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RECEIVED 27 October 2025

REVISED 12 January 2026

ACCEPTED 19 January 2026

PUBLISHED 09 February 2026

## CITATION

Wang M, Zhang S, Butt MJ and Zulfiqar K (2026) Advisory opinion of the ITLOS on climate change and International Law on the Request of Small Island Developing States (SIDS): a Sustainable Development Goal - 14 (SDG 14) perspective. *Front. Mar. Sci.* 13:1733628. doi: 10.3389/fmars.2026.1733628

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# Advisory opinion of the ITLOS on climate change and International Law on the Request of Small Island Developing States (SIDS): a Sustainable Development Goal - 14 (SDG 14) perspective

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Recently, international judicial forums have issued landmark advisory opinions on the subject of the ocean–climate nexus. The opinions are based on the recognition of the interconnection between the United Nations Framework Convention on Climate Change (UNFCCC) and the United Nations Convention on the Law of the Sea (UNCLOS). All judicial forums stated that Small Island Developing States (SIDS) are a distinct focus due to their disproportionate vulnerability to climate change, as reported by the Intergovernmental Panel on Climate Change (IPCC). According to the opinions, SIDS could become uninhabitable in the coming years, necessitating urgent global climate action. The United Nations (UN) has acknowledged the unique challenges of SIDS through various resolutions, which emphasise the need for climate justice and adherence to the 1.5 C climate target. Sustainable Development Goal 14 (SDG 14) brought attention to the direct impacts of climate change on oceans and the issues faced by SIDS. This paper reviews the historical and legal developments necessary for the sustainable development of SIDS, emphasising the nexus between climate change, ocean governance, and human rights. It highlights the potential for further advocacy and the interconnected nature of SDG 14 with judicial opinions.

## KEYWORDS

climate change, International Tribunal for Law of the Sea (ITLOS), Small Island Developing States (SIDS), Sustainable Development Goal 14 (SDG 14), United Nations Convention on Law of the Sea (UNCLOS)

## 1 Introduction

“Our smallness will not hold us back—not anymore.”

This statement captured the sense of determination heard throughout the Fourth International Conference on Small Island Developing States (SIDS) (*4th International Conference on SIDS - Charting the Course Toward Resilient Prosperity, 2024*). More than 30 years have passed, but the words have not turned into concrete actions, and the challenges of SIDS have been turned into existential threats because small islands will sink. Therefore, the representative of the Maldives issued this statement during the Fourth International Conference on SIDS. Climate change and its impacts on SIDS have gained increased prominence in recent years. The Intergovernmental Panel on Climate Change (IPCC) now designates “SIDS” as a separate chapter because these states are recognised as disproportionately exposed to climate vulnerability (*IPCC 5th Report, n.d.*).

As SIDS primarily rely on marine resources (mainly fisheries), focussing on small-scale artisanal fisheries and tourism, ocean acidification caused by climate change (oceans now absorb more carbon emissions, causing acidification) alters marine fisheries as a chain of economic development (*Douglas, 2006*). According to SIDS, majority of the historical and traditional strategies have failed to deal with climate change and the future of planet Earth (*Mycoo et al., 2022*). In other words, SIDS advocate for their survival because most of them are on the verge of being submerged in oceans. Many SIDS have already been apprehended due to the declining marine resources in their territorial seas, which hampers their sustainable development (*Batista et al., 2019*). In the next 10–20 years, the majority of the SIDS will become uninhabitable. The pace of sea level rise impacts the existence of SIDS. The adverse effects of climate change require urgent transformation and adaptation at the global level to protect and preserve SIDS.

A total of 39 states are recognised by the United Nations (UN) as SIDS, mainly in the Caribbean and the Pacific regions, with a few in the Atlantic, Indian, and Mediterranean regions (*UNGA Resolution, 2020*). After recognising the special status of SIDS during the Earth Summit of 1992, the sustainable development agenda, also known as the United Nations Declaration on Environment and Development (Rio Declaration), considered the significant challenges of SIDS (*United Nations Conference Declaration on Environment and Development, 1992*). In 2012, the UN General Assembly adopted another resolution entitled “The Future We Want,” which dedicated a special section on SIDS (*UNGA Resolution, 2020*). The resolution “The Future We Want” noted that SIDS have made less progress compared with other developing states, or even regressed economically and are being challenged by more crises. This resolution demonstrated a palpable concern about the crises faced by SIDS, particularly the sea level rise and coastal flooding due to climate change (*Hens and Nath, 2005*).

After this, the UN realised that sustainable development of SIDS would be a “test case” for climate justice, and every state should align with the 1.5 C climate target (*Mycoo, 2018*). The UN also

emphasised the swift implementation of the Kyoto Protocol and Paris Agreement under the United Nations Framework Convention on Climate Change (UNFCCC), specifically to protect, preserve, and restore SIDS (*United Nations Framework Convention on Climate Change, 1992; Kyoto Protocol to the United Nations Framework Convention on Climate Change, 1997; Paris Agreement*). The UN observed that SIDS are home to 65 million people, facing unique vulnerabilities to natural disasters and climate change (*Salpin et al., 2018*). Furthermore, SIDS rely mainly on marine resources that require a scientific and comprehensive governance approach, considering oceans and climate as a matter of the Anthropocene. Since the establishment of the Sustainable Development Goals (SDGs), anthropogenic issues have gained prominence in multiple international, national, and local forums (*Laatikainen, 2020*). A specific goal-based approach for oceans under Sustainable Development Goal 14 (SDG 14) was established along with the SDGs in 2015 (*Final list of proposed Sustainable Development Goal indicators, 2016*). Such an approach was new in terms of recognising the direct impacts of climate change on oceans, including the issues of SIDS at the international level in the form of a proper declaration.

Although the UN has long recognised the unique issues and vulnerabilities of SIDS, the process of a goal-based approach through UNGA consensus-based resolution provided a novel pathway to address the challenges methodically. Evidently, SIDS are determined to resist the global carbon-producing elites. During the Conference of Parties (COP) 26, Antigua-Barbuda and Tuvalu entered into an Agreement with the Commission of Small Island States on Climate Change and International Law (the Agreement). The Agreement established a Commission on the Small Island States (COSIS) that recognises “climate change” as a common concern of humanity and its severe impacts on oceans, including SIDS (*Evins-Mackenzie, 2024*). The Agreement mandates that COSIS advocate for the severe impacts of climate change on SIDS and the alarming situations of coastal flooding, ocean acidification, and sea level rise.

While recognising the nexus of climate change and ocean governance, international judicial forums declared advisory opinions recognising the issues and concerns of SIDS [*Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law (Request for Advisory Opinion submitted to the Tribunal), 2024; IACtHR Decision on Climate Emergency, 2025; ICJ Advisory Opinion, 2025*]. Although none of the opinions emphasised the SDG 14 agenda, each of them endorsed the interconnections between the United Nations Convention on Law of the Sea (UNCLOS) and climate change law (CCL)<sup>1</sup> (UNFCCC, along with the Paris Agreement and Kyoto Protocol). The opinions also established the nexus between climate change and oceans through the

<sup>1</sup> CCL is referred to as the climate change law including the United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Agreement. The given international laws will be referred to in full form in the paper when required.

intersection of human rights and CCL with UNCLOS (Romero Pino, 2025).

This paper provides insights into the history of international legal developments that have been necessary for the sustainable development of SIDS. This paper is motivated by the judicial interpretation framing the nexus between ocean, climate, and human rights in order to protect and preserve SIDS and can be connected with the SDG Agenda. Therefore, this paper conducts a thorough analysis of the judicial opinions that are equated with SDG 14. Based on analysis and discussion, this paper proposes that SDG 14 is inherently connected with the opinions and the efforts of SIDS and that there are further possible venues for future advocacy available to SIDS.

## 2 From Barbados to Samoa: a brief analysis of the historical development of international agenda for SIDS

In 1990, a few SIDS formed an Alliance of Small Island States (AOSIS) to engage in the Earth Summit actively in order to gain recognition as vulnerable states due to climate change (Table 1) (Ashe et al., 1999). SIDS successfully entered Chapter 17 of Agenda 21 (Rio Declaration) as a “special case for both environment and development” due to their ecological vulnerability, small size, limited resources, and isolation, which create economic disadvantages (Chasek, 2005). Furthermore, AOSIS played a significant role during the Earth Summit and strongly advocated for the adoption of the UNFCCC (Ashe et al., 1999). While recognising that any such international agreement on climate change will become redundant if specific measures are not adopted, AOSIS put forward the first draft text of the Kyoto Protocol before its formal negotiations (Table 1).

The Rio Declaration also called for global cooperation to sustain the development of SIDS. The Rio Declaration urged developing states to facilitate the transfer of environmentally sound technologies to SIDS under concessional and preferential terms.

The Earth Summit substantially forwarded the suggestions for the sustainable development of SIDS, which provided an opportunity for the UN to adopt the Barbados Programme of Action (BPOA) of 1994, translating the sustainable development agenda for SIDS (Gomes and Hosein, 2014). The first conference on the Sustainable Development of SIDS, which formed the BPOA, adopted “technical cooperation” as a priority point. The BPOA noticed for the first time that “any rise in sea level will have significant and profound effects on the SIDS” and that, for the sustenance of SIDS, technical ability for sustainable resource utilisation is required. The BPOA also called for fair, equitable, and non-discriminatory trading arrangements with SIDS, specifically related to the World Trade Organization Agreement (WTO Agreement) on technology transfer and capacity building (De Berdt Romilly, 2005).

In 2005, the BPOA was reviewed under the Mauritius Strategy of Implementation (MSI) and further strategised to enhance the sustainable development of SIDS (Table 1) (Gomes and Hosein, 2014). This was the Second International Conference (also known as the MSI), which is essentially a review of the BPOA and the further implementation of the sustainable development agenda for SIDS. The BPOA adopted a 14-point agenda, and five more agenda points were added to the sustainable development of SIDS under the MSI (Table 1). The given 19 points are mainly related to climate and environmental change, resource preservation, capacity building, marine scientific research (MSR), and technology transfer. One crucial agenda point of international cooperation and partnerships for the sustainable development of SIDS was added in 2014 through Accelerated Modalities of Action (SAMOA), as shown in Table 1 (Gomes and Chase, 2014).

The MSI recognised the gaps in the implementation of the sustainable development agenda for SIDS and forwarded a plan for sustainable production and consumption (of the international community), as well as health and knowledge management. Sustainable consumption of marine and other resources facilitates the implementation of climate-friendly technologies, which in turn have a positive impact on the health of the oceans. Sustainable

TABLE 1 Timeline of the international efforts by Small Island Developing States (SIDS) for climate change.

Year	Event	Outcome	Agenda for climate change developments
1990	First meeting of SIDS on climate change and sea level rise	Establishment of AOSIS	Advocacy for SIDS at the global level to mitigate the causes of climate change
1992	Earth Summit	Rio Declaration	Played an important role in the development of UNFCCC
1994	UN Programme of Action on the Sustainable Development of SIDS	Barbados Programme of Action (BPOA)	First draft text of the Kyoto Protocol in 1994
2005	The High-Level Mauritius International Meeting	Mauritius Strategy of Implementation (MSI)	Raised awareness regarding the implementation of UNFCCC and gained the support of developed states as a 14-point agenda
2014	The Third International Conference on SIDS	Small Island Developing States Accelerated Modalities of Action (SAMOA Pathway)	Coordinated follow-up and assessment of the implementation of climate change law
2021	COP 26 and Meeting of Two SIDS	Establishment of COSIS	Special mandate of COSIS for climate change litigation for SIDS
2024	Fourth International Conference on SIDS	Adoption of the New Programme of Action for SIDS (NPAS) and the Political Declaration	Review of previous commitments and requests for advisory opinions of the international and regional courts on the climate-ocean nexus

Official Reports of the BPOA, MSI, SAMOA Pathway, and NPAS.

AOSIS, Alliance of Small Island States; UNFCCC, United Nations Framework Convention on Climate Change; COSIS, Commission on the Small Island States.

consumption highlighted the issue of “climate change” at the international level and observed inequitable trade and production practices contributing to environmental and climate damage.

The Third International Conference on SIDS, known as SAMOA, followed a mid-term review of the implementation of the BPOA and MSI (Hassall, 2023). The mid-term review was held in 2010 and only focussed on the implementation of previous agendas. This time, food security and disaster risk management issues were observed, as they evidently led to climate migration. The SAMOA Pathway supports the sustainable development of SIDS through the promotion of equitable economic growth, sustainable consumption and production, and sustainable transportation, focussing on typical climate change issues. Furthermore, SAMOA advocated for mitigating climate change and adapting to its impacts by implementing sustainable energy (Dubrie et al., 2020).

In this manner, SIDS enlighten about the fundamental causes of climate change and highlight the fact that carbon emissions from industrial outputs are linked to consumption patterns. Similarly, clean energy is seen as a means to control the carbon emissions from transportation and electricity generation activities. Protection of biodiversity means discouraging the overexploitation of resources (mainly marine resources), and environmental health means mitigating the impacts of hazardous waste. Human health improvement and social development are closely linked to food security and nutrition, as well as enhanced water and sanitation governance.

The new areas were presented just before the emergence of Agenda 2030 and were incorporated into SDG 14, as advocated by SIDS (Said and Chuenpagdee, 2019). SIDS are optimistic about the governance of the SDGs, which may help in addressing climate and environmental issues globally. Negotiations of the SDGs provided the platform to transform the challenges (faced by SIDS) into opportunities that require increased synergies and coordination at the national, regional, and international levels. The thematic interlinkages between the SDGs and SDG 14 helped develop a policy-oriented global governance framework for SIDS (Scobie, 2022). In a sense, the framework for global governance is rational, where global politics challenge the outcome of any such agenda.

The issues and solutions highlighted above are not new. Across thematic areas, synergies and coordination in governance are key to addressing the challenges faced by SIDS. SIDS are challenged due to a triple planetary crisis: climate change, pollution, and biodiversity loss. The voices for these issues understandably received a massive share of attention because they pose a “clear and present danger” for SIDS. Each year, a COP is a clear sign of voice with less effect and less impact, and the carbon emissions are not reduced as per the required global caps. Similarly, the generation of waste (including sewage, plastic, and household waste) and overconsumption (or overproduction) remain unaddressed global (and SIDS-specific) concerns.

The efforts by SIDS have continued to date. Recently, the Fourth International Conference on SIDS explored whether the 10-year time frame remains appropriate. The declaration adopted a New Programme of Action for SIDS (NPAS) and assessed whether SIDS voices have been adequately captured in the global legal framework (4th International Conference on SIDS - Charting the Course

Toward Resilient Prosperity, 2024) NPAS also evaluated the realistic achievement of SIDS in the next decade and the impact of its success on global governance. SIDS have long sought special consideration in the UN system due to their diverse challenges, which has also been forwarded to NPAS (4th International Conference on SIDS - Charting the Course Toward Resilient Prosperity, 2024). NPAS also suggested holding a biennial meeting of SIDS to observe changing conditions and make agendas and policies more responsive. NPAS observed that the 10-year time frame is problematic because SIDS can make their distinct voice heard and push for implementation without any time frame. Provided that, any such time frames (amidst other global priorities) impact the implementation of the agendas proposed by SIDS and the time frames are subsequently adjusted.

To date, SIDS are still seeking appropriate responses from the global UN system (including UNGA and the Security Council). The time frame for SIDS agenda is also a dilemma as the implementation mechanisms are often overlooked and overshadowed by the more prominent UN agendas for sustainable development. For example, the SDGs, adopted a year later by SAMOA, overshadowed the specific agenda of SIDS. Other voices at the UN are dominant, which receive all the focus and finances, leaving less space for the sustainable development of SIDS to be implemented outside the SDGs. The current issues reveal massive barriers as numerous priorities identified in the SIDS agenda remain unimplemented.

The issues are twofold: i) the internal capacity of the SIDS to address the environmental challenges and ii) the advocacy by the SIDS to address the global environmental and climate change issues impacting them (Dubrie et al., 2020). It is essential for SIDS to tailor specific goals derived from SDG 14, as well as synergies and interconnections with other SDGs. There are prerequisites for this to happen, such as the effective implementation of the UNFCCC and UNCLOS, as per the directions provided under the SDGs, specifically SDG 14. A closely related challenge concerns the translation or interpretation of the UNFCCC and UNCLOS in a manner that shall be effective for the implementation of SDG 14 and SDGs (Butt et al., 2021b). This will require that the CCL in the UNFCCC, Kyoto Protocol, and Paris Agreement is applicable through the governance mechanisms as established in the SDGs.

During majority of the conferences, as mentioned above, the UNGA recalled several times that the UNFCCC, Kyoto Protocol, and its Paris Agreement emerged to maintain the Earth's temperature up to 1.5 C, and this is mainly due to the successful advocacy of SIDS (Zulfiqar and Butt, 2021). The primary concern of the SIDS remains that effective implementation of the UNFCCC, along with other protocols and agreements, is not a priority of the UN. SIDS argue that the UN is influenced by priorities informed by their own agendas and dilutes the issues proposed by developing and least developed states (Ashe et al., 1999). This position on SIDS calls for climate action through the CCL, utilising a top-down approach within the UN system and its effective implementation in carbon-emitting states.

In 2023, the Secretary General of the UN stated that “SIDS can make an almighty noise together to deliver meaningful change to

benefit the whole of humankind” (Hassall, 2023). This means that the issues and challenges faced by SIDS can bring the global community together to take a significant action on the CCL. Therefore, SIDS assumed that the UN would be able to implement the right initiatives to put the CCL into place as per the commitments made through protocols, agreements, and declarations. However, each protocol, agreement, and declaration has brought even more complications for SIDS. For instance, the Kyoto Protocol set binding targets only for developed states, and major emitters, including the United States, did not ratify it, leading to insufficient overall global emission reductions during its operational periods (Rabe, 2007). SIDS, being highly vulnerable to climate change impacts, including sea level rise, rely heavily on collective action to ensure their survival.

SIDS are not responsible for causing climate change, yet they are among the earliest and most severely affected by its impacts. The vulnerabilities of SIDS are intensified by limited infrastructure, constrained financial resources, and insufficient technological capacity, all of which hinder progress towards sustainable development (Scobie, 2022). Consequently, SIDS are increasingly seeking a stronger legal foundation for the effective implementation of the UNCLOS and CCL. These concerns of SIDS arise from the gap between broad declaratory commitments and the lack of substantive, enforceable action, prompting a push for clearer obligations and mechanisms that can ensure meaningful compliance and protection (Said and Chuenpagdee, 2019).

### 3 SIDS at international courts and tribunals on the issue of climate change

Majority of the initiatives adopted by the UN for SIDS are short-term (usually with a 10-year timeline) and traditional in nature. Therefore, such initiatives are dependent upon limited resources, and this led to an intensification that SIDS came to the point of being submerged in the oceans (4th International Conference on SIDS - Charting the Course Toward Resilient Prosperity, 2024). The challenges faced by SIDS require a transformational adaptation rather than short-term initiatives. Therefore, the population and leadership in SIDS have become resilient and are thriving in addressing global climate challenges. SIDS have served as a valuable lesson to the global community regarding the success of adaptation and proactive advocacy.

The concerns of SIDS led towards the establishment of the COSIS, which was a keen sense of urgency that prevailed throughout COP 26 (Mycoo et al., 2022). At COP 26, greenhouse gases (GHGs) were recognised for the first time as marine pollutants and the primary causes of sea level rise. This provided an opportunity for SIDS to invoke the advisory jurisdiction of multiple international judicial forums. In 2022, COSIS submitted to the International Tribunal for the Law of the Sea (ITLOS) under the UNCLOS for an advisory opinion on the anthropogenic impacts of climate change on SIDS. Similarly, SIDS joined the advisory proceedings of the International Court of Justice (ICJ) and the

Inter-American Court of Human Rights (IACtHR) (Lok, 2023). The opinions of all these judicial forums, which endorse the notion that states are under a legal obligation to establish governance frameworks in accordance with SDG 14 to mitigate climate change impacts, are discussed in detail below (IACtHR Climate Emergency and Human Rights, 2023).

#### 3.1 Advisory opinion of the ITLOS and SDG 14

ITLOS, in its advisory opinion, relied on several judgements of its own. The judgements of the ITLOS in the *MV Saiga* and *Southern Bluefin Tuna Cases* occurred at a time of initial environmental awareness. Therefore, it is stated that ITLOS has consistently addressed environmental and climate change issues in its judgements, drawing on the marine environmental provisions in UNCLOS (Zhang et al., 2023b). The ITLOS, in this advisory opinion, substantially ruled on the sustainability of the marine habitat and environment. The fundamental question addressed by ITLOS is related to the obligation of the states under the provisions of the UNCLOS on “marine environmental protection” [Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law (Request for Advisory Opinion submitted to the Tribunal), 2024]. ITLOS considered this matter a “scientific” matter in which there is enhanced “science–policy” integration. ITLOS, while referring to the IPCC reports, defined climate change as “a long-term alteration in the climate, identifiable by shifts in average conditions and/or variability of its attributes, typically lasting decades or more” [Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law (Request for Advisory Opinion submitted to the Tribunal), 2024]. The three principal causes of climate change identified by the IPCC and endorsed by ITLOS are “variations in solar cycles, volcanic eruptions, and enduring human-induced changes in atmospheric composition or land use” [Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law (Request for Advisory Opinion submitted to the Tribunal), 2024].

ITLOS utilised the “applicable law” provisions of the Vienna Convention on Law of Treaties (Vienna Convention) to amalgamate multiple diverse treaties with one specific purpose (Roland Holst, 2023). Science–policy integration appeared for the first time during the Earth Summit and was significantly adopted in the Rio Declaration and the Convention on Biological Diversity (CBD), as shown in Table 2 [Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law (Request for Advisory Opinion submitted to the Tribunal), 2024]. Research and systematic observation of climate systems and preservation of marine habitats as part of (marine) biodiversity are well-defined approaches under the interpretation of the UNCLOS, as made by ITLOS.

ITLOS endorsed the principle of “prevention” being applied in conjunction with “scientific information” in the policy process. This

further establishes that “due diligence” as an element of governance is required in climate- and environmental-related legislation and its effective implementation (Roland Holst, 2023). This means that the obligation of “prevention” is “determined by, among other factors, an assessment of the risk and level of harm combined” (Tanaka, 2023). As the impacts of climate change and ocean acidification on the marine environment are severe, ITLOS referred to the *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)* that “vigilance and prevention” strengthen the element of “due diligence” [Case Concerning the Gabčíkovo-Nagymaros Dam (Hungary v Slovakia), 1997].

With particular regard for SDG 14, the opinion of the ITLOS stated that the preservation of oceans, as raised by SIDS, constitutes a legal obligation that should be incorporated into governance frameworks. ITLOS endorsed the IPCC reports, noting the rise in carbon and/or GHG emissions since the preindustrial era, primarily driven by economic and population growth. Undeniably, emissions are now at an all-time high, resulting in unprecedented atmospheric concentrations of GHGs. ITLOS defined the term “anthropogenic” as “resulting from or produced by human activities,” which encompass fossil fuel consumption, deforestation, land use changes, livestock production, fertilisation, waste management, and industrial processes. The term “anthropogenic emissions” was defined as “emissions, their precursors, and aerosols caused by human activities” [Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law (Request for Advisory Opinion submitted to the Tribunal), 2024].

In order to achieve sustainability of the oceans, ITLOS further stated that an “ecosystem-based approach” is required under the Agreement for the Implementation of the Provisions of the UNCLOS relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (Fish Stocks Agreement), as shown in Table 2 [Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, 1995; Request for an Advisory Opinion submitted by the Commission of Small Island States on

Climate Change and International Law (Request for Advisory Opinion submitted to the Tribunal), 2024]. The Fish Stocks Agreement establishes general principles for the conservation and management of fisheries and marine habitats with a precautionary and ecosystem-based approach (Table 2) (Butt and Zulfiqar, 2023; Zhang et al., 2023a). ITLOS relied on the IPCC report, which stated that the impacts of climate change on marine ecosystems (including the marine environment and habitats) should be addressed with an ecosystem-based approach. This is an obligation of the States under the Fish Stocks Agreement to conserve and manage living marine resources within areas under national jurisdiction.

The ITLOS stated that UNCLOS is a living instrument in the *Request for an Advisory Opinion Submitted by the Sub-Regional Fisheries Commission (SRFC)* (Becker, 2015). While UNCLOS establishes general obligations for the protection of the marine environment, it relies on other international conventions. UNCLOS works as an “umbrella” character that allows for the adoption of more specific rules through other conventions and the implementation of contemporary CCL (Butt and Chang, 2021). The ITLOS has progressively interpreted UNCLOS in accordance with the Charter of the United Nations; the International Covenant on Civil and Political Rights; and the International Covenant on Economic, Social and Cultural Rights (also referred to as the Human Rights Conventions). Although ITLOS did not explicitly mention the Human Rights Conventions, it stated that human rights law is relevant to such interpretations while humans residing on SIDS are faced with existential threats. These Human Rights Conventions, together with the Fish Stocks Agreement, will provide new means of legal and governance frameworks.

In this regard, CCL and human rights conventions become capable of addressing new priorities in times of deteriorating health of the oceans. The ITLOS, in the exercise of its advisory jurisdiction on this unprecedented issue, marks a pivotal legal development amidst a growing trend of seeking climate change-focussed rulings (Roland Holst, 2023). The ITLOS opinion highlighted the gravity of anthropogenic climate change and the role of human activities, deforestation, and industrial processes in driving unprecedented atmospheric concentrations of GHG emissions. By endorsing the IPCC reports, the ITLOS emphasised the fundamental role of the

TABLE 2 Principles established by the International Tribunal for Law of the Sea (ITLOS) for the climate–ocean nexus.

4 Principle	Relevant CCL treaty or convention	Impacts under Vienna Convention “applicable law” and explained in chapter 17 of Agenda 21 in the Rio Declaration
No harm rule	5 Customary international law	Prevention of any prospective harm to marine environments
Scientific approach	CBD	Assessment of the marine environment according to the best scientific evidence for the development of policy measures
Due diligence	UNCLOS/UNFCCC	Periodic assessment of the impacts of external factors impacting the marine environment
Ecosystem-based approach	UNCLOS/UNFSA	The measures taken in accordance with UNCLOS are necessary to protect and preserve marine ecosystems and habitats (including marine life).
Precautionary measures and preventive approach	UNFCCC	New approaches to the marine environment at the national, subregional, regional, and global levels are approaches that are integrated into content and are precautionary and anticipatory in the ambit.

Advisory Opinion of the ITLOS, Rio Declaration, and CCL.

CCL, climate change law; CBD, Convention on Biological Diversity; UNCLOS, United Nations Convention on the Law of the Sea; UNFCCC, United Nations Framework Convention on Climate Change; UNFSA, UN Fish Stocks Agreement.

ocean as a climate regulator, necessitating the obligations of states to mitigate climate change, implement resilience and adaptation measures, and protect marine ecosystems that sequester GHG emissions (Roland Holst, 2023).

As observed by the ITLOS, “the ocean is a fundamental climate regulator on seasonal to millennial time scales; oceans store heat trapped in the atmosphere caused by increasing concentrations of GHGs.” The ITLOS stated that the specific obligations under the marine environmental provisions of the UNCLOS are divided into three categories: i) to mitigate climate change; ii) to implement resilience and adaptation measures; and iii) to protect marine ecosystems that sequester GHG emissions [Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law (Request for Advisory Opinion submitted to the Tribunal), 2024]. In this manner, the framework of the obligations is extended in terms of the integration of multiple international conventions, agreements, and protocols (including CCL, UNCLOS, and the Human Rights Conventions).

### 3.2 Advisory opinion of ICJ and SDG 14

Historically, the ICJ recognised the environmental challenge faced by the oceans in the *Corfu Channel Case*. The *obiter dictum* made by the ICJ in the *Corfu Channel Case* initiated environmental jurisprudence, allowing international judicial forums to enhance rulings on environmental issues [Corfu Channel Case (United Kingdom v. Albania), 1949]. In this advisory opinion, ICJ, therefore, relied on its judgement on the *Legality of the Threat or Use of Nuclear-Weapons* (Bekker, 1997). As the UN General Assembly requested the opinion following a campaign by the Vanuatu (a small island state), the ICJ endorsed the obligations under the CCL on the possible (climate and ocean) damage that is caused by climate change (ICJ Reports 2025, 2025).

The ICJ stated in its advisory opinion entitled “Obligations of States in Respect of Climate Change” that it is the obligations of the states under international law to ensure the protection of the climate system and other parts of the environment from anthropogenic emissions of GHGs for states and for present and future generations. The ICJ further stated that the UNFCCC (along with the Kyoto Protocol and Paris Agreement) (or CCL) and the UNCLOS are anthropogenically entangled and are also referred to as Human Rights Conventions (ICJ Advisory Opinion, 2025). In its opinion, the ICJ specifically mentioned the Charter of the United Nations; the International Covenant on Civil and Political Rights; and the International Covenant on Economic, Social, and Cultural Rights as Human Rights Conventions.

Furthermore, the ICJ specifically endorsed the element of “due diligence” necessary to implement resilience and adaptation in accordance with the obligations under the UNFCCC (Kyoto Protocol and Paris Agreement), as shown in Table 2. The adaptation process under the UNFCCC aims to assess current or

anticipated climate changes and their impacts in order to reduce harm and capitalise on beneficial opportunities. In natural systems, human intervention can help adjust to expected climate changes and their effects. Stabilising the GHG concentrations in the atmosphere within a suitable time frame allows ecosystems to naturally adapt to climate change. This obligation is further clarified in the *South China Sea Award* that the protection of the marine environment from future damage and “preservation” in this sense is required with “due diligence” (Butt et al., 2022). Furthermore, the ICJ also endorsed the “no harm rule” of customary international law, providing that climate change is harming the SIDS and, therefore, such harm should not infringe upon the rights of other states.

The ICJ further clarified that the integration of multiple CCLs (including the UNFCCC, Kyoto Protocol, and Paris Agreement) with the Human Rights Conventions and UNCLOS is necessary to protect SIDS. The ICJ also responded to the question of “present and future generations affected by the adverse effects of climate change” as per the basic principle of sustainable development. However, one principal question before the ICJ that remained unaddressed was regarding the legal consequences for states that, through their acts and omissions, have already caused significant harm to the climate system, which has adversely impacted marine ecosystems. The ICJ has clarified that inaction leading to the climate crisis can trigger state responsibility, including potential reparations, by applying customary international law principles, such as due diligence and cooperation, thus making climate action a legal duty (beyond a purely political one) (ICJ Advisory Opinion, 2025).

### 3.3 Advisory opinion of IACtHR and SDG 14

The Republic of Colombia and the Republic of Chile submitted a request to the IACtHR to clarify the scope of state obligations, in their individual and collective dimension, to respond to the climate crisis under the framework of the Human Rights Conventions (IACtHR Climate Emergency and Human Rights, 2023). The IACtHR considered this a special request, taking into account the diverse impacts of climate crises on individuals from different regions and the populations therein. The opinion of the IACtHR, entitled “Human Rights Effects of the Climate Emergency,” stated that this is a question of nature and human survival on our planet, and two states are already dealing with droughts, floods, and fires (IACtHR Climate Emergency and Human Rights, 2023).

The IACtHR also stated that national and regional policies within the jurisdiction of the Americas should be enhanced to ensure a healthy environment and climate. IACtHR recognises “climate crisis” as a “climate emergency,” calling for extremely urgent measures from the states; the sub-national elites (controlling the corporations responsible for emissions); the non-state actors; and regional, transnational, and global organisations (IACtHR Climate Emergency and Human Rights, 2023). The IACtHR

stated that emissions in the oceans impact the livelihoods of the maritime communities of many states, especially of SIDS.

### 3.4 Jurisprudence towards the amalgamation of SDG 14 and SDG 13 through international law

The jurisprudence developed through all judicial forums on this issue is quite significant, having emerged after several climate change-focussed movements globally. International judicial forums have also recognised that the nexus of human rights, climate, and oceans cannot be ignored. Although the opinions are not authoritative, they will have persuasive value in the development of climate- and ocean-related jurisprudence in the national and regional courts. This jurisprudence will impact the human rights, ocean, and climate jurisprudence at the national level (s) (Zhang et al., 2024b). This means that these judicial forums kept the interpretation open-ended, which may strengthen the obligations of the states. Opinions mainly relied on marine environmental protection provisions (of UNCLOS) that can be invoked to reduce any form of degradation of the marine environment, including climate change impacts, and this can be further enhanced under the Human Rights Conventions (Butt et al., 2022).

The jurisprudence developed through the opinions will also enhance the interconnected agenda of SDGs. The judicial forums have provided value to the interconnectivity of the Human Rights Conventions, CCL, and UNCLOS, and this is also articulated in the legal frameworks developed under the SDGs. Therefore, future jurisprudence (of regional and national courts) following the interpretative standards of international judicial forums will also consider the interconnected agendas of the SDGs under the climate–ocean nexus.

The proactive stance of SIDS on international judicial forums signifies a broader movement towards establishing *erga omnes* obligations for climate and ocean preservation (Roland Holst, 2023). These initiatives align with the principle of prevention, emphasising due diligence and the integration of scientific information into policy processes. This holistic approach is essential for achieving the sustainability of oceans and addressing the diverse impacts of climate change on marine ecosystems and human rights (Roland Holst, 2023). Specifying relevant threats to oceans as an ecosystem that requires a policy-based response from states is endorsed by all the opinions. Therefore, the move of SIDS at three fronts may now establish *erga omnes* for the preservation of the climate and the ocean, unequivocally.

In addition to the rulings of international judicial forums, the impact of climate change on the marine environment is expected to be enhanced under the SDG agenda. This will happen because the new governance mechanisms shaping the SDGs, specifically SDG 14, are now impacted by jurisprudence. Jurisprudence provides value to the existing CCL and is also articulated in legal frameworks

developed by the states. In the case of UNCLOS, the amalgamation of the UNFCCC (the Kyoto Protocol and Paris Agreement), the Human Rights Conventions, and the Fish Stocks Agreement will provide new means of legal and governance frameworks.

## 4 SDG 14 perspective under the jurisprudence on the climate–ocean nexus and the case of SIDS

SIDS have emerged as resilient and proactive players in global climate politics, offering valuable lessons in adaptation and advocacy (Dubrie et al., 2020). The establishment of COSIS underscored the urgency of climate crises and recognised emissions as marine pollutants. The subsequent involvement of international judicial forums marked significant legal advancements. The endorsement of the IPCC reports by these judicial forums, along with the detailed definitions of anthropogenic climate change, emphasises the severity of the impacts of human-induced climate change. The categorisation of the states' obligations to mitigate climate change, implement resilience measures, and protect marine ecosystems underscores the comprehensive nature of opinions towards the achievement of SDG 14 (Roland Holst, 2023).

Below is a way forward to operationalise SDG 14 in accordance with the judicial opinions.

### 4.1 Operationalising SDG 14 through opinions of the international judicial forums

The opinion of the ITLOS initially opened an arena of interpretation that CCL focuses on, i.e., emphasising human rights and anthropogenic ocean dimensions. The jurisprudence, as influenced by the *Nuclear Test*, *Southern Bluefin Tuna*, and *MOX Plant* cases, reinforces the importance of marine environmental protection on a larger scale (Zhang et al., 2023b). The importance of the integration of scientific information into policy processes and the principle of due diligence in climate and ocean governance is a holistic approach. This approach, based on ecosystem conservation, is crucial for achieving sustainable oceans and addressing the multifaceted impacts of climate change on marine ecosystems and human rights.

The advisory opinion of the ITLOS is considered a success for SIDS because COSIS led the request for an opinion. As mentioned, the opinion of the ITLOS provided the basis for future climate–ocean jurisprudence. Therefore, the advisory opinions of the ICJ and IACtHR provided a broader interpretation of the climate–ocean–human rights nexus (Tanaka, 2023). Although these opinions do not emphasise SDG 14, the advice provides significant principles required for the future of ocean governance.

While the advisory opinions are not a solution for climate change, they could enhance the interpretation and application of relevant CCL and UNCLOS applicable to the ocean–climate nexus. The advisory opinions could potentially bridge the gap between the impacts of climate change on oceans and the capacity of the CCL to address them.

The approach adopted by the judicial forums under the four principles addresses the main concerns of the implementation of SDG 14 along with SDG 13, which focuses on “taking urgent action to combat climate change and its impacts” (Zulfiqar and Butt, 2021). The interconnection between SDG 14 and SDG 13 is profound as the health of the oceans is intrinsically linked to climate change, as defined by the judicial forums and as shown in Table 3 (Final list of proposed Sustainable Development Goal indicators, 2016).

The primary objectives of SDG 14 are (as mentioned in target 1) to “prevent and reduce marine pollution of all kinds” (as mentioned in target 2); “protect marine ecosystems to avoid significant adverse impacts” (as mentioned in target 3); and “minimise and address the impacts of ocean acidification through enhanced scientific cooperation at all levels” (as shown in Table 3) (Final list of proposed Sustainable Development Goal indicators, 2016). Similarly, SDG 13 urges states to strengthen resilience and adaptive capacity to climate-related hazards and natural disasters in all states that are naturally connected to marine ecosystems.

## 4.2 Principles of ocean governance endorsed through advisory opinions and shared through SDG 14

In undertaking these necessary measures presented in the form of goals and targets under SDGs, the ITLOS clarified what needs to be done as an obligation [Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law (Request for Advisory Opinion submitted to the Tribunal), 2024]. The principles identified and redefined through opinions contain rules of reference by virtue of which states must account for CCL and UNCLOS relevant to the conduct of their obligations, *inter alia*, the UNFCCC, CBD, and the Human Rights Conventions. At this stage, the principle of the “ecosystem-based approach” defined by the ITLOS is covered by SDG 14 in the form of integrated ocean governance. As already stated, this approach gained prominence through the CBD, along with SDG 14 and the interpretation through opinions (ICJ Advisory Opinion, 2025). This ensures the protection and the sustainable use of marine resources, which align with the targets (Table 3).

While aiming to tackle marine environmental degradation (including sea level rise and ocean acidification), the ecosystem approach remains debated and vulnerable to conflicting interpretations. The ICJ recognised the need for cooperation between state authorities for the protection of the marine

TABLE 3 Targets of Sustainable Development Goal 14 (SDG 14) connected with the International Tribunal for Law of the Sea (ITLOS) interpretation and climate change.

SDG 14 target no.	Climate change targets under SDG 14	SDG 13 target no.	SDG 13 target connected with SDG 14	Applicable law	Principle of governance provided by climate jurisprudence
1	Prevent and reduce marine pollution of all kinds	13.1 and 13.2	Strengthen resilience and adaptive capacity to climate-related hazards and natural disasters in states Integrate climate change measures into national policies, strategies, and planning	UNCLOS and CBD	Precautionary measures and preventive approach
2	Protect marine ecosystems to avoid significant adverse impacts			UNCLOS, CBD, and UNFCCC	Ecosystem-based approach
3	Minimise and address the impacts of ocean acidification through enhanced scientific cooperation at all levels			UNCLOS and UNFCCC (Kyoto Protocol and Paris Agreement)	Ecosystem-based approach, precautionary measures and preventive approach, and due diligence
4	Increase the economic benefits to SIDS from the sustainable use of marine resources, including through sustainable management of fisheries, aquaculture, and tourism	13.b	Promote mechanisms for raising the capacity for effective climate change-related planning and management in SIDS	WTO Agreement and Human Rights Agreement	Precautionary measures and preventive approach and due diligence
A	Increase scientific knowledge, develop research capacity, and transfer marine technology in order to improve ocean health and to enhance the contribution of marine biodiversity to the SIDS	13.3	Improve human and institutional capacity for climate change mitigation, adaptation, impact reduction, and early warning	CBD, UNFCCC, and UNCLOS	Scientific approach or marine scientific research for marine environmental protection

List of the proposed indicators for SDGs and decision of the International Tribunal for Law of the Sea (ITLOS) SIDS, Small Island Developing States; UNCLOS, United Nations Convention on the Law of the Sea; CBD, Convention on Biological Diversity; UNFCCC, United Nations Framework Convention on Climate Change; WTO, World Trade Organization

environment in the *Pulp Mills on the River Uruguay case (Argentina v. Uruguay)* (ICJ Advisory Opinion, 2025). The ecosystem-based approach has been implemented in various settings, such as transboundary marine ecosystems, where it encourages fair participation and outcomes. For SIDS, the application of the ecosystem approach within UNCLOS and the CBD illustrates its role as an intermediary principle, potentially evolving into a general principle of CCL (Zhang et al., 2024b).

In the *Advisory Opinion on Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area*, the ITLOS highlighted the necessity of an ecosystem-based approach for the protection of the marine environment (Freestone, 2016). The ITLOS has also endorsed the use of scientific evidence and the precautionary principle in the context of ocean governance. Similarly, the IACtHR recognised the interconnectedness of environmental protection and human rights. The IACtHR underscored the importance of adopting an ecosystem-based approach to address the impacts of environmental degradation on human wellbeing (IACtHR Climate Emergency and Human Rights, 2023). The interpretation by the judicial forums is evolutionary, ensuring that UNCLOS remains relevant and effective in addressing contemporary issues, such as climate change. This adaptability is crucial for achieving the objectives of sustainable use and conservation of the marine environment as an ecosystem (in accordance with SDG 14).

The advocacy by SIDS for an ecosystem-based approach to their preservation that requires precautionary measures to address the impacts of climate change is an essential component of SDG 14.

Precautionary measures in any case of ocean development or other developments, including emissions from industries and traffic, will help ensure less global warming. SDGs 14 and 13 embrace the precautionary principle, urging states to take preventive measures in the face of climate change (Zhang et al., 2024a). The precautionary principle endorsed by the ITLOS is designed to safeguard marine and atmospheric environments. Therefore, this principle will assist states in mitigating GHG emissions and enhance the measures taken to address sea level rise, coastal flooding, and ocean acidification.

The Paris Agreement is pivotal for a precautionary approach and preventive measures, as well as for SDGs 14 and 13, which aim to limit the rise in global temperature and to reduce GHG emissions (Brus, 2018). The Paris Agreement also addresses the impact of climate change on marine environments, thereby linking to SDG 14. The Paris Agreement, as presented in SDG 14, is a critical area where marine ecosystems intersect with climate change, facing challenges such as ocean acidification and sea level rise. The ITLOS recognised this in a manner by broadly interpreting UNCLOS while stating that UNCLOS as a framework regulates all aspects of ocean space, including marine environmental protection, which aligns with SDG 14 (Tanaka, 2023). UNCLOS also incorporates principles that address the impacts of climate change, promoting measures to mitigate and adapt to changing ocean conditions.

SDG 14 for marine environmental protection.

Specific forms of the application of CCL and UNCLOS have also been endorsed by SDG 14, which equate with the opinion of the ITLOS. In terms of SIDS, SDG 14 urges (as per target 7) to “increase the economic benefits to SIDS from the sustainable use of marine resources, including through sustainable management of fisheries, aquaculture, and tourism” and (as per target 14.a) to “increase scientific knowledge, develop research capacity, and transfer marine technology to improve ocean health and to enhance the contribution of marine biodiversity to the SIDS” (Final list of proposed Sustainable Development Goal indicators, 2016). An integrated approach is recognised by both SDG 14 and SDG 13, which is essential for addressing the interdependencies between climate change and marine habitats. This approach is embedded in CCL through the CBD and the Fish Stocks Agreement.

The ITLOS emphasised the importance of integrating scientific information into policy processes that align with the call of SDG 14 for enhanced scientific knowledge and research to support the conservation of marine biodiversity and ecosystems. The overarching aim of (marine) scientific research is central to both SDG 14 and SDG 13 because data and methods are required to address the impacts of climate change on oceans (Zhang and Butt, 2023). The CCL and UNCLOS call for the use of the best available scientific evidence in the governance of marine ecosystems. This ensures that policy measures are grounded in reliable scientific data and will involve the monitoring and evaluation of GHG emissions that impact the marine environment.

The UNFCCC and the Paris Agreement emphasise the importance of scientific research and systematic observation in understanding and addressing climate change. The Paris Agreement encourages states to enhance scientific knowledge of climate systems and to integrate this knowledge into national and international policies. The advisory opinion of the ITLOS emphasises the importance of scientific research and evidence in the protection of the marine environment. In cases such as the Request for an Advisory Opinion Submitted by the SRFC, the ITLOS highlighted the need for scientific data in decision-making processes (Becker, 2015). The ITLOS stated that scientific data are crucial for managing the impacts of climate change on marine ecosystems as they allow for flexibility and responsiveness to new scientific information.

The scientific approach to climate change and ocean health under CCL is integral to the development of effective, evidence-based policies and legal frameworks (Butt et al., 2021a). By leveraging scientific research and data, as well as international legal instruments and institutions, governance mechanisms can better address the complex and interconnected challenges posed by climate change and its impacts on marine ecosystems. This approach ensures that policy decisions are informed, adaptive, and capable of protecting the oceans for future generations. Therefore, due diligence as per CCL becomes a fundamental principle that requires states to take all necessary measures to prevent significant harm to the marine environment, including scientific assessments (Fietta et al., 2016).

The principle of “due diligence” is particularly relevant in the context of climate change, where state actions and omissions can have profound impacts on marine environments. As stated by the ITLOS, it is the obligation of the states to exercise due diligence in order to prevent, mitigate, and control (marine) environmental harm (Zhang et al., 2023b). This involves adopting appropriate legislative, administrative, and policy measures, as well as ensuring effective enforcement. The due diligence obligation is articulated in the CCL (including the UNFCCC and the Paris Agreement) and UNCLOS. Collectively, UNCLOS constitutes a due diligence obligation for states to regulate GHG emissions that are likely to damage the marine environment, including those from the private sector.

The due diligence obligation encompasses both preventive and precautionary measures, as states must take proactive steps to anticipate and prevent (marine) environmental harm, even in the face of scientific uncertainty. This principle is particularly relevant for addressing the impacts of climate change on marine ecosystems. The advisory opinion of the ITLOS explicitly confirms the due diligence obligation to prevent, reduce, and control GHG emissions as per SDGs 14 and 13. While recognising this principle, the ITLOS stated the content of this obligation with reference to other relevant sources of CCL (CBD and UNFCCC) and UNCLOS [Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law (Request for Advisory Opinion submitted to the Tribunal), 2024]. According to SDGs 14 and 13, states are required to monitor the impacts of climate change on marine ecosystems and report on their progress in implementing mitigation and adaptation measures. This includes collecting data on ocean temperatures, acidification, sea level rise, and biodiversity changes.

The interconnection between SDG 14 and SDG 13 is evident through advisory opinions and under CCL, UNCLOS, and the Human Rights Convention, and this is further explained through various declarations and conventions on biodiversity and environment. To preserve the oceans, there is a requirement to adapt shared principles, legal frameworks, and integrated approaches. Effective governance requires recognising and addressing the synergies between marine conservation and climate action. By leveraging CCL and cooperative mechanisms, the global community can enhance efforts to protect the oceans and combat climate change, ensuring a sustainable future for SIDS. SDG 14 and SDG 13 focus on conserving marine resources and combating climate change, respectively, both of which are crucial for the survival and prosperity of SIDS. The CCL in SIDS incorporate regulations to protect the marine environment both inwards and outwards, which means that advocacy by SIDS at international forums can be effective in mitigating climate change, sea level rise, and ocean acidification.

For such purposes, SIDS require sustainable development through CCL, which stresses the importance of maintaining ecological balance while pursuing economic growth. Furthermore, under technology transfer schemes and the capacity-building provisions of SDGs 14 and 13, SIDS can request developed and semi-developed states to assist in climate mitigation measures and

marine environmental and climate change advocacy. SIDS can also endorse the fundamental duty of cooperation in the prevention of pollution under the provisions of UNCLOS and CCL, which can provide further stimulus for climate action. SIDS can advocate at international forums, considering that “the global nature of climate change calls for the widest possible cooperation by all states.”

## 5 Conclusion

The critical role of SIDS in advancing global marine conservation efforts through legal frameworks, scientific integration, and proactive advocacy has demonstrated remarkable resilience and proactive engagement in international climate politics. The establishment of COSIS and its recognition of emissions as marine pollutants, followed by the involvement of ITLOS, signify substantial legal progress. The endorsement of the IPCC reports and detailed definitions of anthropogenic climate change highlights the severity of human-induced climate impacts, providing critical lessons in adaptation and advocacy. These efforts directly support the targets and objectives of SDG 14, demonstrating the interconnectedness of SDGs and CCL. The emphasis of the ITLOS on scientific research, the precautionary principle, and due diligence strengthens the obligation of states to protect marine environments and is endorsed by the interconnectedness of SDG 14 and SDG 13. Future research on the given issues will commence after the decisions of the IACtHR and ICJ.

## Author contributions

MW: Writing – original draft, Writing – review & editing. SZ: Writing – review & editing, Writing – original draft. MB: Writing – review & editing, Writing – original draft. KZ: Writing – original draft, Writing – review & editing.

## Funding

The author(s) declared that financial support was received for this work and/or its publication. Postdoctoral Innovation Project of Shandong Province: ‘Target Positioning and Path Construction of Local Legislative Collaboration for Yellow River Protection in the New Era’ (no. SDCX-RS202303001), Qingdao Post-doctoral Project ‘Synergistic Research on Local Legislation for Watershed Protection in China’ (no. QDBSH20230102071).

## Acknowledgments

The authors acknowledge the resources provided by the Institute of Eco-Environmental Forensics, School of Law, Shandong University and the Project Funding on Rule

Construction for Climate Governance Cooperation among Belt and Road Initiative Countries.

## Conflict of interest

The author(s) declared that this work was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

## Generative AI statement

The author(s) declared that generative AI was not used in the creation of this manuscript.

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