

INTERNATIONAL COURT OF JUSTICE

OBLIGATIONS OF STATES IN RESPECT OF CLIMATE CHANGE

(REQUEST FOR ADVISORY OPINION)

Written comments of Grenada

15 AUGUST 2024

TABLE OF CONTENTS

I	Introduction.....	1
II	The Impact of Hurricane Beryl on Grenada	2
A.	Brief Description of Hurricane Beryl	2
B.	Damage to Buildings and Infrastructure.....	3
C.	Fisheries.....	6
D.	Agriculture.....	7
E.	Tourism.....	8
F.	Connecting the Science of Climate Change to Intense Hurricanes	8
III	The State as a Trustee for the Environment for Present and Future Generations.....	13
IV	Conclusion.....	22
	List of Annexes	25

I Introduction

1. Pursuant to the Order of the President of the Court of 30 May 2024, Grenada hereby submits its written comments on the written statements presented in connection with the request for an advisory opinion contained in UN General Assembly Resolution 77/276, adopted by consensus on 29 March 2023.
2. The written comments address certain specific issues arising from the written statements submitted by other States and international organizations. It is organised in four parts. Following this introductory Part, Part II addresses the impact of Hurricane Beryl on Grenada and the science of climate change as it relates to intense hurricanes. Part III provides a synopsis of the arguments presented in favour of the State as a trustee of the Earth, the climate system, and the environment for the benefit of present and future generations. Part IV summarizes the conclusions reached by the written comments.
3. Firstly, Grenada respectfully submits that the Court's answers to the questions put to it should emphasise that anthropogenic emissions of greenhouse gasses is the cause of climate change, including ocean warming, and that this leads to the frequency of extreme tropical storms (such as Hurricane Beryl) to wreak havoc on vulnerable small island developing states (SIDS). As a result of this, even though SIDS (like Grenada), contribute very negligibly to the climate crisis, they face the vicious financial cycle of rebuilding their nations every time an extreme climate-related weather event (like Hurricane Beryl) occurs within their territories.
4. Secondly, Grenada urges the Court to consider that the window of opportunity for States to manage the climate crisis is rapidly closing. This decade is the make-or-break decade for States to reduce their anthropogenic emissions of greenhouse gases to ensure the protection of the climate system. To meet their climate targets, States have a duty to act as responsible trustees, to protect the Earth, the climate system, and the environment for the benefit of the present and future generations.

II The Impact of Hurricane Beryl on Grenada

5. Approximately three months after Grenada submitted its written statement in these proceedings, the country suffered tremendously at the hands of the one of the most destructive weather systems ever witnessed within the Caribbean region. For these reasons, and for the purposes of this advisory opinion, Grenada believes that it is pertinent that this issue be addressed in this written comment. A summary of the preliminary damage done to Grenada by Hurricane Beryl will be considered in the ensuing paragraphs.

A. Brief Description of Hurricane Beryl

6. Hurricane Beryl was the first hurricane of the 2024 Atlantic hurricane season. The hurricane originated from a tropical wave that emerged off the coast of West Africa on 25 June, 2024. It quickly developed into a tropical depression by 28 June, and within 24 hours, it intensified into a tropical storm. The storm continued to strengthen rapidly, becoming a hurricane on 29 June and reaching Category 5 status by 2 July with maximum sustained winds of 165 mph.¹ Hurricane Beryl is reported as being one of the earliest Category 5 hurricanes to develop in recent times (based on observations going back to 1900).²
7. On 1 July 2024, Hurricane Beryl pummelled across the Caribbean Windward Islands, devastating the northern part of mainland Grenada and its dependent islands Carriacou and Petite Martinique. At the time it made landfall in Grenada, Hurricane Beryl was a high-end Category 4 hurricane.³ According to a preliminary damage assessment report issued by the Ministry of Agriculture and Lands, Forestry and Marine Resources (Annex 1), the eye of the hurricane traversed directly over the island of Carriacou resulting in

¹ Leslie Smith *Preliminary Damage Assessment (PDA) Report – Limlair Solar PV/Hybrid Project, Carriacou* (23 July 2024) at [2.4].

² Ministry of Agriculture and Lands, Forestry and Marine Resources *Report on Damage and Needs Assessment and Rehabilitation Plan for the Agricultural Sector in Grenada following Hurricane Beryl* (July 2024) at 1. See also Matthew Dominick “Hurricane’s Beryl’s extreme winds in Jamaica were nearly twice as likely due to climate change” (1 July 2024) Imperial <www.imperial.ac.uk>.

³ Smith, above n 1, at [2.4].

widespread devastation to homes, buildings, hospitals, schools, public infrastructure and to the fisheries and agricultural sectors.⁴

8. Apart from Grenada, Hurricane Beryl had devastating impacts on other Caribbean States such as, Saint Vincent and the Grenadines and Jamaica. Beryl also significantly impacted the Yucatán Peninsula, and Texas in the United States.⁵

B. Damage to Buildings and Infrastructure

9. A preliminary housing assessment report prepared by Grenada's Central Statistical Office (Annex 2) indicates that a total of 1601 buildings sustained damage by Hurricane Beryl.⁶ Most of the damage reported were to residential houses, which numbered 1,469 homes.⁷ The housing stock was severely impacted in Carriacou and Petite Martinique as well as in the parishes to the north on the mainland.⁸ In Carriacou and Petite Martinique, almost all critical infrastructure has sustained significant damage.⁹ As at July 2024, the overall estimated cost of the damage to houses in Grenada, Carriacou and Petite Martinique as a result of Hurricane Beryl was approximately \$181 million USD.¹⁰
10. Beyond temporary repairing of roofs, with tarpaulin, there is an urgent need for robust building repairs in Grenada, Carriacou and Petite Martinique.¹¹ The Caribbean Disaster Emergency Management Agency (CDEMA) (Report at Annex 3) has recommended, inter alia, that Grenada repair key facilities such as hospitals and schools, and to provide temporary housing for families so that homes can begin reconstruction according to strictly enforced and improved guidelines.¹² On Carriacou, the Princess Royal Hospital, Mt Pleasant Medical Station, Windward Medical Station and Leaster Medical Stations

⁴ Ministry of Agriculture and Lands, Forestry and Marine Resources, above n 2, at 1 and 40.

⁵ Matthew Dominick "Hurricane's Beryl's extreme winds in Jamaica were nearly twice as likely due to climate change" (1 July 2024) Imperial <www.imperial.ac.uk>.

⁶ Grenada Central Statistical Office *Housing Assessment Report* (July 2024) at 3–5.

⁷ At 3–5.

⁸ At 2.

⁹ Caribbean Disaster Emergency Management Agency *Rapid Needs Assessment Team (RNAT) Final Report: Grenada, Carriacou, Petite Martinique* (11 July 2024) at 4.

¹⁰ Grenada Central Statistical Office *Housing Assessment Report*, above n 6, at 19.

¹¹ Caribbean Disaster Emergency Management Agency, above n 9, at 4.

¹² Caribbean Disaster Emergency Management Agency, above n 9, at 4.

all sustained damage to the roof and windows, leaving only Hillsborough Health Centre operational on the island.¹³ At the Hillsborough Health Centre, there have been significant lines and patient wait times.¹⁴ Added to this challenge, community health centres in Petite Martinique and Carriacou face limitations in healthcare staff, with only one permanent nurse and a visiting doctor available once a week.¹⁵ People with chronic illnesses are therefore the most vulnerable amidst limited access to health infrastructure.¹⁶ For example, a case of gastroenteritis in a child was reported, indicating that children may be particularly vulnerable to communicable diseases and poor sanitary conditions.¹⁷

11. Schools and education facilities across Carriacou and Petite Martinique have suffered extensive damage or have been repurposed as shelters for displaced families.¹⁸ CDEMA reported that over 65 % of the Government shelters¹⁹ visited were in a state of disrepair.²⁰ The Dover Primary School was completely destroyed and will need to be reconstructed.
12. Grenada is now focusing on repairing damaged schools, clearing debris for temporary learning spaces, distributing essential educational materials and providing financial support for families who wish to send their children to the mainland to continue their studies.²¹ In the short-term, Grenada is working assiduously to have those temporarily displaced in school shelters to return to their homes, and schools that have received minor damage to be fixed in time for their reopening in September.²² One of CDEMA's recommendations is for the government of Grenada to prioritise the mental health of the children and teachers who were affected by Hurricane Beryl.²³ Such a recommendation

¹³ Caribbean Disaster Emergency Management Agency, above n 9, at 26.

¹⁴ At 26.

¹⁵ At 26.

¹⁶ At 27.

¹⁷ At 27.

¹⁸ At 5.

¹⁹ Government shelters include Dover Government Primary School, Hillsborough Government Primary School, Harvey Vale Government Primary School, Our Lady of the Rosary Catholic Church, and a pop-up shelter at the National Stadium (see page 37 of the CDEMA Report).

²⁰ Caribbean Disaster Emergency Management Agency, above n 9, at 30.

²¹ At 5.

²² Caribbean Disaster Emergency Management Agency, above n 9, at 44.

²³ At 38 and 44.

is not unusual given that psychiatrists and other experts have identified new categories of psychological syndromes emerging due to climate change, including, eco-anxiety, ecological grief, climate worry and climate trauma.²⁴

13. *Our Lady of the Rosary Primary School* in Carriacou also served as a shelter after the passage of Hurricane Beryl. At its peak, the school housed as many as 81 occupants, which included vulnerable groups like elderly women, a breastfeeding mother, young children, and a physically disabled person.²⁵
14. Hurricane Beryl also wreaked havoc on the Limlair Solar PV Farm located in Limlair Carriacou, near the eastern coastline (see Report at Annex 4). This solar farm project was conceptualised under the UAE's (United Arab Emirates) Caribbean Renewable Energy Fund in 2019, through an agreement with the UAE and Grenada at a cost of \$3.2 million USD. At its pre-hurricane condition, when the solar farm was operating at full capacity, it was dispatching 500 kW of power to the grid.²⁶ The solar farm was projected to generate 1,565 MWh of energy annually, and save over 83,500 gallons (about 316,082 litres) of diesel per year. This amounts to savings of approximately \$38,000 USD per month or \$103,240 USD per annum. This would further offset 15–20% of the electricity that is generated by diesel on the island.²⁷ Hurricane Beryl caused substantial structural damage to the Limlair Solar PV Farm. This damage was caused by the sheer force of the wind, the intrusion of water and by flying debris.²⁸ The destruction of the Limlair Solar PV Farm is a major setback for the people Grenada as it frustrates our country's efforts to fully embrace and develop renewable energy capabilities during the climate crisis.
15. Hurricane Beryl has also done further structural damage to Tibeau cemetery, Carriacou – the site of “lost” and “floating” graves.²⁹ Beryl uprooted the tomb belonging to the late

²⁴ Paolo Cianconi and others “Eco-emotions and Psychoterratic Syndromes: Reshaping Mental Health Assessment Under Climate Change” (2023) 96(2) *Yale Journal of Biology and Medicine* 211.

²⁵ Caribbean Disaster Emergency Management Agency, above n 9, at 31.

²⁶ Smith, above n 1, at [2.3].

²⁷ At [1.0].

²⁸ At [3.0].

²⁹ Due to sea-level rise, many ancestral graves and tombs are now floating or completely lost at the Tibeau cemetery, Carriacou. For more on this see [16] and Annex 3 of Grenada's Written Statement.

Theodora Cox, a distant relative of Kennisha Douglas. To this Douglas made the following remarks:³⁰

Tell me why must we suffer like this? Not even our loved ones can get a final resting place because of global warming. A situation which is becoming more and more powerful. This is solely because of humankind's greed, and power struggle to be on top of the game. Should small Caribbean islands, like Carriacou, Grenada, and others take the blows every year? Where is respect and consideration for us?

C. Fisheries

16. The fisheries sector is one of the fastest growing sectors within Grenada's economy.³¹ In 2023, the value of the total fish catch in Grenada was approximately \$50 million Eastern Caribbean dollars (approximately \$19 million USD).³² Prior to Hurricane Beryl, the fishing industry provided direct and indirect employment to over five thousand persons which represent about 12% of Grenada's labour force.³³ In Grenada, fisheries is a major contributor to poverty alleviation, employment and income generation, foreign exchange earnings and an important source of protein for its peoples. Additionally, the fisheries sector provides sustainable livelihoods and social well-being to many coastal and rural communities.³⁴
17. Hurricane Beryl unleashed widespread devastation to the fishing industry in Carriacou, Petite Martinique, Isle De Rhode and to a lesser extent the northern part of mainland Grenada. Other persons seriously affected by the hurricane were sea moss farmers involved in mariculture in the coastal waters.³⁵
18. According to the Ministry of Agriculture and Lands, Forestry and Marine Resources, the total estimated cost of damage to fishing fleet is estimated at \$4.5 million USD.³⁶ The cost of damage done to the fish markets (at Hillsborough and Dover in Carriacou and

³⁰ See the victim impact statement of Kennisha Douglas dated 13 August 2024 at Annex 5 of this document.

³¹ Ministry of Agriculture and Lands, Forestry and Marine Resources, above n 2, at 40.

³² At 40.

³³ At 40.

³⁴ At 40.

³⁵ At 40.

³⁶ At 46.

Duquesne in the parish of St. Mark) and the Petite Martinique Fishermen's Co-operative building is estimated at \$540,000 USD.³⁷ Preliminary estimates of the damage done to marine ecosystems, including mangroves, coral reefs and seagrass beds amount to \$500,000 USD (as at July 2024).³⁸

19. A reef restoration project operating at four sites on mainland Grenada, Carriacou and Petite Martinique was also completely destroyed by Hurricane Beryl.³⁹ The estimated cost of damage done to the fisheries industry in Grenada is estimated at \$5.9 million USD.⁴⁰ As a consequence the fishing industry urgently requires immediate assistance in replacing damaged vessels, equipment and infrastructure. Further assessments are also required to understand the hurricane's impact on marine ecosystems and fish stocks for future conservation efforts.⁴¹

D. Agriculture

20. Hurricane Beryl has caused devastating damage to the agricultural sector, affecting crops, livestock, infrastructure, and soil health.⁴² The damage done to tree crops are mainly due to wind speeds and saltwater wind from sea spray. In the north of Grenada, there has been over 90% destruction of agricultural areas. These include bananas, nutmeg, cocoa, forestry and ground crops. Bananas, for example, experienced 15–20% damage due to heavy winds. Other losses sustained include breadfruit (40%) and cocoa crops (10–20%).⁴³ Nutmeg, Grenada's principal export crop (see paragraph 13 of Grenada's written statement), faced 30–40% loss and damage (in the parish of St Andrew). This loss is exponential to Grenada's farmers who were in the process of recovering financially after the losses sustained by Hurricane Ivan 20 years ago.⁴⁴

³⁷ Ministry of Agriculture and Lands, Forestry and Marine Resources, above n 2, at 47–48.

³⁸ At 48.

³⁹ At 48.

⁴⁰ At 50.

⁴¹ Caribbean Disaster Emergency Management Agency, above n 9, at 4.

⁴² Ministry of Agriculture and Lands, Forestry and Marine Resources, above n 2, at 38.

⁴³ Caribbean Disaster Emergency Management Agency, above n 9, at 20–21.

⁴⁴ Caribbean Disaster Emergency Management Agency, above n 9, at 21.

E. Tourism

21. In Carriacou and Petite Martinique, all tourism-related businesses were impacted, ranging from severely damaged to destroyed. Many small food and beverage outlets, such as bars and restaurants were completely destroyed. At the time of writing, in Carriacou, two hotels remain partially open for business and are also housing humanitarian relief personnel. Businesses estimate the resumption of busy activity within a year but there are significant concerns over loss of livelihood and long-term reductions in income as entrepreneurs seek to rebuild. In the interim, estimated repair costs within the tourism industry are projected to be over \$600,000 EC (approximately \$222,000 USD).
22. Another significant tourist attraction that has been impacted is the Oyster Bed Marine Protected area (“Oyster Bed”), which is famously known for being the only type of protected marine area in the Western hemisphere. The mangroves within the Oyster Bed have been damaged (following the removal of sailboats and yachts post-Beryl). A detailed assessment of the mangroves with the Oyster Bed is currently underway.⁴⁵
23. The impact of climate change on tourism is also clearly highlighted by the Intergovernmental Panel on Climate Change (IPCC). A 2019 IPCC Report concluded that the tourism sector in the Caribbean region is particularly vulnerable to climate change effects, due to hurricanes, and that warming will directly affect climate-dependent tourism markets on a worldwide basis (*medium confidence*).⁴⁶

F. Connecting the Science of Climate Change to Intense Hurricanes

24. In 2019, the IPCC observed (in its Special Report on the Ocean and Cryosphere in a Changing Climate) that North Atlantic hurricanes and tropical storms have increased in intensity over the last 30 years with climate projections indicating an increasing trend in

⁴⁵ Caribbean Disaster Emergency Management Agency, above n 9, at 16.

⁴⁶ IPCC, 2019: *IPCC Special Report on the Ocean and Cryosphere in a Changing Climate* [H.-O. Pörtner, D.C. Roberts, V. Masson-Delmotte, P. Zhai, M. Tignor, E. Poloczanska, K. Mintenbeck, A. Alegría, M. Nicolai, A. Okem, J. Petzold, B. Rama, N.M. Weyer (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, 755, at 516.

hurricane intensity.⁴⁷ Consistent with this observation, Hurricane Beryl broke all records with its rapid intensification from a tropical depression to a major hurricane within 42 hours.⁴⁸ The unusually warm sea surface temperatures and favourable atmospheric conditions have contributed to Beryl’s explosive growth.⁴⁹ The IPCC 2023 report predicted the intensification of tropical cyclones and/or extratropical storms (medium confidence) as a result of climate change.⁵⁰ Rapid intensification occurs when a hurricane’s intensity increases by at least 35 mph over a 24-hour period. According to Tang, an Associate Professor of Atmospheric Science, Beryl far exceeded that threshold, jumping from tropical storm strength at 70 mph, to a major hurricane strength, at 130 mph, in 24 hours.⁵¹

25. A key ingredient for a hurricane’s rapid intensification is warm water.⁵² One reason why Hurricane Beryl intensified to a Category 5 hurricane more than two weeks earlier than any other Atlantic hurricane on record is due to extremely high ocean heat content levels.⁵³ Sea surface temperatures in the Caribbean region have been record high for the respective month for the past 14 months (based on figures up to May 2024). Klotzbach, one of WMO’s expert network of scientists, explains that Caribbean ocean heat content today (July) is normally what we get in the middle of September. Normally ocean temperatures are not warm enough in June or July to help tropical systems thrive.⁵⁴
26. It is unequivocal that human influence has warmed the atmosphere, ocean and land.⁵⁵ Based on the science, it is also clear that human activities have played a role in the

⁴⁷ IPCC, 2019: *IPCC Special Report on the Ocean and Cryosphere in a Changing Climate*, above n 46, at 516–517.

⁴⁸ “Recording-breaking Hurricane Beryl threatens Caribbean” (8 July 2024) World Meteorological Organization <www.wmo.int>.

⁴⁹ Smith, above n 1, at [2.4].

⁵⁰ *IPCC Climate Change 2023 Summary for Policymakers: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the IPCC* at [B.1.4].

⁵¹ Brian Tang “Hurricane Beryl’s rapid intensification, Category 5 winds so early in a season were alarming: Here’s why more tropical storms are exploding in strength” (3 July 2024) The Conversation <www.theconversation.com>.

⁵² Tang, above n 51.

⁵³ “Recording-breaking Hurricane Beryl threatens Caribbean”, above n 48.

⁵⁴ “Recording-breaking Hurricane Beryl threatens Caribbean”, above n 48.

⁵⁵ *IPCC Climate Change 2023 Summary for Policymakers*, above n 50, at [A.2.1].

extreme hurricanes being experienced within the Caribbean region. According to the IPCC: “[h]uman-induced climate change is already affecting many weather and climate extremes in every region across the globe.”⁵⁶ In 2023, the IPCC further noted that “evidence of observed changes in extremes, such as heatwaves, heavy precipitation, droughts and tropical cyclones, and, in particular, their attribution to human influence, has strengthened since AR5.” The IPCC further stated, with a degree of certainty, that: “[h]uman influence has *likely* increased the chance of compound extreme events since 1950s (*high confidence*)”.⁵⁷

27. On this issue of ocean warming, the 2024 International Tribunal for the Law of the Sea (ITLOS) in its advisory opinion also relied heavily on the IPCC science.⁵⁸ At paragraph 58 of the ITLOS advisory opinion, the Tribunal states:

With respect to ocean warming, the WGI 2021 Report⁵⁹ observes that “the dominant effect of human activities is apparent not only in the warming of global surface temperature, but also in...the warming ocean” (WGI 2021 Report, p. 515).

28. The ITLOS advisory opinion also carefully considered other IPCC reports including the IPCC’s 2019 Special Report on the Ocean and Cryosphere in a Changing Climate (hereinafter referred to as “the 2019 Report”).⁶⁰ There the 2019 Report states that it is “*virtually certain*” that the global ocean has warmed “unabated since 1970 and has taken up more than 90% of the excess heat in the climate system (*high confidence*) (2019 Report, p. 9).”⁶¹ The 2019 Report further states:⁶²

⁵⁶ IPCC, 2021: *Summary for Policymakers. In: Climate Change 2021: The Physical Science Basis.*

Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, at [A.3].

⁵⁷ *IPCC Climate Change 2023 Summary for Policymakers: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the IPCC* at [A.2.1].

⁵⁸ *Request for Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law, Advisory Opinion*, 21 May 2024 at [48].

⁵⁹ IPCC Working Group I report “Climate Change 2021: The Physical Science Basis” (6 August 2021).

⁶⁰ *Request for Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law, Advisory Opinion*, above n 58, at [48].

⁶¹ *Request for Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law, Advisory Opinion*, above n 58, at [58].

⁶² At [58].

Since 1993, the rate of ocean warming has more than doubled (*likely*). Marine heatwaves have *very likely* doubled in frequency since 1982 and are increasing in intensity (*very high confidence*).

29. Furthermore, according to the 2019 Report, “[g]lobal mean sea level rise will cause the frequency of extreme sea level events at most locations to increase” and “[r]ising mean sea levels will contribute to higher extreme sea levels associated with tropical cyclones (*very high confidence*).⁶³ The ITLOS advisory opinion went on to observe the 2021 IPCC findings that ocean warming accounted for 91% of heating in the climate system (*high confidence*), and that anthropogenic greenhouse gas emissions was the cause of climate change, which includes ocean warming.⁶⁴ Apart from international tribunals, domestic Courts have also applied science to recognise the link between rising global temperatures (including ocean warming) and anthropogenic activities. In the 2024 decision of *R v Surrey County Council*, Lord Leggatt SCJ stated in the majority judgment:⁶⁵

Until quite recently it was uncertain and controversial whether global temperatures have been rising as a result of human activities. But there is *now overwhelming scientific proof* of this phenomenon demonstrating the past, present and likely future effects on climate of, among other human activities, burning fossil fuels to generate energy.

30. All these observations demonstrate that there is a scientific consensus with respect to the fact that human activities, specifically anthropogenic emissions of greenhouse gases, are the cause of climate change.⁶⁶ As a result, for Grenada, it is abundantly clear that there is robust scientific evidence to support an inextricable link between extreme weather events (such as cyclones or hurricanes) with anthropogenic global warming.

⁶³ *Request for Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law, Advisory Opinion*, above n 58, at [59]. See also IPCC, 2019: *IPCC Special Report on the Ocean and Cryosphere in a Changing Climate*, above n 46, at 20–21.

⁶⁴ *Request for Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law, Advisory Opinion*, above n 58, at [175].

⁶⁵ *R v Surrey County Council* [2024] UKSC 20 at [66] (emphasis added).

⁶⁶ The Organisation of African Caribbean and Pacific States (OACPS) Written Statement dated 22 March 2024 at [29].

31. Furthermore, there is a rapidly advancing field of research that supports the quantification of the contribution of climate change to the observed impact of extreme weather events. These studies demonstrate that while it is clear that climate change is not the only cause of impacts (losses and damage) – in the same way that smoking is not the only cause for lung cancer – accounting for exposures and vulnerabilities is largely irrelevant to the questions surrounding loss and damage and liability.⁶⁷ This conclusion is in divergence with the position taken by the United States in their written statement.⁶⁸
32. Grenada therefore aligns itself with the view expressed by the Organisation of African Caribbean and Pacific States (OACPS) that small island states have contributed only 0.5% of the historical greenhouse gas emissions yet they bear the full brunt of climate change.⁶⁹ Grenada is as one of those countries that are least responsible for causing climate change, yet we face the vicious financial cycle of rebuilding our nation every time an extreme climate-related weather event (like Hurricane Beryl) occurs within our sovereign territory.⁷⁰
33. As the post-Beryl future promises to be even more dystopian, three Caribbean leaders (Antigua and Barbuda, Grenada and Saint Vincent and the Grenadines) have called for their own “Marshall Plan” to help rebuild the region after the hurricane. This plan includes, inter alia, debt restructuring for all SIDS, improved access to climate funds and scaled-up support to the Loss and Damage Fund.⁷¹ To further address these unequal historical and ongoing contributions of greenhouse gasses, Grenada therefore supports the calls for compensation and reparations to ensure that major polluters pay for the harm that they are causing to the climate system.⁷²

⁶⁷ Ilan Noy, Dáithí Stone and Tomáš Uher “Extreme Events Impact Attribution: A State of the Art” (2024) 1(5) *Cell Reports Sustainability* at 6.

⁶⁸ The United States of America’s Written Statement dated 22 March 2024 at [2.21] and [2.26].

⁶⁹ The Organisation of African Caribbean and Pacific States (OACPS) Written Statement dated 22 March 2024 at [40].

⁷⁰ At [43].

⁷¹ Natricia Duncan “Caribbean leaders call for ‘Marshall plan’ to help rebuild after Hurricane Beryl” *The Guardian* (online ed, London, 18 July, 2024).

⁷² The OACPS Written Statement dated 22 March 2024 at [167] and [183]. See also Grenada’s Written Statement dated 22 March 2024 at [74].

III The State as a Trustee for the Environment for Present and Future Generations

34. In this Part, Grenada will consider and analyse the relevant written statements which argue that the State has a duty to act as a trustee for the environment for present and future generations.
35. Grenada in its own written statement argues that States have fiduciary obligations towards their citizens (at paragraphs 49–50). A fiduciary is described as someone who has undertaken to act for, or on behalf of another in a particular matter in circumstances which give rise to a relationship of trust and confidence.⁷³ Fiduciary obligations extend to trustee-beneficiary relationships since a beneficiary must trust and rely on a trustee.⁷⁴ Grenada argues (at paragraphs 50–51 of its written statement) that States (as fiduciaries) are not only to be perceived as trustees for the protection of global human rights but also as trustees for the protection of the environment. In these written comments, Grenada wishes to elaborate why the State as a trustee for the global environment is a fundamental obligation under international law (pursuant to part (a) of the legal question). Grenada further takes this opportunity to highlight and align itself with the views expressed by several delegations in their written statements on the notion of trusteeship (which include custodianship, guardianship and stewardship) of the environment (including the Earth) for both present and future generations.
36. Grenada supports the argument that States have an obligation to hold the environment – including the Earth – in trust for the present and future generations. In law and other disciplines, future generations often refer to the generations unborn. Weiss puts forward the view that the theory of intergenerational equity postulates that each generation is entitled to inherit a planet at least as good as that of previous generations, and all generations are entitled to at least the minimum level that the first generation in time had.⁷⁵ As a result of this theory, Weiss argues that we are custodians for the planet and

⁷³ *Bristol v Mothew* [1998] Ch 1 (CA) at 18, cited at [49] of Grenada’s written statement dated 21 March 2024.

⁷⁴ Peter Birks “The Content of Fiduciary Obligation” (2000) 34 *Israel LR* 3 at 8.

⁷⁵ Edith Brown Weiss *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity* (The United Nations University, Tokyo and Transnational Publishers Inc, New York, 1989) at 24–25.

therefore have certain moral obligations to future generations which can transform into legally enforceable norms.⁷⁶

37. Behrens – a South African professor – explains that the present generation should express gratitude to its predecessors for preserving the environment on its behalf, by emulating its predecessors and preserving the environment for future generations. This sense of duty stems from the notion of moral obligations towards an unidentifiable, contingent group of future persons.⁷⁷ Since future generations have no voice to speak for themselves, it is the conscience of the present generation that needs to keep their welfare constantly in view.⁷⁸ As Behrens explains: “no sound environmental ethic can now ignore the question of what (if anything) we owe to posterity”.⁷⁹
38. Although the notion that we (States or citizens) owe something morally to unborn generations could be contested in Western philosophy, Behrens relies on the scholarly contribution of Wiredu – a prominent Ghanaian philosopher – to support his views. Wiredu wrote:⁸⁰

Of all the duties owed to the ancestors none is more imperious than that of husbanding the resources of the land so as to leave it in good shape for posterity. In this moral scheme the rights of the unborn play such a cardinal role that any traditional African would be nonplussed by the debate in Western philosophy as to the existence of such rights.

39. The notion of intergenerational equity and the State as trustee of the environment and/or the Earth have been applied by domestic Courts. Ngcobo J in the South African Constitutional Court in *Fuel Retailers Association of Southern Africa v Director-General Environmental Management* held that: “[t]he present generation holds the earth in trust for the next generation. This trusteeship position carries with it the responsibility to look

⁷⁶ Weiss, above n 75, at 21.

⁷⁷ Kevin Gary Behrens “Moral Obligations Towards Future Generations in African Thought” (2012) 8 (2-3) *Journal of Global Ethics* 179 at 179.

⁷⁸ C G Weeramantry *Tread Lightly on the Earth – Religion, The Environment and the Human Future* (Stamford Lake (Pvt) Ltd, Pannipitiya, 2014) at 254.

⁷⁹ Behrens, above n 77, at 180.

⁸⁰ At 181.

after the environment.”⁸¹ Similarly, Sharma J in the Indian High Court in *Miglani v State of Uttarakhand* acknowledged that because the past generation handed over the Earth to the present generation in its pristine glory, the present generation are morally bound to reciprocate this to the future generation.⁸² To add to this, the Republic of Vanuatu in their written statement have acknowledged that the principle of intergenerational equity: “places a duty on current generations to act as responsible stewards of the planet and ensure the rights of future generations to meet their developmental and environmental needs.”⁸³

40. The responsibility to future generations and the theory of intergenerational equity have also been endorsed by the ICJ. The ICJ explicitly referred to the interests of future generations for the first time in its 1996 Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons*.⁸⁴ There the Court stated that the use of nuclear weapons would pose a serious danger to future generations since ionizing radiation has the potential to damage the future environment, food and marine ecosystems and to cause genetic defects and illness.⁸⁵
41. Judge Cançado Trindade in his Separate Opinion in the *Whaling in the Antarctic* case, also discussed intergenerational equity. He wrote: “[i]n effect, inter-generational equity marks presence nowadays in a wide range of instruments of international environmental law, and indeed of contemporary public international law.”⁸⁶ In an earlier 2010 opinion in *Pulp Mills on the River Uruguay*, Judge Cançado Trindade confirmed that it can: “hardly be doubted that the acknowledgement of inter-generational equity forms part of conventional wisdom in International Environmental Law.”⁸⁷

⁸¹ *Fuel Retailers Association of Southern Africa v Director-General Environmental Management* [2007] ZACC 13 at [102].

⁸² *Miglani v State of Uttarakhand* [2017] (PIL) No 140 of 2015 (HC) at 65.

⁸³ The Republic of Vanuatu’s Written Statement dated 21 March 2024 at [480].

⁸⁴ Edith Brown Weiss “The Future of the Planetary Trust in a Kaleidoscopic World” (2020) 50 *Environmental Policy and Law* 449 at 451.

⁸⁵ *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports* 1996, p. 226 at [35].

⁸⁶ *Whaling in the Antarctic (Australia v Japan: New Zealand Intervening), Judgment, I.C.J. Reports* 2014, p 226 (Separate Opinion of Judge Cançado Trindade at [47]).

⁸⁷ *Pulp Mills on the River Uruguay (Argentina v Uruguay), Judgment, I.C.J. Reports* 2010, p. 14 (Separate Opinion of Judge Cançado Trindade at [122]).

42. As a result of these authorities, the ICJ in its advisory opinion must consider the harmful impact that anthropogenic greenhouse gas emissions would have on the environment (including the climate system and the Earth) for the present and future generations. Since the future generations (or the generations unborn) would be the most vulnerable to the adverse effects of climate change, this justifies the obligations of States to act as trustees for the environment thereby ensuring that the climate system is not further degraded.
43. The written statements filed in this advisory opinion reveal that several States and international organisations have connected the notion of trusteeship of the environment to the benefit of present and future generations. These references are indeed compatible and consistent with Grenada’s own views on this subject. Grenada aligns itself with these references and carefully pinpoint these submissions in the ensuing paragraphs.
44. Bangladesh in its written statement (at paragraph 124) refers to the notion of trusteeship after considering the *Maastricht Principles on The Human Rights of Future Generations* (2023) (or the “*Maastricht Principles*”). Principle 8(a) of the *Maastricht Principles* states that: “[d]uring their time on Earth, each generation must act as trustees of the Earth for future generations. This trusteeship must be carried out in harmony with all living beings and Nature”.⁸⁸ The Republic of Vanuatu also cited the *Maastricht Principles* on several occasions within their written statement.⁸⁹
45. Although *The Maastricht Principles* could be described as a “soft law” document, it represents a rigorous process of close to six years of research, dialogue and collective brainstorming with a range of academic experts, current and former human rights mandate holders, civil society organizations, members of Indigenous Peoples, and social movements.⁹⁰ It is further noted that *The Maastricht Principles* have been endorsed by nearly sixty (60) leading legal and human rights experts from around the world.⁹¹ Due to the fact that *The Maastricht Principles* represents a broad consensus of academic experts in the field of human rights, the Court is capable of applying these principles as teachings

⁸⁸ Bangladesh’s Written Statement dated 22nd March 2024, at footnote 246.

⁸⁹ The Republic of Vanuatu’s Written Statement dated 21st March 2024, at footnotes 920, 935, 1150 and 1210.

⁹⁰ *Maastricht Principles on the Human Rights of Future Generations* (2023) at p 1. Downloaded at <www.maastrichtuniversity.nl>

⁹¹ “The Maastricht Principles on the Human Rights of Future Generations” Maastricht University <www.maastrichtuniversity.nl>

of the most highly qualified publicists of various nations pursuant to art 38(1)(d) of the Statute of the ICJ.

46. Kenya also refers to each generation acting as a custodian or trustee of the planet for future generations (at paragraph 5.26, footnote 212). Kenya adopts this position after citing the dissenting Opinion of Judge Sir Geoffrey Palmer in the ICJ's *Request for Examination of Nuclear Tests (New Zealand v France)* where the learned Judge quoted Weiss in her treatise *In Fairness to Future Generations*:⁹²

At any given time, each generation is both a *custodian or trustee* of the planet for future generations and a beneficiary of its fruits. This imposes obligations upon us to care for the planet and gives us certain rights to use it.

47. Grenada also endorses Micronesia's reference in its written statement regarding the concept of trusteeship (at paragraph 76). Micronesia examined Judge Weeramantry's Separate Opinion in the ICJ's *Norway v Denmark* judgment concerning the maritime delimitation in the area between Greenland and Jan Mayen. There Judge Weeramantry noted the emergence of a broad-based notion of equity which recognises the "sacrosanct nature of earth resources" and "harmony of human activity with the environment." Judge Weeramantry thereby pronounced in favour of the respect for the rights of future generations and the custody of earth resources with "the standard of due diligence expected of a trustee".⁹³
48. To add to Micronesia's submission, later down in his Separate Opinion, Judge Weeramantry expresses the view that earth resources (e.g. the environment, the oceans, the atmosphere) cannot be the subject of outright ownership (as in the case with movables), but are "the subject of trusteeship for the benefit of all future generations."⁹⁴ Such a juristic concept dictates that these resources must be treated with due care, and

⁹² *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand v France) Case I.C.J. Reports 1995*, p. 288 (Dissenting Opinion of Judge Sir Geoffrey Palmer at [114]).

⁹³ *Maritime Delimitation in the Area between Greenland and Jan Mayen, Judgement, I.C.J. Reports 1993*, p. 38 (Separate Opinion of Judge Weeramantry at [240]).

⁹⁴ *Maritime Delimitation in the Area between Greenland and Jan Mayen, Judgement*, above n 93, at [243].

that the present must preserve intact for the future the inheritance that it has received from the past.⁹⁵

49. Grenada wishes to reinforce its position within its written statement to the effect that States must exercise trusteeship responsibilities for the global commons which are res nullius and located outside national jurisdictions (such as the atmosphere, Antarctica, the oceans, outer space and the Earth).⁹⁶ Developing on the idea of trusteeship of the global commons, Grenada wholly aligns itself with the eloquent argument made by Saint Vincent and the Grenadines, our sister Caribbean island, that the atmosphere should be considered a common concern of humankind and that States have a joint duty as trustees to protect the atmosphere (including the climate system).⁹⁷ Similarly, Grenada endorses the views expressed by the Pacific Islands Forum Fisheries Agency that Pacific Island States are significant stewards and custodians of the Pacific Ocean.⁹⁸ Finally, Grenada further supports the idea expressed by the IUCN that the principle of intergenerational equity establishes that the present generation holds the Earth on trust for future generations and the need to consider both the immediate and long-term impacts when formulating and implementing current climate policies.⁹⁹
50. This idea of holding the Earth in trust for future generations is becoming more and more a common principle in international environmental law scholarship. This notion is consistent with academic opinion, domestic Court decisions and international jurisprudence. It also features predominantly in international law instruments adopted in the 21st century, such as the Earth Charter (2000) and the Hague Principles for a Universal Declaration on Responsibilities for Human Rights and Earth Trusteeship (2018).¹⁰⁰
51. An integral component of the legal question before the Court concerns the protection and the harm caused to the climate system. The UNFCCC defines the climate system as the totality of the atmosphere, hydrosphere, biosphere and geosphere and their

⁹⁵ *Maritime Delimitation in the Area between Greenland and Jan Mayen, Judgement*, above n 93, at [243].

⁹⁶ Grenada's Written Statement, at [52].

⁹⁷ Saint Vincent and the Grenadines' Written Statement dated 21 March 2024, at pages 48–52.

⁹⁸ Pacific Islands Forum Fisheries Agency's Written Statement dated 15 March 2024, at [12]–[13].

⁹⁹ The International Union for Conservation of Nature (IUCN) Written Statement dated 19 March 2024 at [332].

¹⁰⁰ Grenada's Written Statement, at [53] and [57]. See also the IUCN Written Statement at footnote 279.

interactions.¹⁰¹ Climate scientists (Steffen et al) argue that the climate system cannot be examined in a silo and that it must be used in connection with global change which is encompassed within the entire Earth system.¹⁰²

52. Grenada aligns itself with the written statements of Nepal (at para 36), and India (at para 21) which argue that the UNFCCC (under art 3(1)) obliges States Parties to protect the climate system for future generations. India goes further by asserting that State Parties of the UNFCCC should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities.¹⁰³ One of the ways in which States could take charge of their responsibility to protect the climate system for the benefit of present and future generations is to accept their role as trustees of the global environment. This argument stands on the basis that the State is potentially the most legitimate social institution to assume the role of public ecological trustee.¹⁰⁴ In alignment with art 3(1) of the UNFCCC, this obligation to protect the climate system as a trustee of the global environment therefore places a particular onus on developed countries to take the lead in addressing climate change and its adverse impacts.¹⁰⁵
53. Synonymous with trusteeship is the concept of guardianship. In an interview, a Cook Island elder acknowledged that even though land distribution, justice and politics are areas now traditionally dealt with by modern democratic and Westminster systems (i.e. the state apparatus), guardianship of the environment remains an area that is also equally important and should not be disregarded.¹⁰⁶ Later on in their written statement, The Cook Islands refer to their National Environment Policy (2022–2032) which set traditional knowledge and practices as “the blueprint of environmental custodianship” which

¹⁰¹ United Nations Framework Convention on Climate Change (UNFCCC) (opened for signature 4 June 1992, entered into force 21 March 1994), art 1(3). For a scientific definition of the climate system see Grenada’s Written Statement at [20].

¹⁰² Will Steffen and others *Global Change and the Earth System – A Planet Under Pressure* (Springer Berlin, Heidelberg, 2005) at 7. For more on the Earth system see Grenada’s Written Statement at [66] – [68].

¹⁰³ The Republic of India’s Written Statement dated 21 March 2024, at [21]. See also UNFCCC, art 3(1).

¹⁰⁴ Robyn Eckersley *The Green State – Rethinking Democracy and Sovereignty* (MIT Press, Cambridge, 2004) at 12.

¹⁰⁵ *Ranjitsinh v Union of India* Writ Petition (Civil) No. 838 of 2019, 21 March 2024 at [44].

¹⁰⁶ The Cook Islands’ Written Statement dated 20 March 2024, at [116].

“promote nature-based solutions to address environmental issues.”¹⁰⁷ As a result, it is paramount that States must play an active role supporting our indigenous communities, as guardians of the environment.

54. This idea of guardianship of the environment is also a well-known principle in New Zealand. *Kaitiakitanga*, a word in the language of the indigenous Māori, means “guardianship”. According to Ardern, a former New Zealand Prime Minister, *kaitiakitanga* is:¹⁰⁸

not just guardianship, but the responsibility of care for the environment in which we live, and the idea that we have a duty of care that eventually hands to the next generation, and the one after.

55. Ardern adds that we all hold this responsibility of guardianship in our own nations, but the challenge of climate change requires us to look beyond the domestic.¹⁰⁹ Our duty of care is as global as the challenge of climate change.¹¹⁰ The language of *kaitiaki* (or “guardian”) is also enshrined in New Zealand’s Te Urewera Act 2014. In this Act, the Tūhoe (a Māori tribe) are considered the *kaitiaki* (“guardian”) of the Te Urewera, an ancient forest situated on the North Island of New Zealand.¹¹¹ The Act further declares Te Urewera as a legal person and establishes a Board (comprising of 9 members – 6 of whom are Māori, and 3 representatives of the government) to act in the best interests of this “fortress of nature”.¹¹² This Act highlights a domestic example where indigenous persons and the State act in partnership, as the guardians of a forest. New Zealand’s written statement, also refer to the fact that current generations are the temporary custodians or *kaitiaki* of a precious resource (such as the Earth, the environment and the climate system) that should be enjoyed and cared for by future generations.¹¹³

¹⁰⁷ At [120].

¹⁰⁸ Jacinda Ardern, Prime Minister of New Zealand “Kaitiakitanga: Protecting our Planet” (Climate Week, United Nations, New York, 25 September 2018) <www.beehive.govt.nz>.

¹⁰⁹ Ardern, above n 108.

¹¹⁰ Ardern, above n 108.

¹¹¹ Te Urewera Act 2014, s 3(1) and s 3(6).

¹¹² Te Urewera Act 2014, s 3(1), s 16, s 17, s 18 and s 21(2)

¹¹³ New Zealand’s Written Statement dated 22 March 2024, at [143].

56. In his extrajudicial writing, Weeramantry's *Tread Lightly on The Earth* is replete with spiritual verses and edicts on matters pertaining to stewardship, guardianship, and trusteeship.¹¹⁴ Although the terms stewardship, guardianship, and trusteeship are occasionally used interchangeably, it is worth noting their subtle differences. The expression "stewardship" is traditionally popular among religious authorities.¹¹⁵ The stewardship model still associates humans as having dominion, or being "rulers" over the Earth, and hence being "above" nature.¹¹⁶ However Pope Francis in his Encyclical letter *Laudato Si'* explained that this dominion theory is best understood within the context of "responsible stewardship".¹¹⁷ Guardianship on the other hand, allows for political representation based on mutual care, rather than ownership (e.g. the guardianship model of the Te Urewera in New Zealand).¹¹⁸ Trusteeship is more aligned to guardianship. The reason why the language of "trusteeship" is preferred in modern-day international environmental law is because the arrangement draws on and is relatable to the recognised legal institution of the trust.¹¹⁹
57. In 2023, UNEP reported that many major fossil-fuel-producing governments are still planning increases in coal production (in the near-term) and increases in oil and gas production (in the long-term). To be consistent with limiting warming to 1.5°C, global coal, oil, and gas supply and demand must instead decline rapidly and substantially between now and mid-century. The 2023 IPCC report also warns that pathways to limit global warming to 1.5°C involve "rapid and deep" (and even immediate) greenhouse gas

¹¹⁴ C G Weeramantry *Tread Lightly on the Earth – Religion, The Environment and the Human Future* (Stamford Lake (Pvt) Ltd, Pannipitiya, 2014) at 137 and 201.

¹¹⁵ David Landis Barnhill and Roger S Gottlieb (eds) *Deep Ecology and World Religions: New Essays on Sacred Ground* (State University of New York Press, New York, 2001) at 3.

¹¹⁶ Jessica den Outer "Earth Trusteeship in Law: the Rights of Nature" in Justin Sobion and Hans van Willenswaard (eds) *Reflections on Earth Trusteeship – Mother Earth and a New 21st-century Governance Paradigm* (INI Books, Nonthaburi, 2023) 145 at 151 (available at the Peace Palace Library, The Hague). See also Laura Burgers and Jessica den Outer *Rights of Nature, Compendium # 1: Case-studies from Six Continents* (Embassy of the North Sea, Amsterdam, 2021) at 6.

¹¹⁷ Pope Francis *Laudato Si' – On Care For Our Common Home* (Our Sunday Visitor Publishing Division, Huntington, 2015) at 79.

¹¹⁸ Burgers and den Outer, above n 116, at 3.

¹¹⁹ Klaus Bosselmann *Earth Governance – Trusteeship of the Global Commons* (Edward Elgar Publishing Ltd, Cheltenham, 2015) at 126.

emissions reductions in all sectors this decade.¹²⁰ This decade is therefore the make-or-break decade for climate action and the restoration of healthy ecosystems. As it stands, the world’s governments still plan to produce more than double the amount of fossil fuels in 2030 than would be consistent with limiting warming to 1.5°C.¹²¹ As Lord Kitchen stated in *R v Surrey County Council*: “[t]he general picture is that many governments continue to support, finance, and expand fossil fuel production, even though such policies are irreconcilable with global climate commitments.”¹²²

58. There is undisputable evidence that climate change threatens human well-being and planetary health (*very high confidence*). The window of opportunity to ensure a liveable and sustainable future for all is rapidly closing (*very high confidence*).¹²³ States therefore have an obligation to ensure that they – and non-State actors (such as companies and multinational corporations) within their jurisdiction and control – reduce their greenhouse gas emissions in line with the science.¹²⁴ For these reasons, States must accept that they are responsible trustees for the Earth and the climate system for present and future generations.

IV Conclusion

59. At Part II of this written comment, Grenada presents a summary of how Hurricane Beryl has caused severe structural damage and destruction to our nation’s homes, buildings, hospitals, schools, public infrastructure, and to our fisheries, agriculture and tourism sectors. Since financial assessments are still ongoing, the costs presented in this written comment are considered preliminary. The true costs associated with the devastation caused by Hurricane Beryl will perhaps take months, or even years to calculate. In this

¹²⁰ *Synthesis Report of the IPCC Sixth Assessment Report (AR6)* IPCC AR6 SYR (20 March 2023) at 51.

¹²¹ UNEP and others *The Production Gap: Phasing down or phasing up? Top fossil fuel producers plan even more extraction despite climate promises* (2023) at 4. <https://doi.org/10.51414/sei2023.050>

¹²² *R v Surrey County Council* [2024] UKSC 20 at [142].

¹²³ *IPCC Climate Change 2023 Summary for Policymakers: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the IPCC* at [C.1]. This IPCC science was also applied by the New Zealand Supreme Court in *Smith v Fonterra Co-operative Group Ltd* [2024] NZSC 5 at [14].

¹²⁴ The Republic of Vanuatu’s Written Statement dated 21 March 2024 at [143], [200] and [453].

written comment, Grenada has placed an emphasis on the science to demonstrate the inextricable link between anthropogenic greenhouse gas emissions, ocean warming, and extreme weather events such as Hurricane Beryl.

60. Hurricane Beryl came at a time when Grenada was in the process of recovering financially from Hurricane Ivan. It is unfair and inequitable for a small country like Grenada – who has contributed negligibly to the climate crisis – to have to repeatedly rebuild the nation after it experiences an intense tropical storm or hurricane. Grenada urges the ICJ to recognise the grave injustices which continue to haunt Grenada and other SIDS. It further urges the Court to offer viable advice on the legal consequences that flow from these injustices that are inflicted upon small island developing States.
61. At Part III of this comment, Grenada elaborates on its original position taken within its written statement on the duty of the State as a trustee for the climate system (including the environment and the Earth) for the benefit of the present and future generations. Grenada then considered and analysed other written statements which also argued in support of this proposition. Grenada concludes that States could fulfil their obligations to protect the climate system and other parts of the environment if they act responsibly. To act responsibly, States must be willing to accept and embrace their role as trustees for the climate system, for the benefit of present and future generations.
62. The IPCC reports are clear. The choices and actions implemented in this decade will have impacts now and for thousands of years (*high confidence*).¹²⁵ This is the make-or-break decade for climate action. Secretary-General Guterres could not have said it better: “humanity faces a stark and urgent choice: a breakdown or a breakthrough.”¹²⁶ The choice is ultimately ours – a “breakdown” (in Earth’s climate which sustains all life support systems) or a “breakthrough” (a healthy, liveable and sustainable planet for all beings). For these reasons this ICJ advisory opinion is not only timely, but critical for Grenada and other SIDS in clarifying international rights and obligations with respect to climate change.¹²⁷

¹²⁵ *IPCC Climate Change 2023 Summary for Policymakers: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the IPCC* at [C.1].

¹²⁶ *Our Common Agenda – Report of the Secretary-General* (The United Nations, New York, 2021) at 3.

¹²⁷ Saint Lucia’s Written Statement dated 21 March 2024 at [5].

.....

H.E. Raphael Joseph, Ambassador of Grenada to the European Union, Brussels,
Belgium

15 August 2024

List of Annexes

Annex 1: Ministry of Agriculture and Lands, Forestry and Marine Resources *Report on Damage and Needs Assessment and Rehabilitation Plan for the Agricultural Sector in Grenada following Hurricane Beryl* (July 2024).

Annex 2: Grenada Central Statistical Office *Housing Assessment Report* (July 2024).

Annex 3: Caribbean Disaster Emergency Management Agency *Rapid Needs Assessment Team (RNAT) Final Report: Grenada, Carriacou, Petite Martinique* (11 July 2024).

Annex 4: Leslie Smith *Preliminary Damage Assessment (PDA) Report – Limlair Solar PV/Hybrid Project, Carriacou* (23 July 2024)

Annex 5: Victim impact statement of Kennisha Douglas dated 13 August 2024.