfeld, J.K. (2024). *Operationalising Highest Possible Ambition in Nationally Determined Contributions under Article 4 of the Paris Agreement*. P. 7. [URL](#)

⁸¹ For the purposes of this paper, all (archival and current) NDCs of the following Parties to the Paris Agreement were analyzed: Australia, Brazil, Canada, India, Marshall Islands, Norway, the United Arab Emirates, the Russian Federation, Saudi Arabia, Singapore, the United States of America, Turkmenistan, Switzerland, South Korea, Japan, and the European Union. Such selection allows for considering the experience of developed and developing countries, as well as the NDC updates after the first GST. The analysis also took into account the activity of the States in the negotiation process.

⁸² Although Article 4(3) formulates the expectation as "the highest possible ambition" in the NDCs, the term "ambitious" is most often used and establishes the correlation of the ambition with the Paris Agreement's temperature goal, on the one hand, and national capabilities, on the other.

- For example, the highest possible ambition is expressed in an increase in quantitative indicators compared to previously set indicators and in a comparison of the individual contribution of the State to the implementation of the Paris Agreement's temperature goal.⁸³ In such cases, ambition is considered together with progression.
 - Sometimes a comparison is made with measures implemented by other countries of the same group (e.g., among developing countries).⁸⁴
 - Ambition is “measured” by assessing the potential impact of planned actions⁸⁵ through the lens of available opportunities and the economic development of the State.⁸⁶ Often, the section on the ambitiousness of NDCs begins with a description of the national characteristics of the State, its ability to achieve certain indicators and participate in specific programs to combat climate change, in light of which future actions are then described.⁸⁷ Thus, the highest possible ambition is related not only to collective progress, but also to the individual capabilities of a particular country.
- ii. In the absence of any detailed objective criteria, the expectation of the highest possible ambition is a self-determined element, allowing each State to understand differently what should be substantively behind it and what should be achieved, the criteria by which ambition is to be measured. However, some States explicitly assert that ambition is determined by assessing whether a particular State's national efforts are an adequate and proportionate contribution to achieving the goals of the Paris Agreement.⁸⁸ A separate case is the establishment of objective criteria for assessing ambition. Thus, in preparing the United Kingdom's NDC, among such criteria there have been the temperature goal and the principle of equality reflected in the Paris Agreement, the most relevant and available scientific knowledge, the GST outcomes, analysis of national decarbonization potential, the United Kingdom's commitment to achieving net zero emissions, and the results of consultations with the Climate Change Committee (national independent statutory body).⁸⁹

⁸³ Russian Federation Second NDC. Submission Date: 29.09.2025. Pp. 6, 40–41. [URL](#); Australia's 2035 Nationally Determined Contribution. Submission Date: 18.09.2025. Pp. 8, 23. [URL](#)

⁸⁴ Japan First NDC (Archived). Submission Date: 08.11.2016. P. 2. [URL](#). Brazil's 2020 NDC compares contributions with those of developed countries and takes into account historical and current responsibility for climate change. It concludes that Brazil's contribution is the most ambitious, although no specific indicators are provided in this regard. See Brazil First NDC (Archived Updated Submission). Submission Date: 09.12.2020. P. 7. [URL](#)

⁸⁵ Определяемый на национальном уровне вклад Российской Федерации в рамках реализации Парижского соглашения от 12 декабря 2015 года (Russian Federation First NDC). Submission Date: 25.11.2020. Table, p. 6. [URL](#); India First NDC. Submission Date: 02.10.2016. Pp. 33–34. [URL](#); Saudi Arabia First NDC (Updated Submission). Submission Date: 23.10.2021. Pp. 2–3. [URL](#)

⁸⁶ Japan's 2035/2040 NDC. Submission Date: 18.02.2025. P. 14. [URL](#); United Arab Emirates' Third Nationally Determined Contribution (NDC 3.0). Submission Date: 06.11.2024. Pp. 10–17, 98–99. [URL](#); Canada's 2035 NDC. Submission Date: 12.02.2025. Pp. 31–34. [URL](#). This approach is also highlighted in the Secretariat Synthesis Report (para. 37). In preparing its NDC, the United Kingdom has placed particular emphasis on national processes to identify opportunities and capabilities through extensive consultations with executive bodies. See United Kingdom of Great Britain and Northern Ireland First NDC (Updated Submission). Submission Date: 12.12.2020. [URL](#); United Kingdom of Great Britain and Northern Ireland Updated 2030 NDC. Submission Date: 22.09.2022. [URL](#); UK's 2035 NDC ICTU. Submission Date: 30.01.2025. [URL](#)

⁸⁷ See, for example, Republic of Korea First NDC (Archived). Submission Date: 30.12.2020. Pp. 21–23. [URL](#)

⁸⁸ See Nationally Determined Contribution of Turkmenistan under the Paris Agreement. Submission Date: 30.01.2023. P.58. [URL](#); Norway First NDC (Archived). Submission Date: 20.06.2016. Pp. 5–6. [URL](#); Norway First NDC (Updated submission). Submission Date: 07.02.2020. Pp. 14–15. [URL](#); Switzerland First NDC (Archived). Submission Date: 09.12.2020. Pp. 13–15. [URL](#)

⁸⁹ UK's 2035 NDC ICTU. Submission Date: 30.01.2025. P. 63. [URL](#)

- iii. Compliance with the progression expectation is often expressed by comparing the quantitative targets of the previous NDC and of the current one.⁹⁰ The following enhancements are also included: significant updates in terms of transparency (e.g., improved reporting methodologies, more complete disclosure of specific information),⁹¹ legislative developments,⁹² the transition to renewable energy sources and achievements in decarbonization,⁹³ and the shift from business-as-usual (BAU) scenarios to economy-wide indicators.⁹⁴
54. Normative expectations of the highest possible ambition and progression are mandatory elements of NDCs. Progression means that the previous NDCs serve as the minimum benchmark, the floor for the next ones. The highest possible ambition, in turn, requires the State to enshrine in its NDC the maximum achievable targets, considering its level of economic development and other national circumstances.⁹⁵ As the economy develops and national conditions improve, the expected level of ambition increases accordingly.⁹⁶
55. The absence of a provision in the Paris Agreement allowing for a reduction in ambition and the setting of less ambitious targets is directly linked to the progression principle. Even adjustments to NDCs within a single five-year cycle should only be made in the direction of progression. According to Article 4(11) of the Paris Agreement,
- “A Party may at any time adjust its existing nationally determined contribution **with a view to enhancing its level of ambition**, in accordance with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement” (*emphasis added*).⁹⁷
56. In the authentic text in English the verb “enhance” is used, which means to increase, to improve. The authentic texts in Russian⁹⁸ and French⁹⁹ also contain wording indicating that the NDCs can be amended to raise ambitions. This clearly demonstrates the intention of the Parties to the Paris Agreement to limit the possibility of making changes to the NDCs only to the extent of intensifying actions and increasing the effectiveness of measures.
57. The negotiating history also indicates that any relaxation of the provisions is unacceptable. The Geneva (February 2015)¹⁰⁰ and Paris (December 2015)¹⁰¹ drafts contained several options for provisions allowing for the reduction of the ambition of the NDCs:

⁹⁰ EU NDC 2023 Update. Submission Date: 19.10.2023. Table, section 6. [URL](#); Republic of Korea First NDC (Updated Submission). Submission Date: 23.12.2021. P. 28. [URL](#); Brazil First NDC (Archived Updated Submission). Submission Date: 09.12.2020. P. 8. [URL](#); United States of America 2035 NDC. Submission Date: 19.12.2024. Pp. 31–32. [URL](#)

⁹¹ Singapore First NDC (Updated Submission). Submission Date: 31.03.2020. Pp. 13–18. [URL](#)

⁹² Switzerland Second NDC 2031–2035. Submission Date: 29.01.2025. Pp. 19–20. [URL](#)

⁹³ Singapore Second Nationally Determined Contribution. Submission Date: 10.02.2025. Pp. 23–29. [URL](#)

⁹⁴ Republic of Korea First NDC (Archived). Submission Date: 30.12.2020. P. 24. [URL](#)

⁹⁵ Mayer, B. *The ‘Highest Possible Ambition’ on Climate Change Mitigation as a Legal Standard*. Pp. 297–300.

⁹⁶ *Ibid.*, p. 305.

⁹⁷ No such guidelines have been adopted yet.

⁹⁸ “...скорректировать свой существующий определяемый на национальном уровне вклад в целях повышения его уровня амбициозности...”

⁹⁹ “...modifier sa contribution déterminée au niveau national afin d’en relever le niveau d’ambition...”

¹⁰⁰ Geneva text, para. 181.

¹⁰¹ Draft Paris Outcome, article 3, para. 12.

- i. “A Party to be allowed to exceptionally adjust its commitment / contribution, <...> subject to certain conditions, including: if subsequent rules differ substantially from the Party’s assumptions, or force majeure, provided that there is no backsliding.”
 - ii. “A developing country Party <...> may adjust its contribution in the event of a severe impact of an extreme natural event.”
 - iii. “A developing country Party may adjust its enhanced action when severely affected by an extreme natural event, force majeure, or when adequate finance, technology transfer and capacity-building support is not available.”
 - iv. “No other¹⁰² adjustments allowed.”
 - v. “A Party may, in exceptional circumstances, adjust its [proposed/intended] commitments / contributions if subsequent rules differ significantly from the Party’s assumptions <...>.”
58. During the negotiations, all proposals that would have allowed for reduction of the level of ambition were rejected; only the provision on adjusting the NDCs to strengthen measures remained. This means that even if national circumstances change, the level of ambition previously stated in the NDCs cannot be reduced. However, this does not preclude the possibility of invoking circumstances excluding wrongfulness of an act under customary international law in order to justify less ambitious efforts in individual cases.¹⁰³

5. CBDRRC-NC Principle

59. Article 4(3) of the Paris Agreement links the content of the NDCs to the principle of CBDRRC-NC. This principle allows for historical and current contributions to climate change, levels of socio-economic development, and other national circumstances to be taken into account.
60. The very name “**nationally** determined contributions” (*emphasis added*) inherently opens the door to diversity in the content of NDCs, even when defining their common features.¹⁰⁴ The applicability of the CBDRRC-NC principle to obligations to prepare, communicate, maintain NDCs, and make efforts to achieve their objectives is also fundamental to such diversity. This is evident in many provisions of the NDCs, from the choice of approach to setting indicators (e.g., BAU, economy-wide approaches) to a separate column on national characteristics in the ICTU table.
61. For example, in the Marshall Islands’ NDC, the second section after the introduction is devoted to describing the national characteristics and vulnerability of the State in the context of climate

¹⁰² “Other” refers to cases of reduction of ambition, as in the Paris Agreement drafts this provision was preceded by a clause allowing countries to adjust their NDCs in order to enhance their actions and improve their performance. See Geneva text, para. 180.

¹⁰³ Rajamani, L., Brunnée, J. (2017). *The Legality of Downgrading Nationally Determined Contributions under the Paris Agreement: Lessons from the US Disengagement*. Journal of Environmental Law, 2017, V. 29, 537-551. Pp. 546-548. For circumstances precluding wrongfulness of an act, see Chapter 5 Responsibility of States for internationally wrongful acts. Resolution adopted by the General Assembly. Fifty-sixth session. A/RES/56/83. [URL](#)

¹⁰⁴ This was repeatedly mentioned by States during the negotiation process on the features of the NDC. See, for example, LMDC’s Input. CMA 6, agenda item 7. Further guidance on features of nationally determined contributions, referred to in paragraph 26 of decision 1/CP.21. Compilation of in-session submissions. CRP.CMA6.i7.1 P. 19. [URL](#); Submission on behalf of the EU and its 27 Member States on the informal consultation: CMA 6: 7. Further guidance on features of nationally determined contributions, referred to in paragraph 26 of decision 1/CP.21 – 16th, 2024. Ibid., p. 14; Costa Rica on behalf of the Independent Association for Latin America and the Caribbean. Parties’ views regarding further guidance in relation to the mitigation section of decision 1/CP.21 Information document by the secretariat. Ad Hoc Working Group on the Paris Agreement Second part of the first session Marrakech, 7–14 November 2016. FCCC/APA/2016/INF.1. P. 27. [URL](#); Australia’s Submission on further guidance in relation to the mitigation section of decision 1/CP.21. P. 2 [URL](#); Submission of Turkey on Agenda Item 3 (Mitigation Section of Decision 1/CP.21) of Ad Hoc Working Group on the Paris Agreement (APA 1-4). P. 1. [URL](#)

change,¹⁰⁵ in light of which the established indicators are considered ambitious and fair.¹⁰⁶ The level of economic development, the degree of energy efficiency, the volume of foreign investment inflows, as well as the desertification and arid weather are all described in Turkmenistan's NDC as some of the national characteristics that directly determine the priority areas for action and the available opportunities for increasing ambition.¹⁰⁷ For Canada, reducing energy consumption is crucial, given the significant scale of consumption due to temperature conditions, the remoteness of settlements, and low population density.¹⁰⁸

62. The ICJ pointed out the interconnection between the standard of due diligence and the CDDRRC-NC principle applied to the obligation of conduct under Article 4(2) of the Paris Agreement and the preparation of NDCs. As with CDDRRC-NC, the application of this standard implies taking into account historical and current contributions to climate change, the level of socio-economic development, and other national circumstances.¹⁰⁹ This is reflected, for example, in the fact that under Article 4(4) of the Paris Agreement developed countries should continue taking the lead in combating climate change by setting economy-wide absolute emission reduction targets.¹¹⁰
63. At the same time, according to the ICJ, the CDDRRC-NC principle does not in itself give rise to any distinct obligations. It is one of the principles that must inform the interpretation of international legal obligations in the field of environmental protection, including the protection of the climate system.¹¹¹

6. ICTU Requirement

64. Article 4(8) of the Paris Agreement contains an obligation to provide ICTU (information necessary for clarity, transparency and understanding). The modalities for its implementation are set out in decisions 1/CP.21 and 4/CMA.1. The ICTU includes information on indicators, targets, and strategies for reducing anthropogenic GHG emissions over a given period, on the planning processes involved in preparing the NDCs, the methodological approaches used, assessment of the ambition and fairness of NDCs, implementation of Article 4(3), as well as contribution to the ultimate goal set out in Article 2 of the UNFCCC.¹¹²
65. In the authentic text in English the verb “shall” is used in this paragraph, while the texts in French and Russian use verbs in the present tense and affirmative form (as in Article 4(2)). This indicates that the provision of ICTU is binding and is to be implemented in accordance with the guidelines adopted by the Conference of the Parties to the Paris Agreement (such guidelines are reflected in Decision 4/CMA.1).

¹⁰⁵ Marshall Islands Third NDC. Submission Date: 10.02.2025. Pp. 2–3. [URL](#)

¹⁰⁶ Ibid., table, section 6(a).

¹⁰⁷ Nationally Determined Contribution of Turkmenistan under the Paris Agreement. Submission Date: 30.01.2023. Pp. 4–10, 50–51. [URL](#)

¹⁰⁸ Canada's 2035 NDC. Submission Date: 12.02.2025. Pp. 18–19. [URL](#)

¹⁰⁹ ICJ Climate Change Advisory Opinion, para. 247.

¹¹⁰ Ibid., para. 248.

¹¹¹ Ibid., para. 151.

¹¹² UNFCCC. Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on the third part of its first session, held in Katowice from December 2 to 15, 2018. Addendum 1. Part two: Action taken by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Decision 4/CMA.1. Further guidance in relation to the mitigation section of decision 1/CP.21. Annex I. FCCC/PA/CMA/2018/3/Add.1. [URL](#)

7. NDCs as Being Informed by the GST Outcomes

66. According to Article 4(9) of the Paris Agreement, each Party shall “be informed by the outcomes of the global stocktake” in preparing and updating their NDCs. A comparison of the authentic texts in Russian,¹¹³ English,¹¹⁴ and French¹¹⁵ languages leads to the conclusion that this obligation entails the duty of States to take the GST outcomes into consideration and to correlate with them the measures and actions planned in the NDCs. This is also evident from the practice of States (**para. 69 below**).
67. The first GST was held in 2023. Its outcomes should form the basis for the preparation by States of updated NDCs in the new (third) submission round, which ended in September 2025.¹¹⁶ Neither the Paris Agreement nor the decisions of the Conference of the Parties provide an answer to the question of how to properly reflect the outcomes of the GST in new indicators and strategies. It was only in 2024 that negotiations began on the implementation of the outcomes of the first GST, including the implementation of Article 4(9) of the Agreement, but no substantive decision has yet been reached on this issue. During the negotiations, the States failed to reach an understanding on what such implementation should look like.
68. At the same time, NDCs submitted after 2023 demonstrate the successful enforcement of Article 4(9) of the Paris Agreement. Key components of the new NDCs’ implementation of the first GST outcomes include the Parties’ assessment of the consistency of their national contributions with the 1.5°C temperature goal, the transition to economy-wide absolute GHG emission reduction targets, and the consideration of the most available and recent scientific knowledge.¹¹⁷ Some of the priority areas, in line with the outcomes of the GST, were tripling renewable energy capacity and doubling the average annual rate of energy efficiency improvements,¹¹⁸ creating and accelerating national mechanisms to achieve net zero GHG

¹¹³ «Каждая Сторона... использует в качестве информационной основы результаты глобального подведения итогов». In the updated NDC of the Russian Federation, paragraph 4(c) of the ICTU table uses the following wording: «**Каким образом было обеспечено то, что в основе подготовки** Стороной своего **определяемого на национальном уровне вклада лежала информация** об итогах глобального подведения итогов в соответствии с пунктом 9 статьи 4 Парижского соглашения» (*emphasis added*) (“How was it ensured that the Party’s nationally determined contribution was based on the information on the outcomes of the global stocktake in accordance with paragraph 9 of Article 4 of the Paris Agreement”). See Russian Federation Second NDC. Submission Date: 29.09.2025. P. 35. [URL](#). Similar wording can be found in other NDCs drafted in Russian. See, for example, Kyrgyzstan NDC 3.0. Submission Date: 02.10.2025. P. 89. [URL](#) («Каким образом подготовка определяемого на национальном уровне вклада Стороны была информирована итогами глобальной инвентаризации, в соответствии со статьёй 4, пунктом 9, Парижского соглашения»). “How was the preparation of the Party’s nationally determined contribution informed by the outcomes of the global stocktake, in accordance with Article 4, paragraph 9 of the Paris Agreement”; Uzbekistan NDC 3.0. Submission Date: 06.11.2025. P. 45. [URL](#) («Каким образом подготовка Стороной своего определяемого на национальном уровне вклада была проинформирована о результатах глобального подведения итогов в соответствии с пунктом 9 статьи 4 Парижского соглашения» / “How was the Party’s preparation of its nationally determined contribution informed by the outcomes of the global stocktake in accordance with paragraph 9 of Article 4 of the Paris Agreement”); Republic of Belarus NDC for 2026-2035. Submission Date: 10.11.2025. Table, p. 7. [URL](#) («Как при подготовке ОНУВ Сторона использовала результаты глобального подведения итогов в соответствии с пунктом 9 статьи 4 Парижского соглашения» / “How did the Party use the outcomes of the global stocktake in accordance with paragraph 9 of Article 4 of the Paris Agreement in preparing its NDC”).

¹¹⁴ “Each Party shall... be informed by the outcomes of the global stocktake referred to in Article 14.”

¹¹⁵ “Chaque Partie... en tenant compte des résultats du bilan mondial prévu à l'article 14.”

¹¹⁶ The initial deadline for submitting NDCs was set for February 2025, but was subsequently moved to the end of September 2025. See Farand Ch. (2025). *UN gives countries more time to submit “quality” climate plans for 2035*. Climate Home News. [URL](#)

¹¹⁷ See, for example, UK’s 2035 NDC ICTU. Submission Date: 30.01.2025. Pp. 53-57. [URL](#); Japan’s 2035/2040 NDC. Submission Date: 18.02.2025. P. 8. [URL](#); Brazil Second Nationally Determined Contribution. Submission Date: 13.11.2024. Pp. 36, 42-43. [URL](#); Norway NDC 2035. Submission Date: 26.06.2025. Pp. 8-10. [URL](#)

¹¹⁸ For example, such a provision exists in the UK’s 2035 NDC ICTU in accordance with paragraph 28 of decision 1/CMA.5. Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on its fifth session, held in the United Arab Emirates from 30 November to 13 December 2023. Addendum. Part two: Action taken by the Conference of the Parties serving

emissions,¹¹⁹ transition away from fossil fuels,¹²⁰ and financing clean technologies.¹²¹ According to the Secretariat Synthesis Report, approximately 88% of updated NDCs are consistent with the outcomes of the first GST.¹²²

8. NDCs as Being Capable of Achieving the Paris Agreement Temperature Goal

69. In its advisory opinion, the ICJ also noted that the implementation of obligations related to NDCs requires ensuring that NDCs are capable of contributing to the fulfillment of obligations under the Paris Agreement and the achievement of its temperature goal.¹²³ Taken together, NDCs must be able to achieve the 1.5°C temperature goal and the ultimate goal under Article 2 of the UNFCCC.
70. After the first GST, many countries stated that they had aligned their NDCs with the temperature goal of the Paris Agreement. According to the Secretariat Synthesis Report, approximately half of the NDCs submitted reflect the commitment of States to keep the 1.5°C temperature goal within reach, while 23% of Parties indicate in their NDCs that their climate goals and targets are aligned with the 1.5°C pathway.¹²⁴

as the meeting of the Parties to the Paris Agreement at its fifth session. FCCC/PA/CMA/2023/16/Add.1. [URL](#). See also Annex to Switzerland NDC 2031-2035. Submission Date: 29.01.2025. [URL](#)

¹¹⁹ Canada's 2035 NDC. Submission Date: 12.02.2025. Pp. 21–25. [URL](#)

¹²⁰ Singapore Second Nationally Determined Contribution. Submission Date: 10.02.2025. Pp. 10–15. [URL](#)

¹²¹ United States of America 2035 NDC. Submission Date: 19.12.2024. Pp. 24–26. [URL](#)

¹²² Secretariat Synthesis Report, paras 4, 90–98.

¹²³ ICJ Climate Change Advisory Opinion, para. 245.

¹²⁴ Secretariat Synthesis Report, para. 92.

III. NDCs and Multilateral Assessment Processes of the Paris Agreement Implementation

71. As the negotiating history shows, the Paris Agreement initially envisaged conducting a preliminary assessment of individual climate change mitigation targets and actions, followed by the approval of NDCs based on recommendations received during such a multilateral preliminary study.¹²⁵ This idea was not supported, and the processes established under the Paris Agreement to ensure compliance are not intended to assess the adequacy of individual contributions to the temperature goal, the effectiveness of measures taken by States, or the implementation of requirements and normative expectations regarding NDCs in terms of their substantive content.

9. GST

72. During discussions on the elements of the Paris Agreement, many countries expressed the need for periodic assessments, on the one hand, of the contributions and individual measures in the field of climate change to ensure their compliance with long-term goals, and, on the other hand, of the collective progress in order to demonstrate ambitious efforts and the progress of countries towards achieving the goals of the Agreement.¹²⁶ This process was intended to ensure universal participation in the Paris Agreement and to serve as a platform for sharing experiences and best practices.¹²⁷
73. The idea of two parallel processes, assessing individual contributions and collective progress,¹²⁸ did not gain support. The global stocktake in the final drafts of the Paris Agreement evolved into an analysis of the aggregate contributions of States with the aim of identifying the extent to which Parties had come closer to achieving the temperature goal, as well as assessing the ambition and effectiveness of their measures at the collective level.¹²⁹
74. As stated in Article 14 of the Paris Agreement, the GST is a periodic assessment of collective progress towards achieving its long-term goals. The first GST was held at the 28th session of the Conference of the Parties to the Paris Agreement in 2023. This was preceded by lengthy work to define the objectives, directions, and stages of the GST. As a result, the global stocktake has been developed and actually started as a periodic comprehensive review of collective actions by States to implement the Paris Agreement and their cumulative effect in relation to achieving the Agreement's goals.¹³⁰ The GST aims to identify not only the adequacy

¹²⁵ See, for example, Geneva text, paras 176-177.

¹²⁶ See, for example, Summary of the round tables under workstream 1 ADP 2, part 2. Bonn, Germany, 4–13 June 2013. Note by the Co-Chairs. ADP.2013.10.InformalSummary. Para. 24. [URL](#); Submission by Lithuania and the European Commission on behalf of the European Union and its Member States. Para. 16. [URL](#); Submission by Swaziland on behalf of the Africa Group. In respect of Workstream I: 2015 Agreement under the ADP. Para. 13. [URL](#); Reflections on progress made at the fourth part of the second session of the Ad Hoc Working Group on the Durban Platform for Enhanced Action. Note by the Co-Chairs. ADP.2014.3.InformalNote. [URL](#)

¹²⁷ Summary of the roundtable under workstream 1 ADP 1, part 2. Doha, Qatar, November–December 2012. Note by the Co-Chairs. ADP.2012.6.InformalSummary. Para. 30. [URL](#); Summary report on the workshop on scope, structure and design of the 2015 agreement ADP 2, part 1. Bonn, Germany, 29 April 2013. Note by the facilitator. ADP.2013.2.InformalSummary. Para. 19. [URL](#)

¹²⁸ See, for example, Geneva text, paras 186-189. [URL](#); Streamlined and consolidated text. Ad Hoc Working Group on the Durban Platform for Enhanced Action. Second session, part nine. 1–11 June 2015, Bonn, Germany. Paras 184-188. [URL](#)

¹²⁹ Draft agreement and draft decision on workstreams 1 and 2 of the Ad Hoc Working Group on the Durban Platform for Enhanced Action. Ad Hoc Working Group on the Durban Platform for Enhanced Action. Second session, part eleven. 19–23 October 2015. Bonn, Germany. Article 10. [URL](#); Draft Paris Outcome, Article 10. [URL](#)

¹³⁰ UNFCCC. Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on the third part of its first session, held in Katowice from December 2 to 15, 2018. Addendum 2. Part two: Action taken by the Conference of the Parties

or inadequacy of the collective efforts of States to achieve the long-term goals of the Paris Agreement, but also opportunities for enhanced action and best practices in combating climate change. The GST is not related to the assessment of the progress of individual Parties to the Paris Agreement, is informative in nature, and contains signals, conclusions, and recommendations that may assist the Parties to the Agreement in updating and strengthening their national measures.¹³¹

75. The GST consists of three stages:

- i. collection and synthesis of information;
- ii. technical assessment aimed at summarizing the implementation of the Paris Agreement during the particular period, identifying problems in achieving the objectives of the Agreement and opportunities for enhancing action and support¹³² for the Parties;
- iii. consideration of the findings of the technical assessment at the political level in order to inform States about the degree of implementation of the long-term goals of the Paris Agreement, the effectiveness of the measures taken, and possible ways to increase the ambition and effectiveness of actions.¹³³

76. As the outcomes of the GST conducted in 2023, the attention is drawn to the significant gap between the expected effect of the NDCs currently being implemented and the temperature goal of the Paris Agreement,¹³⁴ the measures and national policies implemented by States are welcomed,¹³⁵ but at the same time, multiple calls are made to increase the ambition of targets in various areas of co-operation.¹³⁶ At the same time, best practices and ways to intensify actions are proposed.¹³⁷ There is no reference to the NDCs of any specific country or group of countries in any part of the decision on the GST outcomes: all conclusions are based on the cumulative effect of collective contributions.

77. Thus, the GST does not aim to assess the effectiveness of measures taken by a specific State or group of States, including the substantive content of NDCs and their implementation. It consists solely of an analysis of collective progress towards achieving the long-term goals of

serving as the meeting of the Parties to the Paris Agreement. Decision 19/CMA.1. Matters relating to Article 14 of the Paris Agreement and paragraphs 99–101 of decision 1/CP.21. FCCC/PA/CMA/2018/3/Add.2. Paras 9–14. [URL](#)

¹³¹ Ibid., para. 14.

¹³² The phrase “enhancement of action and support” indicates that the analysis covers not only the actions of States to reduce anthropogenic GHG emissions and other measures on mitigation and adaptation, but also the assistance provided to the Parties to the Agreement. “Support” refers to the implementation by States of their obligations on financial assistance (Article 9 of the Paris Agreement), development and transfer of technologies (Article 10), and capacity-building (Article 11), as well as the assistance received under these articles and the assistance required. This interpretation follows from an analysis of section C of the decision 1/CMA.5 and paragraph 10 of the decision 18/CMA.1, which establishes guidelines for the submission of information under Article 13 of the Agreement.

¹³³ Ibid., para. 3.

¹³⁴ UNFCCC. Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on its fifth session, held in the United Arab Emirates from 30 November to 13 December 2023. Addendum. Part two: Action taken by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its fifth session. Decision 1/CMA.5. Outcome of the first global stocktake. FCCC/PA/CMA/2023/16/Add.1. Paras 21, 24. [URL](#)

¹³⁵ See, e.g., *ibid.*, paras 18, 44–45, 76, 112–113.

¹³⁶ See, e.g., *ibid.*, paras 28, 31–34, 37, 51, 63, 85, 130–131.

¹³⁷ See, for example, *ibid.*, paras 54–56, 70, 87, 139–140. Paragraph 177 refers to the results of the first technical dialogue, which reflects a significant amount of recommended practices. See Technical dialogue of the first global stocktake. Synthesis report by the co-facilitators on the technical dialogue. Subsidiary Body for Scientific and Technological Advice, Subsidiary Body for Implementation. Fifty-ninth session. United Arab Emirates. 30 November to 6 December 2023. FCCC/SB/2023/9. [URL](#)

the Paris Agreement. Nevertheless, the GST results provide an informative basis for the preparation of NDCs and influence countries' climate strategies (**paras 66-68 above**).

10. Enhanced Transparency Framework for Action and Support

78. Article 13 of the Paris Agreement establishes a new reporting framework that ensures openness and transparency of actions and support provided.¹³⁸ This system is called the “enhanced transparency framework for action and support” and aims to strengthen mutual trust and confidence and promote the effective implementation of the Paris Agreement.¹³⁹ Furthermore, this framework is designed to provide a clear understanding of the measures taken by the Parties to combat climate change and to facilitate the monitoring of progress towards the long-term goals of the Paris Agreement and the ultimate goal of the UNFCCC.¹⁴⁰ This system, together with other reporting mechanisms (e.g., under Article 9 of the Agreement), provides an overview of the policies and programs implemented by each Party, their effects, identifies best practices, and reveals gaps and weaknesses in the actions taken.¹⁴¹
79. The enhanced transparency framework includes recurring cycles consisting of several stages:
- i. submission of biennial transparency reports by States;¹⁴²
 - ii. technical expert review of these reports, culminating in a report with conclusions on the compliance of the information submitted with the requirements of Decision 18/CMA.1, the implementation by the State of its NDC, the support provided and rendered (in certain cases) and with recommendations regarding identified areas of improvement;¹⁴³
 - iii. facilitative multilateral consideration of progress, allowing for a question-and-answer session on the results of the review of country reports by technical experts and national efforts to prepare the relevant reports;¹⁴⁴ and a closing session of the working group, summarizing the entire cycle of reporting and analysis.
80. Despite a fairly in-depth analysis of national measures and actions taken by each individual State, including actions to implement and achieve the NDCs, this mechanism does not aim to assess the

¹³⁸ See the meaning of the term “action and support” in **footnote 132, paragraph 75(ii) above**.

¹³⁹ Paris Agreement, Article 13(1). For the purposes of this paper, the term “enhanced transparency framework” will be used to refer to the enhanced transparency framework for action and support.

¹⁴⁰ Paris Agreement, Article 13(5).

¹⁴¹ These were the goals that countries talked about during the 2015–2018 talks on developing the terms, procedures, and guidelines for a framework to ensure that actions and support are transparent. See, for example, Parties' views regarding modalities, procedures and guidelines for the transparency framework for action and support referred to in Article 13 of the Paris Agreement. Information document by the secretariat. FCCC/PA/2016/INF.3. Pp. 14, 22, 31–33, 60–61, 67. [URL](#)

¹⁴² UNFCCC. Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on the third part of its first session, held in Katowice from 2 to 15 December 2018. Addendum 2. Part two: Action taken by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Decision 18/CMA.1. Modalities, procedures and guidelines for the transparency framework for action and support referred to in Article 13 of the Paris Agreement. FCCC/PA/CMA/2018/3/Add.2. Paras 10-11. [URL](#); EIG's Submission on the Enhanced Transparency Framework (APA Agenda item 5). P. 3. [URL](#); India's Submission on Agenda item 5 – Modalities, procedures and guidelines for the transparency framework for action and support referred to in Article 13 of the Paris Agreement. Pp. 1–2. [URL](#)

¹⁴³ UNFCCC. Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on the third part of its first session, held in Katowice from 2 to 15 December 2018. Addendum 2. Part two: Action taken by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Decision 18/CMA.1. Modalities, procedures and guidelines for the transparency framework for action and support referred to in Article 13 of the Paris Agreement. FCCC/PA/CMA/2018/3/Add.2. Paras 146, 162. [URL](#)

¹⁴⁴ The first session of the facilitative multilateral consideration of progress was held in June 2025 at the 62nd session of the Subsidiary Bodies ([URL](#)), and the second – in November 2025 at the 63rd session of the Subsidiary Bodies ([URL](#)).

adequacy of the NDCs and the effectiveness of the action programmes for their implementation.¹⁴⁵ The enhanced transparency framework is an incentive and facilitative mechanism that does not provide for any enforcement measures and sanctions for the inadequacy of the NDCs in relation to the temperature goal of the Paris Agreement or the ineffectiveness of the measures implemented.¹⁴⁶

81. An analysis of the current stage of assessment of the submitted reports by technical experts confirms this.¹⁴⁷ The conclusions of the technical experts demonstrate the climate change policies pursued by a particular State, describe updates and innovations in terms of national measures (adoption of new legislation, introduction of technologies, etc.), and illustrate progress in the implementation of NDCs without assessing their consistency with the temperature goal of the Paris Agreement, the substantive reflection of the requirements and normative expectations for NDCs prescribed by Article 4 of the Agreement. The technical experts' report also draws attention to areas for improvement and contains recommendations, for example, pointing to appropriate methodologies for calculating indicators¹⁴⁸ or the need to update data,¹⁴⁹ more complete disclosure of information on specific areas of national policy.¹⁵⁰

11. PAICC

82. Several options were proposed as potential mechanisms for ensuring proper implementation of the Agreement within the negotiation process: a multilateral forum as a platform for identifying common problems and seeking solutions, two separate committees with different functions, scope of consideration, and sets of response measures for developed and developing countries, and an "International Tribunal of Climate Justice".¹⁵¹ Ultimately, a single Paris Agreement Implementation and Compliance Committee has been established for all Parties, which, according to Article 15(2) of the Paris Agreement, "shall be facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive".¹⁵²
83. The Committee has a dual function: it is responsible for promoting compliance with the provisions of the Paris Agreement and for responding to cases of non-compliance. It performs these functions by examining specific cases of non-compliance with obligations by a Party to the Paris Agreement. Such consideration may be initiated directly by the Party whose actions

¹⁴⁵ UNFCCC. Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on the third part of its first session, held in Katowice from 2 to 15 December 2018. Addendum 2. Part two: Action taken by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Decision 18/CMA.1. Modalities, procedures and guidelines for the transparency framework for action and support referred to in Article 13 of the Paris Agreement. FCCC/PA/CMA/2018/3/Add.2. Para. 149. [URL](#)

¹⁴⁶ Ibid., para. 148.

¹⁴⁷ Decision 18/CMA.1 set the deadline for submitting biennial reports as of 31 December 2024. This was followed by a stage of review of the reports by technical experts.

¹⁴⁸ Report on the technical expert review of the first biennial transparency report of Switzerland. Addendum. FCCC/ETF/TERR.1/2024/CHE/Add.1. [URL](#)

¹⁴⁹ Report on the technical expert review of the first biennial transparency report of South Africa. Addendum. FCCC/ETF/TERR.1/2024/ZAF/Add.1. [URL](#)

¹⁵⁰ Report on the technical expert review of the first biennial transparency report of Türkiye. Addendum. FCCC/ETF/TERR.1/2024/TUR/Add.1. [URL](#)

¹⁵¹ See, e.g., Geneva text, para. 196; Draft agreement and draft decision on workstreams 1 and 2 of the Ad Hoc Working Group on the Durban Platform for Enhanced Action. Ad Hoc Working Group on the Durban Platform for Enhanced Action. Second session, part eleven. 19–23 October 2015. Bonn, Germany. Article 11, option II. [URL](#)

¹⁵² Paris Agreement, Article 15(2).

are subject to consideration by the PAICC.¹⁵³ In certain cases, the Committee may itself initiate consideration of a particular situation (e.g., failure to notify the NDC or failure to participate in the facilitative multilateral consideration of progress).¹⁵⁴

84. The Committee's activities consist of responding in a timely manner to cases of non-compliance with the Paris Agreement. Such responses include initiating dialogue with the State, requesting information from it on the reasons for failure to comply with its obligations and related difficulties (e.g., lack of sufficient economic or human resources, a need for financial assistance, etc.), conducting consultations, and helping to find ways to overcome difficulties.¹⁵⁵ At the request of the State, the Committee may draw up a plan for further action to fulfill its obligations under the Paris Agreement.¹⁵⁶
85. As evidenced by the PAICC's internal modalities¹⁵⁷ and its recent practice,¹⁵⁸ it is not a mechanism capable of assessing the proportionality and effectiveness of States' actions to combat climate change from a substantive point of view. Furthermore, the incentive-based nature of this body prevents it from exerting meaningful pressure or imposing sanctions on the Parties to the Paris Agreement to achieve its objectives.

¹⁵³ UNFCCC. Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on its fourth session, held in Sharm el-Sheikh from 6 to 20 November 2022. Addendum. Part two: Action taken by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its fourth session. Decision 24/CMA.4. Rules of procedure of the committee to facilitate implementation and promote compliance referred to in Article 15, paragraph 2, of the Paris Agreement. FCCC/PA/CMA/2022/10/Add.3. Rule 18. [URL](#)

¹⁵⁴ Ibid., Facilitative multilateral consideration of progress is one of the cycles of the enhanced transparency framework. See **para. 79(iii) above**.

¹⁵⁵ UNFCCC. Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on the third part of its first session, held in Katowice from 2 to 15 December 2018. Addendum. Part two: Action taken by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Decision 20/CMA.1 Modalities and procedures for the effective operation of the committee to facilitate implementation and promote compliance referred to in Article 15, paragraph 2, of the Paris Agreement. FCCC/PA/CMA/2018/3/Add.2. Annex, para. 30. [URL](#)

¹⁵⁶ Ibid.

¹⁵⁷ Ibid., para. 23.

¹⁵⁸ See, for example, UNFCCC. Annual report of the Paris Agreement Implementation and Compliance Committee to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Fifth session. United Arab Emirates, 30 November to 12 December 2023. FCCC/PA/CMA/2023/4. Paras 12-14, 21-24. [URL](#); UNFCCC. Annual report of the Paris Agreement Implementation and Compliance Committee to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Report by the secretariat. Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Sixth session. Baku, 11–22 November 2024. FCCC/PA/CMA/2024/7. Para. 24. [URL](#)

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