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and

the Asian African Legal Consultative Organization

**“International Law in Global Climate Governance: Implementation and
Outlook”**

Keynote address

by

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It is my pleasure to be addressing all of you today at this important event. Today’s topic, “International Law in Global Climate Governance: Implementation and Outlook”, could not be more timely.

Over the past several decades, we have observed increased action to address climate change, including through the adoption and rapid entry into force of a number of international instruments on this subject.



What began in 1972 as declarations and principles at the UN Conference on the Human Environment in Stockholm, which called for the protection and improvement of the human environment, have evolved. Today, Member States have committed to binding legal obligations under international law to limit, reduce and combat the negative effects of climate change.

One of the issues up for discussion today is the recent trend to submit requests for advisory opinions to international courts and tribunals on obligations under some of these legally binding instruments. This includes the request submitted to the International Court of Justice and the International Tribunal for the Law of the Sea, which I will touch on.

I will first discuss the request by the General Assembly for an advisory opinion from the International Court of Justice, which all of you are aware.

On 29 March 2023, the General Assembly adopted resolution 77/276, requesting an advisory opinion of the ICJ on the obligations of States in respect of climate change. This resolution was historic – it was sponsored by over 130 Member States, and adopted by consensus, reflecting the common concerns faced by majority of UN Member States.

I am sure that all of you have carefully studied the question that the General Assembly has asked the Court.

In this process, the UN Secretary-General has a specific function, as provided under the UN Charter and the Statute of the ICJ. Under Article 65 of the ICJ Statute, following a request for an advisory opinion to the Court, the Secretary-General provides the Court with a dossier containing all documents likely to throw light upon the question.

In line with past practice, the Office of Legal Affairs prepared the dossier, which was submitted to the Court on 30 June 2023.





The process of selecting the relevant documents was challenging.

It is now widely accepted that climate change impacts other areas of human activity and that there are many interconnected issues. Today, it is not possible to consider other issues, such as sustainable development, human rights including women's rights, biodiversity, peace and security, poverty eradication or migration, without also considering climate change. Thus, this issue has been discussed in different fora from different angles and perspectives.

We had to select materials which reflected the complexity of the issue and at the same time were responsive to the question posed by the Assembly, but without submitting an overwhelming amount of material.

Achieving that balance was no easy task.

Solely on the question of which internationally binding legal instruments to include in the dossier, there were different approaches that could have been taken, as there are a multitude of multilateral environmental agreements alone, leaving aside regional agreements and other instruments which could be regarded as having links to the question of climate change.

Ultimately, we were guided by the wording of resolution 77/276. The selection of the documents included in the dossier was based on the documents, instruments and principles referenced in the resolution, including its preamble and the legal question. It is by no means meant to compile every single document there is on the question of climate change or every single instrument addressing relevant issues.

Even with this focused approach, the dossier ultimately contained close to 8000 pages of documents comprising multilateral treaties, scientific reports, relevant works of the ILC, resolutions, decisions and outcomes of UN conferences. These





documents related not only to the climate system and other parts of the environment, but also law of the sea and human rights.

As the Secretary-General stated in the General Assembly on the occasion of the adoption of the resolution requesting the advisory opinion, the advisory opinion from the principal judicial organ of the United Nations have tremendous importance and can have a long-standing impact on the international legal order. It can provide the much-needed clarification on existing international legal obligations.

Turning to another important topic, I would like to address recent developments in relation to climate change and the ocean. As we know from the science, climate change and ocean acidification continue to inflict substantial damage and increasingly irreversible losses to the ocean. At the same time, ocean sectors provide critical opportunities for mitigation and adaptation action.

The obligations of States under the United Nations Convention on the Law of the Sea in relation to the impacts of climate change are currently being considered both in the context of the request made by the General Assembly to the International Court of Justice for an Advisory Opinion in relation to climate change, and in the context of the request from the Commission of Small Island States on Climate Change and International Law to the International Tribunal for the Law of the Sea for an advisory opinion relating to obligations of States Parties under the Convention with respect to the effects of climate change. The written and oral proceedings in relation to the ITLOS case have highlighted important issues, including on the interaction between the climate change and ocean legal regimes.

In addition, let me note that the Agreement under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, adopted in June this year, recognizes the ocean-climate nexus and has a critical role to play in tackling the triple planetary crisis of climate change, pollution and biodiversity loss. It is the first global comprehensive, cross-sectoral ocean treaty in decades after UNCLOS. It provides a framework to address, in a holistic manner, the multiple pressures affecting ocean health and its role in





climate regulation. As such, we need to keep the momentum high to ensure its swift entry into force. My Office has developed a robust programme of activities to assist States to that end, including through the promotion of a better understanding of the Agreement.

Apart from the advisory opinions to the ICJ and ITLOS which the Office of Legal Affairs is directly involved in, I also note that a request was submitted to the Inter-American Court of Human Rights for an advisory opinion on climate emergency and human rights.

The involvement of such international judicial bodies can further clarify the nexus between climate change and other parts of the environment and human rights. The legal opinions of such bodies, if and when rendered, can hopefully be useful guides for Member States on how to meet their obligations under international law to address this multidimensional climate change crisis.

Thank you and I wish you a fruitful discussion.

