BRIEFING SUMMARY

Legal briefing prepared for the WWF European Policy Programme

The International Court of Justice's Advisory Opinion of 23 July 2025 on States' Obligations on climate change and its relationship to the EU's regulation of the land-use sector

Disclaimer: The purpose of this briefing is to provide a legal analysis of the relationship between findings of the ICJ in the ICJ advisory opinion and potential changes to the carbon removal target in the LULUCF regulation. The views expressed in this briefing do not necessarily represent the views of WWF European Policy Programme or any affiliated organisations. This briefing is dated 25 June 2026 and does not include any information on developments, changes or information made available after this date.

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1. Briefing overview

1.1 This legal briefing has been prepared at the request of the WWF European Policy Programme in relation to the impact of the recent advisory opinion issued by the International Court of Justice (**ICJ**) in July 2025 on States' obligations in respect of climate change (***Obligations of States in respect of climate change***)[1] on domestic legislation for the mitigation of climate change. The purpose of this legal briefing is to provide analysis on the relevance of *Obligations of States in respect of climate change* for European Union (**EU**) regulation in the land use, land-use change and forestry (**LULUCF**) sector.

1.2 On 9 February 2026, the European Commission opened a call for evidence concerning the revision of national targets and flexibilities in the EU climate policy framework after 2030.[2] It specifically seeks to consult on how national targets and efforts, including LULUCF sector targets beyond 2030, can promote the required GHG (**GHG**) emission reductions and removals to support achieving the EU's 2040 climate neutrality target of 90% compared to 1990. In the context of calls to move from "short-term carbon removals targets to long-term ecosystem resilience",[3] this briefing responds to the following questions:

i. Following the ICJ's findings in *Obligations of States in respect of climate change*, is the EU required under international law to set a 2040 sectoral net GHG removal target which is more ambitious than the current 2030 target? (**Question 1**)

ii. If the EU were to reduce or revoke the 2030 net GHG removal target of 310 million tonnes of carbon dioxide equivalent (**CO_2e**) as set out in Article 4(2) of EU Regulation 2023/839 amending Regulation (EU) 2018/841 (**LULUCF Regulation**),[4] would this represent a breach of international law following the ICJ's findings in *Obligations of States in respect of climate change*? (**Question 2**)

1.3 This briefing refers to carbon sinks and reservoirs as land use activities that contribute to the 2030 net GHG removal target under the LULUCF Regulation. Such references should be understood in accordance with the definitions of carbon sinks and reservoirs under the United Nations Framework Convention on Climate Change 1992 (**UNFCCC**):

> *Article 1(7): "Reservoir" means a component or components of the climate system where a greenhouse gas or a precursor of a greenhouse gas is stored.*
>
> *Article 1(8): "Sink" means any process, activity or mechanism which removes a greenhouse gas, an aerosol or a precursor of a greenhouse gas from the atmosphere.*

1.4 This briefing considers how the ICJ's findings in *Obligations of States in respect of climate change* bear upon the EU's land-use framework, in particular the LULUCF Regulation, its 2030 net GHG removals target of 310 million tonnes of CO_2e, and the role of a new net GHG removals target for 2040.

1.5 Although advisory opinions of international courts are not, of themselves, legally binding, they are capable of exerting substantial normative and interpretative influence. They may inform future judicial reasoning, shape legislative expectations, and clarify the content of existing treaty and customary obligations.

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1 International Court of Justice, *Obligations of States in respect of climate change*, Advisory Opinion 23 July 2025 (**Obligations of States in respect of climate change**).

2 European Commission, 'National targets and flexibilities in the EU climate policy framework after 2030 – review', Call for evidence for an impact assessment Ref. Ares(2026)1417227 (9 February 2026) (Website) <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/16692-National-targets-and-flexibilities-in-the-EU-climate-policy-framework-after-2030-review_en> accessed 22 April 2026.

3 Council of the European Union, Note from the General Secretariat of the Council to Delegations concerning *AOB for the meeting of the Council (Environment) on 17 March 2026, Implementing the LULUCF Regulation - Information from Austria, Czechia, Estonia, France, Hungary, Latvia, Lithuania, Portugal and Slovakia*, 7302/26 (Brussels, 13 March 2026): https://data.consilium.europa.eu/doc/document/ST-7302-2026-INIT/en/pdf, page 2.

4 Regulation (EU) 2023/839 of the European Parliament and of the Council of 19 April 2023 amending Regulation (EU) 2018/841 as regards the scope, simplifying the reporting and compliance rules, and setting out the targets of the Member States for 2030, and Regulation (EU) 2018/1999 as regards improvement in monitoring, reporting, tracking of progress and review [2023] OJ L 107/1 (**LULUCF Regulation**).

1.6 In *Obligations of States in respect of climate change*, the Court emphasises that mitigation obligations under both treaty law, including the UNFCCC and the Paris Agreement, and customary international law encompass not only limiting new GHG emissions, but also protecting and enhancing greenhouse gas sinks and reservoirs as integral to the protection of the climate system. In particular:

i. *As a matter of treaty law,* the Court confirmed that the 1.5°C threshold is the primary temperature goal and forms essential context for the interpretation of Parties' obligations, including those relating to nationally determined contributions (**NDCs**).

ii. The Court provided clarity on Parties' obligations under Article 4 to prepare, communicate and maintain successive NDCs and characterised the obligation to prepare and maintain NDCs as an obligation of result, whilst reiterating the importance of the need for States to ensure that NDCs are capable of making an adequate contribution to the achievement of the temperature goal.

iii. The Court confirmed that States are required, under Article 4(2) of the Paris Agreement, to "*pursue domestic mitigation measures, with the aim of achieving the objectives*" of their NDCs, and that compliance with this obligation is to be assessed against a stringent standard of due diligence.

iv. *Regarding customary international law,* the Court confirmed that the obligation to prevent significant harm to the environment applies to "*global environmental concerns*" and is therefore not confined to cases of cross-border harm.[5]

v. This is an obligation of conduct, assessed by reference to a stringent due diligence standard, requiring the adoption and enforcement of appropriate rules and measures to prevent significant harm to the climate system.

1.7 Against that backdrop, this briefing addresses the two questions set out at paragraph 1.2. In summary, it finds:

i. *In relation to Question 1,* international law does not impose a freestanding requirement to adopt sector-specific targets; the relevant obligations are instead to prepare, communicate and maintain progressive NDCs reflecting highest possible ambition, and to pursue domestic measures capable of achieving them.

ii. *In relation to Question 2,* reducing or revoking the 2030 LULUCF removals target may indicate non-alignment with the findings of the ICJ where it is not accompanied by measures that maintain ambition and continue to protect and enhance sinks and reservoirs. In the case of revocation, whether an equivalent policy and regulatory package is introduced to fill any resulting ambition gap and to perform the governance function presently served by the target will be central to the assessment.

1.8 This briefing concludes that whether the (i) reduction or removal the 2030 net GHG removals target and (ii) setting a net GHG removals target for 2040 that represents a stagnation or regression of the present target is in alignment with the findings of the ICJ rests on whether any compensatory countermeasures are introduced, designed to fulfil the role of a target. Further, it notes that reducing or removing a net GHG removals target is likely to invite close scrutiny of the EU's overall climate ambition and may precipitate legal challenge, particularly if not accompanied by credible compensatory measures within the wider EU climate-law architecture.

[5] *Obligations of States in respect of climate change*, (n 1) [440].