IN THE HIGH COURT OF JUSTICE **AC-2026-LON-**
KING'S BENCH DIVISION
ADMINISTRATIVE COURT
B E T W E E N :

THE KING on the application of
(1) SAVE HEMSBY COASTLINE
(2) STUDENTS ORGANISING FOR SUSTAINABILITY UK
(3) TIPPING POINT UK

Claimants

- and –

SECRETARY OF STATE FOR ENERGY SECURITY AND NET ZERO

Defendant

THE CLAIMANTS' DETAILED STATEMENT OF FACTS AND GROUNDS[1]

[CB/x] *are references to page numbers in the core permission bundle.* ***[SB/x]*** *are references to page numbers in the supplementary permission bundle.* ***[EB/x]*** *are references to page numbers in the expert bundle.*

CONTENTS

A. ESSENTIAL READING LIST

- Claim Form and Continuation Sheets [**CB/3-35**]
- Statement of Facts and Grounds and Annexes [**CB/39-121**]
- Witness Statements of the Claimants [**CB/408-544**]
- Pre-action Correspondence [**CB/545-652**]

[1] These grounds (including annexes) run to 83 pages. Having regard to the complexity of the claim and its scope, the Claimants seek permission to rely upon a statement of facts and grounds exceeding the usual 40-page limit.

B. INTRODUCTION AND SUMMARY OF CLAIM

1. This application for judicial review concerns the compatibility of the UK's legal and administrative framework for mitigating climate change (**'the climate change framework'**), for which the Defendant is responsible, with Article 8 of the European Convention on Human Rights (**'ECHR'** or the **'Convention'**) and the Defendant's duties under s.6(1) of the Human Rights Act 1998 (**'HRA'**). The climate change framework is insufficient to effectively protect human life, health, wellbeing and quality of life from the adverse effects of climate change.

2. Climate change poses an existential threat to the enjoyment of human rights through a combination of *inter alia* extreme weather events, rising sea levels, and ecosystem collapse. Those impacts will increase in frequency and severity as global warming intensifies. Without deep and rapid reductions of greenhouse gas (**'GHG'**) emissions, the impacts of climate change will become irreversible and catastrophic.

3. At a minimum, global warming must be held to 1.5°C above pre-industrial levels to avoid the worst impacts of climate change (the Long-Term Temperature Goal (**'the 1.5°C LTTG'**)). To do so, it is important but not enough for developed States, such as the UK, to reduce only their own territorial emissions to the extent feasible.

4. Therefore, developed States must augment their territorial emissions reductions by also securing emissions reductions in other States (such as by providing climate finance, carbon credits, technology transfer and/or capacity building (**'additional measures'**)).[2] Moreover, the imported consumption emissions (i.e. emissions embodied in imported goods and services) of developed States are rising, effectively offsetting their territorial emissions reductions by driving up the emissions of developing States, and – therefore – must also be effectively regulated if global warming is to be held to 1.5°C. Similarly, if the LTTG of 1.5°C is to be achieved, there must be steep reductions in the production and export of fossil fuels and as such, at a minimum, no new oil and gas fields should be sanctioned post-2021.

5. Following the Grand Chamber of the European Court of Human Right's (**'ECtHR'**) judgment in *Verein KlimaSeniorinnen Schweiz and Others v Switzerland* (2024) 79 EHRR 1 (***'KlimaSeniorinnen'***), it is established that Article 8 contains a right to effective protection

[2] As further explained at paragraphs 57-60 below, the Paris Agreement makes provision for developed States – including as part of their Nationally Determined Contributions (**'NDCs'**) – to take positive and co-operative action through "additional measures" pursuant to Articles 9-11 in order to support developing States to achieve territorial emissions reductions.

from climate change, and that the UK has a duty to adopt and apply effective measures to mitigate climate change in a manner consistent with holding global warming to 1.5°C (**'the overarching duty'**). That duty reflects the best available science and is consistent with the UK's duties under general international law.[3]

6. The UK's climate framework includes the Climate Change Act 2008 (**'CCA'**). The CCA regime provides for the UK to reduce its territorial emissions in service of its 2050 'Net Zero' target. However, the UK's overall climate change framework does not contain *any* targets in respect of (and does not effectively regulate): (i) emissions reductions to be achieved in other States by additional measures; (ii) imported consumption emissions; and (iii) fossil fuel production for export. These structural limitations are significant lacunae in the climate change framework.

7. Against that background, the Claimants apply for judicial review on the ground that the climate change framework is incompatible with the overarching duty under Article 8 and the Defendant's duty under s.6(1) HRA. That incompatibility arises from the following (taken individually or cumulatively):

   (a) The UK's emissions reduction targets (68% by 2030; 81% by 2035; 90% by 2040 (anticipated); and 100% by 2050) are inconsistent with achieving the 1.5°C LTTG in that they fall manifestly short of a reasonable and effective measure of the UK's fair share of the global emissions reduction burden (even with the addition of projected emissions reductions to be achieved through additional measures) (**Ground 1(a)**).

   (b) The climate change framework does not effectively regulate (and, in particular, does not contain reduction targets or limits in respect of) imported consumption emissions (**Ground 1(b)**).

   (c) The climate change framework does not effectively limit or regulate the production and/or export of fossil fuels, and permits the sanctioning of production from as yet unsanctioned oil and gas fields in the UK (**Ground 1(c)**).

8. The Claimants seek declarations to that effect as per the N461.

9. The Claimants set out their case in detail in their pre-action letter of 10 September 2025 (**'PAPL'**). The Defendant provided no substantive answer to the claim in its pre-action letter of response of 19 December 2025 (**'LOR'**); instead, he limited himself to two objections:

[3] As outlined by the International Court of Justice (**'ICJ'**) in *Obligations of States in Respect of Climate Change* (Advisory Opinion) [2025] General List No. 187 (the **'*ICJ Advisory Opinion*'**) [**CB/987-116**].

(a) First, the Claimants have not identified a target for judicial review, but are in effect challenging (i) a failure to legislate, which is excluded by s.6(6) HRA; and (ii) the CCA, which challenge is out of time per CPR 54.5 and/or s.7(5) HRA.

(b) Second, the Claimants do not have standing as they are not victims for the purposes of s.7(7) HRA and Article 34 ECHR.

10. Neither objection provides an answer to the claim for the reasons set out in Annexes One and Two respectively.

C. THE FACTS: CLIMATE CHANGE

11. The facts below are taken from the reports of *inter alia* the Intergovernmental Panel on Climate Change (**'IPCC'**), the United Nations Environment Programme (**'UNEP'**), the International Energy Agency (**'IEA'**) and numerous other renowned scientists (**'the best available science'**). Many if not all of them have been accepted by the Climate Change Committee (**'CCC'**) and domestic and international courts. They are also the foundation of the expert reports of: (i) [redacted] on fair share; (ii) [redacted] on the CCC and Government's analysis of fair share; (iii) [redacted] on imported consumption emissions; and (iv) [redacted] on fossil fuel production. The Claimants apply for permission to rely on the aforesaid pursuant to CPR Part 35 (see section 9 of the N461 continuation sheet).

The causes, trajectory and impacts of global warming

12. 'Climate change' refers to changes in the Earth's natural climatic systems since pre-industrial times caused by the accumulation of anthropogenic GHG emissions in the atmosphere.[4] The accumulation of GHGs traps heat from the sun causing an increase in global mean surface temperature (i.e. global warming). According to the IPCC's 6th Assessment Report (**'AR6'**), "*there is a near linear relationship between cumulative anthropogenic CO2 emissions and the global warming they cause*" and "*[e]very tonne of CO2 emissions adds to global warming*".[5] Global warming is estimated to have reached between 1.3°C and 1.4°C (2.4°C in Europe).[6]

[4] Article 1(2) of the United Nations Framework Convention on Climate Change 1992 (**'UNFCCC'**); IPCC, 'AR6 Working Group (WG) 1 (WG1) Summary for Policymakers' (**'SPM'**), [A.1.1] [**SB/245**].
[5] IPCC AR6 WG1 SPM, [D.1.1] [**SB/269**]. See also: CCC, The Seventh Carbon Budget: Advice for the UK Government (26 February 2025) (**'the Seventh Carbon Budget Report'**), p 25 [**SB/794**].
[6] 'Climate Indicators: Temperature' (Copernicus Programme); Seventh Carbon Budget Report, pp 22-23 [**SB/792-793**].

13. Climate change poses an "*urgent and existential threat*" to humankind (*ICJ Advisory Opinion*, [73]) [**CB/1028**]. The impacts of climate change are varied. They include heatwaves, wildfires and smoke, droughts, flooding, hurricanes, air pollution, spread of infectious diseases, cardiovascular and respiratory distress, mental health impacts, food insecurity, forced migration, ocean acidification, coastal erosion and loss of biodiversity.[7]

14. Climate change has resulted and will continue to result in the UK experiencing warmer and wetter winters, hotter and drier summers, and continuing sea level rise.[8] Those changes create hazards such as increasingly frequent and extreme precipitation events, flooding, heatwaves, coastal erosion and drought.[9] Hemsby is a paradigm case of coastal erosion (see Annex Two).

15. Those climate impacts will increase in frequency and severity as global warming increases. The AR6 states that "*[w]ith every additional increment of global warming, changes in extremes continue to become larger*"[10] and "*[e]very increment of global warming will intensify multiple and concurrent hazards*".[11] Adaptation, while important, is insufficient to abate the impacts of climate change, with the IPCC noting that "*[h]ard and soft limits to adaptation have been reached in some ecosystems and regions*", and that additional systems will reach adaptation limits with increased warming.[12]

The 1.5°C LTTG

16. The scientific consensus is that 1.5°C of global warming is an upper limit that must not be reached, much less exceeded if catastrophic consequences are to be avoided. Even containing global warming to 1.5°C would not be safe. According to the AR6, "*[g]lobal warming, reaching 1.5°C in the near-term [i.e. 2021-2040], would cause unavoidable increases in multiple climate hazards and present multiple risks to ecosystems and humans (very high confidence).*"[13] The 1.5°C LTTG has been adopted in light of the catastrophic consequences of surpassing that threshold:

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[7] IPCC AR6 WG2 SPM, [B.1.1], [B.1.3], [B.1.4], [B.4.3] and [B.4.4][**SB/427-429 & 432-433**]; IPCC AR6 WG1 Headline Statement from SPM, [A.3], [A.4], [B.3.2], [C.2.3] and [C.2.5] [**SB/240-241**]; IPCC AR6 WG1 SPM, [B.1.4] [**SB/256**].

[8] CCC, 'Independent Assessment of UK Climate Risk: Advice to Government for the UK's third Climate Change Risk Assessment (CCRA3)' (June 2021) (**'CCC Risk Assessment Advice'**), pp 37-45 [**SB/231-239**]; UKHSA, 'Health Effects of Climate Change (HECC) in the UK': State of the evidence 2023' (December 2023) (**'UKHSA HECC'**), p 7 [**SB/620**]; CCC, Progress in reducing emissions: 2025 report to Parliament (25 June 2025) (**'CCC 2025 Progress Report'**), p 10 [**SB/935**].

[9] CCC Risk Assessment Advice, pp 13, 37-38, 41 [**SB/228, 231-232 & 435**]; UKSA HECC, pp 10, 14 [**SB/621-622**].

[10] IPCC AR6 WG1 SPM, [B.2.2] [**SB/256**].

[11] IPCC AR6 Synthesis Report SPM, [B.1] [**SB/628**]. See also: IPCC SR1.5 SPM, [B.5] (see also [A.3]) [**SB/62-63 & 58**]. See also: Seventh Carbon Budget Report, pp 22 and 24 [**SB/791 & 793**].

[12] IPCC AR6 Synthesis Report SPM, [A.3] (see also [B.4]) [**SB/624 & 635**]. See also: IPCC AR6 WG2 SPM, [B.1] and [C.1] [**SB/427 & 438**].

[13] IPCC AR6 WG2 SPM, [B.3] [**SB/431**]. See also: IPCC SR1.5, p 447 [**SB/91**].

(a) Per the IPCC's "*Special Report Global Warming of 1.5°C*" (**'SR1.5'**), "*there is high confidence that there are robust and statistically significant differences in the projected temperature means and extremes at 1.5°C versus 2°C of global warming, both in the global average and in nearly all land regions (likely)*".[14] In particular, *"[c]limate-related risks to health, livelihoods, food security, water supply, human security, and economic growth are projected to increase with global warming of 1.5°C and increase further with 2°C"*. For example, *"limiting global warming to 1.5°C, compared with 2°C, could reduce the number of people both exposed to climate-related risks […] by up to several hundred million by 2050"*.[15]

(b) The AR6 states that "*[i]f global warming transiently exceeds 1.5°C in the coming decades or later (overshoot), then many human and natural systems will face additional severe risks, compared to remaining below 1.5°C (high confidence). Depending on the magnitude and duration of overshoot […] some [impacts] will be irreversible*".[16]

17. This consensus is reflected in the Paris Agreement (Article 2(1)(a)) and subsequent COP decisions.[17] The *ICJ Advisory Opinion* thus states: "*1.5°C has become the scientifically based consensus target under the Paris Agreement*", and *"the 1.5°C threshold [is] the parties' agreed primary temperature goal for limiting the global average temperature increase under the Paris Agreement*" ([224]).

Emissions reductions required to achieve the 1.5°C LTTG

18. "*Rapid and deep*" emissions reductions are required if we are to hold global warming to 1.5°C.[18] The corollary: "*postponing ambitious climate action, thereby delaying the path towards reaching net-zero emissions, will make it impossible to achieve the Paris Agreement temperature goal of limiting global warming to 1.5°C*".[19] The AR6 states with "*very high confidence*" that "*[a]ny further delay in concerted anticipatory global action on adaptation and mitigation will miss a brief and rapidly closing window of opportunity to secure a liveable and sustainable future for all*".[20]

19. The IPCC reports outline "*emissions pathways*" required for a given probability of achieving an LTTG.[21] The median of the emissions pathways in the IPCC's AR6 report that were consistent

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[14] IPCC SR1.5, p 191 [**SB/84**].
[15] IPCC SR1.5 SPM, [B.5.1] [**SB/62**].
[16] IPCC AR6 WG2 SPM, [B.6] [**SB/437**]. See also SR1.5 SPM, [B.1] [**SB/60**].
[17] For example: Draft decision-/CP.27, UN Doc FCCC/CP/2022/L.19, [1]-[5]; Draft decision-/CMA.5, UN Doc FCCC/PA/CMA/2023/L.17, [5]-[6]; FCCC/PA/CMA/2025/L.24, [6]-[7].
[18] IPCC AR6 WG3 SPM, [C.1] [**SB/473**]. See also: Seventh Carbon Budget Report, p 22 [**SB/791**]. The SR1.5 similarly stated that "*limiting warming to 1.5 would require a rapid escalation in the scale and pace of transition, particularly in the next 10-20 years*": IPCC SR 1.5, p 392 [**SB/87**].
[19] UNEP, Emissions Gap Report 2020 (**'EGR 2020'**), at p 34 [**SB/205**].
[20] IPCC AR6 WG2 SPM, [D.5.3] [**SB/451**]. See also: Seventh Carbon Budget Report, p 24 [**SB/793**]; UNEP, Emissions Gap Report 2022 (**'EGR 2022'**), p 1 [**SB/556**].
[21] Achieving the requisite reductions this decade is particularly important as it is those reductions which will "*largely determine whether warming can be limited to 1.5°C or 2°C*": IPCC AR6 Synthesis Report Summary, [B.5] [**SB/635**]. For an explanation of the distinction between carbon budgets and emissions pathways, see: *Schaeffer*, [12]-[14]. [**EB/XX**].

with a 50% chance of achieving the 1.5°C LTTG with no or limited overshoot (**'NLO pathways'**)[22] required that: (i) by 2030, CO2 emissions are reduced by 48% and all GHG emissions are reduced by 43% from 2019 levels; (ii) by 2040, CO2 emissions are reduced by 70% and all GHG emissions are reduced by 69% from 2019 levels; and (iii) global net zero CO2 emissions are reached in the early 2050s.[23] The corresponding emissions pathways in the IPCC's SR1.5 envisaged broadly similar rates of emissions reductions.[24]

20. Manifestly insufficient action has been taken so far to reduce GHG emissions. The UNEP's Emissions Gap Report 2025 (**'EGR 2025'**) found that global GHG emissions continue to rise, and projected that global warming would reach 2.8°C over this century based on States' current policies, and would reach 2.3-2.5°C based on full implementation of States' Nationally Determined Contributions (**'NDCs'**) under the Paris Agreement.[25]

Effort sharing and "fair shares" of the global emissions reduction burden

21. As per the AR6, "*it is only in relation to [its] 'fair share' that the adequacy of a state's contribution* [to the required global emissions reductions] *can be assessed*".[26] In broad terms, the concept of fair share connotes that States' shares of the global emissions reduction will differ according to their individual circumstances and must be allocated in a manner that is equitable. The concept reflects the principles of equity, common but differentiated responsibilities (**'CBDR'**) and respective capabilities, embedded within the UNFCCC and Paris Agreement. Thus, in its AR5 report, the IPCC stated that "*the UNFCCC clearly invokes the vision of equitable burden sharing*".[27] The adequacy of a State's emissions reductions cannot be judged absent the deployment of these principles and the concept of 'fair share'.

22. There is no single accepted definition of 'fair share' or agreed approach to effort sharing.[28] The main categories of approaches can be summarised under the following headings:

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[22] The reason why the focus is on NLO pathways is encapsulated by the CCC in the Seventh Carbon Budget Report: "*Long-term warming above 1.5°C, even temporarily, will bring additional impacts that will need to be adapted to. The greater the overshoot, the larger the climate risks associated with the warming during and after the overshoot period, including the risk of crossing tipping points*" (p 24) [**SB/793**]. See also: [redacted], [17]-[21]. [**EB/XX**].

[23] IPCC AR6 WG3 SPM, [C.1.2], [C.2] and Table SPM.2 [**SB/473, 479, & 474**]. Net zero emissions will be reached if the global level of residual GHG emissions (after measures to reduce such emissions) is at least balanced by sinks, such as forests, which remove carbon from the atmosphere: *R (Friends of the Earth Ltd) v Secretary of State for Business, Energy and Industrial Strategy* [2023] 1 WLR 225, [3] (Holgate J (as he then was)). See also: [redacted], [18]-[20].

[24] IPCC SR1.5 SPM, [C.1] [**SB/65**]. See also: [redacted], [18]. [**EB/XX**].

[25] UNEP, Emissions Gap Report 2025, pp xii, xviii and xx [**SB/947, 953 & 955**]. The projections in 2024 report were 3.1°C and 2.6-2.8°C respectively: UNEP, Emissions Gap Report 2024 (**'EGR 2024'**), at xvii [**SB/772**]. The difference in the assessments in EGR 2024 and EGR 2025 is partly methodological.

[26] AR6 WG3, p 1468 [**SB/538**]. See also: EGR 2024, p 36 [**SB/773**].

[27] IPCC AR5 WG3, p 317 [**SB/38**].

[28] [redacted] [23] [**EB/XX**]. Beyond there being multiple approaches to effort sharing, different studies operationalising an equity principle may assess, for example, a State's capacity or development differently.

(a) Responsibility: Approaches based on historic emissions, whereby the higher the level of a State's historic emissions, the greater the State's mitigation burden.

(b) Capability: Approaches which allocate emissions according to Gross Domestic Product or Human Development Index, whereby the more developed the State and the greater its economic capacity to reduce emissions, the greater its mitigation burden.

(c) Equality (or equal per capita): Approaches to allocations which involve allocating an equal amount of emissions on a per capita basis across the global population.

(d) Right to development: Approaches which prioritise ensuring the meeting of basic needs in the distribution of responsibility between States.[29]

23. The different effort-sharing approaches imply significantly different levels of emissions reductions for individual countries or groups of countries.[30] Responsibility and capability approaches imply greater mitigation burdens for developed States, whereas equal per capita is a more favourable approach from the perspective of such States, as it features a greater degree of "*grandfathering*".[31] Grandfathering refers to effort sharing approaches which do not account for the historic responsibility or capability of developed States, and which – in the most pronounced cases – allocate mitigation burdens in a manner proportionate to current emissions levels, and/or in line with global average required emissions reductions.[32]

24. Another effort sharing approach is cost-effectiveness, which involves distributing mitigation effort according where in the worlds it is cheapest globally to achieve emissions reductions, rather than in accordance with any equity principle.[33] There is a tension between cost-effectiveness and equity in determining where global emissions reductions ought to be achieved (since the relatively cheaper emissions in developing countries do not necessarily reflect what is equitable). The IPCC has recognised that this tension can be addressed by separating "*where mitigation occurs*" from "*who pays*".[34] The crux is that where the level of reductions required by a State's fair share exceeds the level that is feasible for it to achieve domestically, it can and should achieve the difference by funding emissions reductions in other

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[29] AR5 WG3, pp 213-219 and 317-321 **[SB/13-19 & 38-42]**; [redacted], [24]-[25] **[EB/XX]**. There are also approaches which combine the above principles, such as equal cumulative per capita emissions (which combines equality with historic responsibility).
[30] [redacted], [24] **[EB/XX]**.
[31] [redacted], [28]-[29] **[EB/XX]**. See also: Rajamani et al, National 'fair shares' in reducing greenhouse gas emissions within the principled framework of international environmental law (2021), p 999 **[SB/339]**.
[32] AR5 WG3 Ch 4, at p 320 **[SB/41]**; [redacted], [28]-[29] **[EB/XX]**.
[33] [redacted] [26] **[EB/XX]**.
[34] AR5 WG3, p 225 (Box 3.2) **[SB/25]**. See also: [redacted], [26]-[27] **[EB/XX]**.

States.[35] Consistent with this, the UNFCCC and Paris Agreement place duties on developed States to do this by using climate finance, capacity building, technology transfer, and "*internationally transferred mitigation outcomes*" (**'ITMOs'**) (see paragraphs 57-60 below).

25. In a context where the emissions reductions required by many developed States, "*under any equity principle*", now exceed what is domestically feasible, developed States must therefore take such additional measures as are necessary in order to achieve their fair shares of the global emissions reduction burden and hold global warming to 1.5°C.[36]

26. Whilst there is no accepted definition of fair share, and States have not agreed a single approach to calculating their fair shares under the UNFCCC framework, the IPCC stated in the AR5 that "*[e]ven in the absence of a formal, globally agreed burden sharing framework, such principles are important in establishing expectations of what may be reasonably required of different actors.*"[37]

27. Many of the effort sharing approaches referred to above have been quantified in the scientific literature and corresponding mitigation obligations linked to an LTTG identified for individual States. Building on those studies, the IPCC, UNEP and others have constructed what are described as "*fair share ranges*", which demonstrate quantitively the range of emissions reductions required of States according to different effort sharing approaches (from the least to the most stringent) required to achieve the relevant LTTG.[38] The IPCC outlined fair share ranges for developed States in its AR4 and AR5 reports,[39] and, in the EGR 2024, the UNEP constructed "*fair-share ambition ranges*" for G20 members (as a collective).[40]

28. It is critical to understand that if all States were to pursue emissions reductions consistent with the less stringent end of their fair share ranges or based on interpretations of their fair share that are relatively more favourable to them, it would not be possible to limit global warming to the 1.5°C LTTG.[41] It is axiomatic that if one State or a group of States pursued reductions in accordance with less stringent measures of their fair share, other States would be required to compensate for that shortcoming by pursuing reductions in accordance with more stringent

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[35] [redacted], [27] [**EB/XX**].; EGR 2024, p 36 [**SB/773**].
[36] EGR 2024, p 39 [**SB/776**]. See also [redacted], [27] [**EB/XX**].
[37] AR5 WG3, p 317 [**SB/38**].
[38] [redacted] [33]-[34] [**EB/XX**].
[39] [redacted], [33]-[34] [**EB/XX**]. See also: AR4 WG3, at p 776 (Box 13.7) [**SB/7**]; AR5 WG3, p 460 (Box 6.28)) [**SB/53**].
[40] EGR 2024, pp 36-39 [**SB/773-776**]. The fair share range associated with 1.5°C for the G20 members as a group was between -35% and -69% by 2030 and -49% and -81% by 2035 relative to 2019 levels. In considering the EGR 2024's fair share range, it is important to note that the G20 is a "*very heterogeneous country group*", hence the "*fair-share ranges for any individual country could differ strongly from the aggregate*". See also: [redacted], [35] [**EB/XX**].
[41] [redacted], [36] [**EB/XX**]. See also: The Rajamani Study, pp 998 and 1000 [**SB/338-340**].

measures of their fair shares in order to hold global warming to 1.5°C.[42] As the UNEP observes in the EGR 2024: "*Different equity approaches imply different distributions of mitigation effort. Importantly, if one country or group of countries target the less ambitious end of their fair-share range, this leaves less flexibility for others, if total aggregate emissions are still to align with the global temperature goal.*"[43]

29. One methodology which safeguards against that fundamental risk is the Climate Action Tracker's (**'CAT'**) fair share methodology. The methodology is explained in detail in the expert report of [redacted] [redacted]. There are two essential features to the CAT:

    (a) The CAT constructs fair share ranges for different States based on an aggregation of various studies in the scientific literature (and used by the IPCC) which seek to define States' fair shares of emissions reductions according to different effort-sharing approaches and principles of equity.[44] The fair share range for each State is constructed in a manner which ensures each category of effort sharing approach is given equal weight.[45] The CAT thus "*avoids selecting a single "correct" approach to effort sharing, relying instead on a "synthesis framework" which draws on all of the various approaches to effort sharing identified in the available literature*".[46]

    (b) The CAT identifies "*levels of ambition*" on States' fair share ranges that are consistent with different levels of global warming by 2100 (1.5°C, 2°C, <3°C, <4°C and >4°C) on the premise that States achieve equivalent levels of ambition on their respective ranges.[47] As a result, one can identify different levels of ambition that are consistent with different levels of global warming if all States pursue equivalent levels of ambition relative to their respective fair share ranges.[48]

30. The Rajamani Study employs the same methodology as the CAT to create a "*preliminary fair share range*". The difference with the CAT is that the Rajamani Study narrows that fair share range by excluding the effort-sharing approaches of cost-effectiveness and "*grandfathering*" on the basis that they are not compatible with principles of international environmental law,

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[42] [redacted] [36]-[37] **[EB/XX]**.
[43] EGR 2024, p 39 **[SB/776]**.
[44] [redacted] [40], [44]-[51] **[EB/XX]**. In addition to studies used by the IPCC, the CAT fair share ranges rely on studies which form part of the proprietary datasets of CAT consortium members.
[45] [redacted] [48] **[EB/XX]**.
[46] [redacted] [41] **[EB/XX]**.
[47] [redacted] [52]-[58] **[EB/XX]**. The CAT analysis is relied on by *inter alia* the UNEP, see e.g. EGR 2022, p 13 **[SB/558]**.
[48] [redacted] [54]-[58] **[EB/XX]**.

including the principles of CBDR and respective capabilities, equity, sustainable development and the precautionary principle (see paragraph 53 below).[49]

31. The CAT and Rajamani methodologies illustrate the key point above: namely, the more the level of ambition pursued by one State falls short of the 1.5°C-compatible level on its fair share range, the more another State(s) must pursue a level of ambition which *exceeds* that level on its range to limit global warming to the 1.5°C LTTG.[50] Leaving aside the unfairness of requiring other States to compensate for one State's lesser ambition, it is vanishingly unlikely that a sufficient number of States will target emissions reductions at the more stringent end of their fair share ranges to compensate for the shortfall in another State's mitigation ambition.[51]

Imported consumption emissions

32. GHG emissions can be accounted for on different bases. Under the UNFCCC framework, States report their National Emissions Inventories on a territorial basis, and emissions reduction targets within NDCs submitted under the Paris Agreement primarily concern emissions produced within a State's national territory.[52] However, as the CCC has acknowledged, other emissions accounting frameworks offer *"important complementary perspectives"* to that of territorial emissions.[53]

33. Consumption-based accounting is one such metric. Consumption emissions refer to GHG emissions from the production and transport of goods and services consumed by persons or entities within a State, irrespective of where the emissions are emitted along the supply chain. Consumption emissions are within territorial emissions where the relevant goods and services are produced *and* consumed in the same State. The key difference is that consumption emissions also include emissions embodied in goods and services imported from other States (i.e. imported consumption emissions), whereas territorial emissions do not.[54]

34. That is significant when one has regard to the role that international trade and global patterns of consumption and demand play in driving global GHG emissions.[55] It is estimated that 25% of global GHG emissions can be attributed to goods and services embodied in international

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[49] The Rajamani Study, pp 985-998, noting that the principles in the UNFCCC and Paris Agreement create "*a strong pull towards more stringent targets within the range of fair shares*" **[SB/325-338]**. See also AR6 WG3 Ch 4, at p 423 **[SB/550]**; [redacted] [62]-[67] (see also [87]-[88]) **[EB/XX]**.

[50] [redacted], [59]-[60] **[EB/XX]**.

[51] [redacted], [60]-[61] **[EB/XX]**.

[52] Witness Statement of [redacted] [4.4] **[EB/XX]**.

[53] Seventh Carbon Budget Report, p 375 **[SB/901]**. See also: [redacted], [4.3] **[EB/XX]**.

[54] [redacted] [4.2.3] **[EB/XX]**.

[55] [redacted] [5.1]-[5.2] **[EB/XX]**.

trade.[56] In its AR6 report, the IPCC stated that consumption met through global supply chains is often "*causing emissions in producing countries*", that consumption-based accounting is "*necessary to understand why emissions occur and to what extent consumption choices and associated supply chains contribute to total emissions, and ultimately how to influence consumption to achieve climate mitigation targets*", and "*is important to avoid outsourcing of pollution and to achieve global decarbonisation*".[57]

35. An important aspect of this dynamic is that developed States tend to be net importers of emissions whereas developing States tend to be net exporters.[58] Whilst several developed States have managed to stabilise or reduce their territorial emissions, there has been a corresponding increase in the emissions of developing States, who are producing the goods and services imported by developed States.[59] The IPCC's AR5 thus found that 20% of developing States' territorial CO2 emissions are attributable to increased demand for products in developed States.[60] Reflecting the same pattern, the IPCC stated in the AR6 that there has been an "*outsourcing*" and "*general shifting of fossil fuel-driven emissions intensive production*" and "*a net emissions transfer* […] *from developed to developing countries via global trade*".[61]

36. Failures by States to regulate and limit imported consumption emissions have given rise to what is known as "*carbon leakage*", which comprises of "*phenomena whereby the reduction in emissions reductions* [in one jurisdiction] *are offset by an increase outside the jurisdiction*".[62] Carbon leakage is resulting in a net increase in global emissions (even as developed States' territorial emissions decline).[63] As such, not addressing the role that the consumption and demand of developed States has on driving up the territorial emissions of developing States is significantly undermining efforts to hold global warming to 1.5°C.[64]

37. There are a range of means by which States can measure and limit their imported consumption emissions, such as: border carbon adjustments; market access conditions or mandatory minimum product standards which cap the embodied emissions on imported products; facilitating trading partners to limit the carbon intensity of imported goods; resource efficiency

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[56] [redacted] [5.2]. See also: EGR 2022, p 9 **[SB/557]**.
[57] IPCC AR6 WG3, p 239 **[SB/251]**. See also: [redacted] [5.3] **[EB/XX]**.
[58] [redacted] [5.4]. See also: IPCC AR6 WG3, p 245 **[SB/527]**.
[59] [redacted], [5.4]-[3.5]. See also: IPCC AR5 WG3, pp 385-386 **[SB/46-47]**.
[60] IPCC AR5 WG3, p 385 **[SB/46]**. See also: [redacted] [5.5].
[61] IPCC AR6 WG3, pp 167 and 245 **[SB/513 & 527]**. See also: [redacted] [5.6] **[EB/XX]**.
[62] IPCC AR5 WG3 Ch 5, at p 386 **[SB/47]**. See also: [redacted] [5.8]-[5.10] **[EB/XX]**.
[63] [redacted] [5.9]-[5.11] **[EB/XX]**. For Government recognition of the risk of carbon leakage, see: 'Introduction of a UK carbon border adjustment mechanism from January 2027: Consultation' (HM Treasury, 21 March 2024), p 13 **[SB/709]**; 'Net Zero Strategy: Build Back Greener' (BEIS and DESNZ, 19 October 2021), p 296; 'Net Zero Review – Analysis exploring the key issues' (HM Treasury, October 2021), pp 40-41.
[64] [redacted] [5.7] **[EB/XX]**.

measures; low carbon public procurement; and taking measures to reduce consumer demand for carbon intensive imported goods.[65] In the AR6, the IPCC noted that "*[c]omplementary national-level emissions accounting and target or budget setting*" could be one means of addressing States' consumption emissions.[66]

Fossil fuel production

38. As Lord Leggatt observed in *Finch*, "*[a]nyone interested in the future of our planet is aware by now of the impact on its climate of burning fossil fuels – chiefly oil, coal and gas*".[67] The UNEP estimates that close to 90% of global CO_2 emissions stem from burning fossil fuels.[68] The IEA, in its "*Net Zero by 2050: A Roadmap for the Global Energy Sector*" (**'NZE 2021'**), noted that reducing fossil fuel production "*holds the key to averting the worst effects of climate change*" and achieving "*net zero means a huge decline in use of fossil fuels*".[69] At the Dubai Outcome at COP 28, States recognised that fulfilling the goals of the Paris Agreement requires "*transitioning away from fossil fuels in energy systems in a just, orderly and equitable manner, accelerating action in this critical decade*".[70]

39. The corollary is that "*steep and sustained reductions*" in fossil fuel production are required in order to hold global warming to 1.5°C.[71] The NLO pathways in the AR6 envisage a "*substantial reduction in overall fossil fuel use,* [and] *minimal use of unabated fossil fuels*".[72] The UNEP "*Production Gap Report 2023*" ('**UNEP PGR 2023'**) recognises that "*[t]o 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*".[73] "*Continued production and use of coal, oil and gas are not compatible with a safe and liveable future*".[74]

40. Yet, according to UNEP's most recent PGR 2025 "*[global p]rojected 2030 production exceeds levels aligned with limiting warming to 1.5°C by more than 120%.*", a gap that has increased since 2023.[75] Current plans and projections continue to envisage an increase in oil and gas production until at least 2050, such that "*projected total fossil fuel production in 2050 remains more than 4.5 times higher*

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[65] [redacted] [7.1]-[7.7] **[EB/XX]**.
[66] IPCC AR6 WG3, p 239 [**SB/521**].
[67] *R (Finch) v Surrey County Council and others* [2024] UKSC 20, [1].
[68] UNEP PGR 2023, p 3 [**SB/640**]. See also: IPCC WG3 Technical Summary, Figure TS.3 on p TS-16; Witness Statement of [redacted], [3.2] and [10.1] [**EB/XX**].
[69] IEA NZE 2021, pp 13 and 18 [**SB/278 & 283**].
[70] UNFCCC, 'First global stocktake, Conference of the Parties serving as the meeting of the Parties to the Paris Agreement' (13 December 2023) FCCC/PA/CMA/2023/L.17 [**SB/597-617**].
[71] UNEP PGR 2021, p 4 [**SB/316**]; [redacted], [3.8] [**EB/XX**]. See also: CCC, 'Letter to Kwasi Kwarteng: Climate Compatibility of New Oil and Gas Fields' (24 February 2024) (**'CCC OG Letter'**), p 2 [**SB/685**].
[72] IPCC AR6 WG3 SPM, [C.4.1] [**SB/484**]; [redacted] [3.6] [**EB/XX**].
[73] PGR 2023, pp 4-5 [**SB/641-642**]. See also pp 20-21 [**SB/657-658**].
[74] PGR 2023, p 8 [**SB/645**]. See also, p 12 [**SB/649**].
[75] UNEP PGR 2025, p 4 [**SB/974**]; [redacted] [4.14] [**EB/XX**].

than levels consistent with limiting warming to 1.5ºC."[76] UNEP warns that "*The continued collective failure of governments to curb fossil fuel production and lower global emissions means that future production will need to decline more steeply to compensate."*[77]

41. The IEA and UNEP reports set out production pathways which identify the global averages by which oil, gas and coal production must decline in order to be consistent with the 1.5°C LTTG.[78] However, in accordance with the principle of CBDR and respective capabilities, it is important that fossil fuel production is phased out in a manner which is equitable. Thus, according to the PGR 2021, "*countries with greater capacity and lower dependency on fossil fuels will likely need to wind down their production faster than the global average*".[79]

42. The best available science is thus clear that, as an absolute minimum, no new oil and gas fields, or coal mines, should be approved for development. The IEA NZE 2021 found that "*[b]eyond projects already committed as of 2021, there are no new oil and gas fields approved for development in our pathway"*.[80] In a similar vein, the IEA NZE 2023 found that "*[a]s clean energy expands and fossil fuel demand declines in the NZE Scenario, there is no need for investment in new coal, oil and natural gas*".[81] The UNEP PGR 2023 found that "*committed emissions of CO2 expected to occur over the lifetime of existing fossil-fuel producing infrastructure already exceed the remaining carbon budget for a 50% chance of limiting warming to 1.5°C by 2100*", which "*implies that no new coal mines and oil and gas fields can be developed unless existing infrastructure is retired early*".[82] The IPCC AR6 has warned that "*projected CO2 emissions from existing fossil fuel infrastructure without additional abatement would exceed the remaining carbon budget for 1.5°C*".[83]

43. Part of the necessity of not opening new fossil fuel projects stems from the long lifespans of oil and gas fields, the economic and practical barriers in closing down producing fields once in operation, and the corresponding dangers of locking in increased fossil fuel supply if new projects are approved.[84] The IEA has noted that attempts to prioritise production create a "*risk*

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[76] UNEP PGR 2025, p 14 [**SB/984**].
[77] UNEP PGR 2025, p 5 [**SB/975**].
[78] Summarised in UNEP PGR 2023, pp 21 and 26 [**SB/649 & 654**]; [redacted] [4.14] [**EB/XX**].
[79] PGR 2021, p 35 [**SB/319**]. See also PGR 2023, p 30-32 [**SB/667-669**] and the discussion in [redacted] [6.1]-[6.5] [**EB/XX**].
[80] IEA NZE 2021 at p 21 [**SB/286**]. See also, pp 23, 51 [**SB/288 & 297**] and [redacted] [4.7] [**EB/XX**]. The IEA's view of "*no new oil and gas fields approved for development"* concerns those projects that have not yet received final investment decision (**'FID'**). This means that any projects that have not yet received a decision for large scale investment in production would not be compatible with a 1.5°C pathway. This includes projects that may be within a licensed field, and which may have received production consents, but have not yet received FID. It certainly includes licensed fields which have not yet received production consents: [redacted] [4.8, 7.28-7.29, 9.1-9.5][**EB/XX**].
[81] IEA NZE 2023 at p 16 [**SB/678**, [redacted] [4.7] [**EB/XX**].
[82] PGR 2023 at p 8 [**SB/645**]. See also, p 12 [**SB/649**] and [redacted], [4.4] [**EB/XX**].
[83] IPCC AR6 SPM at p 19 [**SB/635**]; cf. [redacted], [4.4] **[EB/XX]**.
[84] [redacted] [5.8] [**EB/XX**]..

of locking in emissions that could push the world over the 1.5°C threshold",[85] and that a number of projects will have to be "*closed before they reach the end of their technical lifetime*" in order to hold global warming to 1.5°C.[86] The CCC has noted that the average timeline from issuing an exploration licence to *the commencement of* production in the UK is around 28 years.[87]

44. An exclusive focus on demand ignores the elasticity of demand and supply, and the role that fossil fuel supply can have in stimulating and creating demand.[88] The CCC has recognised that "*questions of supply and demand are not so easily separated*", and "*[w]ith no policy on the supply side there is a risk that extraction would far exceed the amount of fossil fuels that could be burnt under climate commitments – leading either to stranded assets or to a breach of climate goals.*"[89] Further, the 'substitution argument' has been debunked. As Lord Leggatt observed in *Finch*: "*[l]eaving oil in the ground in one place does not result in a corresponding increase in production elsewhere*", endorsing the UNEP's findings that "*each barrel of oil left undeveloped in one region will lead to 0.2 to 0.6 barrels not consumed globally over the longer term.*"[90] The latest research narrows the range of uncertainty, finding that there is a "*40-50% reduction*" in overall emissions for each barrel curtailed.[91]

D. LAW

45. This section sets out the international and domestic legal framework in respect of climate change, and the relevant principles and duties under Article 8 ECHR.

International law

The UNFCCC

46. The UNFCCC, which entered into force on 21 March 1994, is a framework agreement for subsequent agreements and treaties. Article 2 provides for an "*ultimate objective*" of "*stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system*".

47. Article 3 identifies certain principles that shall guide States in achieving that objective:

> "*(1) The Parties 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*

[85] IEA NZE 2023 at p 16 [**SB/678**].
[86] IEA, The Oil and Gas Industry in Net Zero Transitions (November 2023) at p 19 [**SB/575**].
[87] CCC OG Letter at p 6 [**SB/689**].
[88] [redacted] [5.3] [**EB/XX**].
[89] CCC OG Letter at pp 2-3 [**SB/685-686**].
[90] *Finch*, [2], [redacted] [5.7] [**EB/XX**]
[91] [redacted] [5.6] [**EB/XX**], citing *Prest et al* (2024).

and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof. […]

(3) The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures."

48. Article 4(2)(a) provides that Parties in Annex I (which includes the UK):

> "*[S]hall adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs. These policies and measures will demonstrate that developed countries are taking the lead in modifying long-term trends of anthropogenic emissions […] and taking into account […] the need for equitable and appropriate contributions by each of these Parties to the global effort regarding that objective*".

49. Article 4(3) provides that developed country Parties (which includes the UK) and those in Annex II "*shall provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in complying with their obligations*".

50. Article 4(5) provides that developed country Parties (which includes the UK) and those in Annex II "*shall take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to,* […] *technologies* […] *to enable them to implement the provisions of the Convention*".

The Paris Agreement

51. The Paris Agreement, which entered into force on 4 November 2016, is the latest treaty adopted under the UNFCCC. Article 2(1) provides that the Paris Agreement, "*in enhancing the implementation of the [UNFCCC], including its objective, aims to strengthen the global response to the threat of climate change*" by, *inter alia*:

> "*(a) Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change; […]*
>
> *(c) Making finance flows consistent with a pathway towards low [GHGs] and climate-resilient development."*

52. The ICJ has held that, in light of subsequent decisions and practice of States parties, "*the 1.5°C threshold [constitutes] the parties' agreed primary temperature goal"* under the Paris Agreement (*ICJ Advisory Opinion*, [224]).

53. Article 2(2) provides that the Agreement "*will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities*". The ICJ observed that the principle of CBDR and respective capabilities is a "*core guiding principle*" for the implementation of the climate change treaties, *"reflect[ing] the need to distribute equitably the burdens of the obligations in respect of climate change, taking into account, inter alia, States' historical and current contributions to cumulative*

GHG emissions, and their different current capabilities and national circumstances, including their economic and social development" (ICJ Advisory Opinion, [148])

54. Article 3 provides that, as NDCs to the global response to climate change, States are to undertake and communicate ambitious efforts (as defined in Articles 4, 7, 9, 10, 11 and 13) with a view to achieving the purpose in Article 2. As the reference to Articles 9, 10 and 11 demonstrate, the scope of States' obligations in respect of their NDCs is not limited to territorial emissions reductions.

55. Article 4 elaborates upon States' obligations to undertake and communicate NDCs:

    (a) Article 4(1) provides that in order to achieve the LTTG set out in Article 2(1), "*Parties aim to reach global peaking of greenhouse gas emissions as soon as possible […] and to undertake rapid reductions thereafter in accordance with best available climate science […] and in the context of sustainable development".*

    (b) Per Article 4(2), States "*shall pursue domestic mitigation measures*" to meet their NDCs.

    (c) Article 4(3) provides that each State's NDC "*will represent a progression*" from previous NDCs and "*reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capacities*".

    (d) Article 4(4) reiterates that "*[d]eveloped country Parties should continue taking the lead by undertaking economy-wide absolute emission reduction targets*".

    (e) NDCs must be communicated every five years (Article 4(9)).

56. In light of the purpose and context of the Paris Agreement, the ICJ confirmed that "*parties are obliged to exercise due diligence and ensure that their NDCs fulfil their obligations under the Paris Agreement and thus, when taken together, are capable of achieving the temperature goal of limiting global warming to 1.5°C*" (ICJ Advisory Opinion, [245] (see also [249])). The ICJ added: "*because of the seriousness of the threat posed by climate change, the standard of due diligence to be applied in preparing the NDCs is stringent"* and "*each party has to do its utmost to ensure that the NDCs it puts forward represent its highest possible ambition*" ([246] (see also [138])). Further, the ICJ observed:

    "*[T]he standard of due diligence to be applied when assessing the NDCs of different parties will vary depending, inter alia, on historical contributions to cumulative GHG emissions, and the level of development and national circumstances of the party in question."* ([247] (also [136]-[137]))

57. Consistent with the UNFCCC, the Paris Agreement places a series of obligations of co-operation on States, in terms of financial assistance, technology transfers and capacity building

(*ICJ Advisory Opinion*, [260]-[270]). Article 4(5) provides that "*[s]upport shall be provided to developing country Parties for the implementation of this Article, in accordance with Articles 9, 10 and 11*".

58. Article 6(1) provides that Parties may choose to pursue voluntary cooperation "*to allow for higher ambition*" in their mitigation actions. This includes the use of ITMOs (Article 6(2)).[92] Read with the obligation in Article 4(3) of the Paris Agreement for States' NDCs to "*reflect its highest possible ambition*", the reference to "*higher ambition*" in Article 6(1) implies that international voluntary measures of cooperation are intended to supplement (rather than substitute) States' domestic mitigation measures.

59. Article 6(8) then indicates that States can use "*finance, technology transfer and capacity building*" to promote mitigation ambition. Beyond permitting States to do so:
    (a) Article 9(1) places a duty on developed States to "*provide financial resources to assist developing country Parties with respect to both mitigation and adaptation*". Per Article 9(3), developed States "*should continue to take the lead in mobilizing climate finance*" at a "*progression beyond previous efforts*". The ICJ held that "*Parties are to implement their obligations under Article 9 in a manner and at a level that allows for achievement of the objectives listed in Article 2*", having regard to, *inter alia*, "*the capacity of developed States and the need of developing States*" (*ICJ Advisory Opinion*, [265]).
    (b) Article 10(1) recognises the importance of technology development and transfer in order to *inter alia* reduce GHG emissions, with Article 10(2) imposing a duty to "*strengthen cooperative action on technology development and transfer*".
    (c) Article 11(1) provides that capacity building "*should enhance the capacity and ability of developing country parties […] to take effective climate change action*". Article 11(3) provides that "*[d]eveloped country Parties should enhance support for capacity-building actions in developing country Parties*".

60. The above forms of action are referred to as "additional measures" in these Grounds. They are means through which developed States can and must augment the ambition of their territorial emissions reduction targets within their NDCs by supporting through cooperation the achievement of emissions reductions in developing States.

General international environmental law

61. The UNFCCC and the Paris Agreement do not displace other sources of international law. They are mutually informative (*ICJ Advisory Opinion*, [169]-[171], [313], [404]). Relevant principles of general international environmental law include:

[92] The Paris Agreement Crediting Mechanism (**'PACM'**), stemming from Article 6(4) of the Paris Agreement, is in the process of being operationalised. The PACM is a successor to the Clean Development Mechanism under the Kyoto Protocol: UNFCCC, 'Article 6.4 Supervisory Body' (undated); Carbon Gap, 'Paris Agreement Crediting Mechanism (Article 6.4)' (1 January 2025).

(a) The duty to prevent significant harm to the environment, which is a customary international law obligation to act with "*due diligence*" and "*to employ all means reasonably available to [States], so as to prevent [harm] so far as possible*". The duty applies to the context of climate change (*ICJ Advisory Opinion*, [134]-[135] and [278]). States are required to take appropriate measures, which include "*regulatory mitigation mechanisms that are designed to achieve the deep, rapid, and sustained reductions of GHG emissions that are necessary for the prevention of significant harm to the climate system*", and such measures "*must regulate the conduct of public and private operators within the States' jurisdiction and control*" ([282]). Consistent with the principle of CBDR and respective capabilities, *"developed States […] must take more demanding measures to prevent environmental harm and must satisfy a more demanding standard of conduct*" in accordance with their development and capacity ([292]).

(b) The precautionary principle, which requires that "*where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation*" ([294]).

(c) Principles of sustainable development, equity and intergenerational equity ([147]-[157]).

62. Further, in its *Advisory Opinion of 21 May 2024* (2024) Case No.31, the International Tribunal for the Law of the Sea (**'ITLOS'**) held (*inter alia* at [243]) that State Parties have similar due diligence obligations under the UN Convention on the Law of the Sea (**'UNCLOS'**) to those above to take measures to reduce GHG emissions, taking into account the 1.5°C LTTG and their respective capabilities and resources.

International human rights law

63. A wide range of international courts, UN treaty bodies and domestic courts have recognised that climate change has a significant impact on the enjoyment of human rights and that States have duties under various international human rights treaties to prevent / reduce the impacts of climate change, in accordance with the 1.5°C LTTG, the best available science and principles of CBDR and equity (*ICJ Advisory Opinion*, [373]-[386]).[93]

[93] See also: IACtHR, Advisory Opinion OC-32/25 on Climate emergency and human rights, [322]-[331]; *Urgenda*, [7.5.1] and [8.3.5]; *Neubauer and Others v Germany*, BVerfG, Beschluss des Ersten Senats vom 24. März 2021 - 1 BvR 2656/18 -, Rn. 1-270 (Order of the First Senate of 24 March 2021), [225]-[230]; *ASBL Klimaatzaak v Kingdom of Belgium and Others*, French-speaking Court of First Instance of Brussels (2015/4585/A, 17 June 2021); *Commune de Grande-Synthe v France* (19 November 2020) No 427301; *Notre Affaire à Tous v France* (14 October 2021) Nos 190496 and others. UN Committee on the Rights of the Child, "General Comment No. 26 (2023) on children's rights and the environment, with a special focus on climate change" (22 August 2023) CRC/C/GC/26; HRC, General Comment No 36, Article 6: right to life, CCPR/C/GC/36, 3 September 2019, [26] and [62]; *Daniel Billy et al v Australia*, Communication No 3624/2019, CCPR/C/135/D/3624/2019, 21 July 2022, [8.3], [8.7], [8.9]-[8.12]; CESCR, Climate change and the International Covenant on Economic, Social and Cultural Rights, Statement of the Committee on Economic, Social and Cultural Rights of 8 October 2018, [5]-[10]; CESCR, General Comment No 26 (2022) on land

64. It follows that States will incur responsibility if they fail to comply with their obligations under international law in relation to climate change. In particular, the ICJ observed:

> "*Failure of a State to take appropriate action to protect the climate system from GHG emissions — including through fossil fuel production, fossil fuel consumption, the granting of fossil fuel exploration licences or the provision of fossil fuel subsidies — may constitute an internationally wrongful act which is attributable to that State.*" (ICJ Advisory Opinion, [427])

65. That includes instances where States have failed to take "*necessary regulatory and legislative measures to limit the quantity of emissions caused by private actors under its jurisdiction*" ([428]). Further, it is no answer, from the perspective of the rules of State responsibility, that there exists a plurality of responsible States; "*the responsibility of a single State for damage* [caused by multiple States] *may be invoked without invoking the responsibility of all States that may be responsible*" ([430]).

The Human Rights Act 1998 and European Convention on Human Rights

66. Section 1 of the HRA incorporates the Convention rights set out in Schedule 1 into domestic law. Per s.2, domestic courts are required to "*take into account*" judgments of the ECtHR in determining questions which arise in connection with a Convention right.

67. The effect of s.6(1) HRA is that it is unlawful for a public authority to act in a way that is incompatible with Convention rights.

68. Article 8 ECHR provides that "*[e]veryone has the right to respect for his private and family life, his home and his correspondence*".

69. In interpreting Convention rights, the following principles are well-established:

    (a) The object and purpose of the Convention in protecting the rights of individuals "*requires its provisions to be interpreted and applied in such a way as to make its safeguards practical and effective*" as opposed to "*theoretical and illusory*" (**'the effectiveness principle'**): Öneryildiz v Turkey (2005) 41 EHRR 20, [69].

    (b) Closely related to the aforesaid, "*the Convention is a living instrument which […] must be interpreted in light of present-day conditions*" (the **'living instrument principle'**): Tyrer v United Kingdom (1979-1980) 2 EHRR 1, [31].

    (c) The Court "*must take into account [relevant] elements of international law*" and seek a harmonious interpretation of the Convention and other instruments of international law (the

and economic, social and cultural rights, E/C.12/GC/26, 24 January 2023, [56]-[58]; OHCHR Joint Statement on human rights and climate change, HRI/2019/1, 16 September 2019, [11]-[12].

'harmonious interpretation principle'): *Demir and Baykara v Turkey* (2009) 48 EHRR 54, [67]-[68] and [76]-[86].

Duties under Article 8 in the environmental context

70. Article 8 places the following positive obligations upon States in the environmental context:[94]

(a) States must "*take reasonable and appropriate measures*" to secure the right to respect for private life and home: *Hatton v United Kingdom* (2003) 37 EHRR 28, [98].

(b) States have a "*primary duty*" to put in place legislative and administrative frameworks for the effective protection of human health and life (including a duty to put in place regulations geared to specific features of the relevant activity): *KlimaSeniorinnen*, [538(a)].

(c) There is an obligation to "*apply that framework effectively*", and relevant measures "*must be applied in a timely and effective manner*": *KlimaSeniorinnen*, [538(b)].

(d) The determinant of compliance is "*whether, in the manner of devising and/or implementing the relevant measures, the State remained within its margin of appreciation*": *KlimaSeniorinnen*, [538(c)]. The scope of the margin is context specific and is influenced by a range of factors. A closely related enquiry is whether the State's acts or omissions struck a fair balance between the rights of the individuals concerned and the interests of the community.[95]

(e) States' "*[c]hoice of means*" falls within the margin of appreciation. If a State fails to take one measure, it can fulfil its positive obligations through other measures. An impossible and disproportionate burden must not be placed on the State: *KlimaSeniorinnen*, [538(d)].

(f) While it is not for the Court to determine exactly what has to be done in a given sphere, "*it can assess whether the authorities approached the matter with due diligence and gave consideration to all competing interests*": *KlimaSeniorinnen*, [538(e)].

(g) Procedural safeguards are "*especially material*" in determining whether a State remains within its margin of appreciation. *Inter alia*, decision-making processes "*must necessarily involve appropriate investigations and studies in order to allow the authorities to strike a fair balance*": *KlimaSeniorinnen*, [539] (see also: *Greenpeace Nordic and Others v Norway* App no 34068/21 (ECtHR, 28 October 2025), [318]).

[94] The propositions below were broadly captured in Lewis LJ's summary in *R (Richards) v Environmental Agency* [2022] 1 WLR 2593 at [12]-[15] of positive obligations under Articles 2 and 8 in the environmental context.

[95] This corresponds to the fourth and final question in the four-stage proportionality test set out in, for example, *R (Tigere) v Secretary of State for Business, Innovation and Skills* [2015] 1 WLR 3820, [33] (Lady Hale).

KlimaSeniorinnen

71. *KlimaSeniorinnen* is the starting point in examining the application of those duties to the context of climate change.[96] The following themes are critical to understanding the judgment:

    (a) The rule of law and the role of the judiciary. The Grand Chamber emphasised *"the task of the judiciary is to ensure the necessary oversight of compliance with legal requirements*" ([412]), and the "*necessity for the relevant court to engage with a body of complex evidence*" regarding climate change ([427]). In its assessment of Article 6, the Grand Chamber considered "*it essential to emphasise the key role which domestic courts have played and will play in climate-change litigation […] highlighting the importance of access to justice in this field*" ([639]).

    (b) The gravity of the threat climate change and global warming above 1.5°C poses to Convention rights. The Grand Chamber accepted: (i) climate change "*poses a serious current and future threat to the enjoyment of human rights guaranteed under the Convention*" (it risks "*destroying the basis for human livelihoods and survival in the worst affected areas*" ([417] and [436]); (ii) the necessity of States taking urgent mitigation measures ([418]-[436]); (iii) the imperative of limiting global warming to 1.5°C ([106]-[108] and [436]); and (iv) States' failures to take sufficient action to meet the 1.5°C LTTG aggravated the risks posed by climate change ([420], [436] and [439]).

    (c) The principle of individual State responsibility. The Grand Chamber held that "*each State has its own share of responsibilities to take measures to tackle climate change and that the taking of those measures is determined by the State's own capabilities*" and that a "*respondent State should not evade its responsibility by pointing to the responsibility of other States*" ([442]).

    (d) The relevance of the best available science and international law. The Grand Chamber held that it *"cannot ignore the pressing scientific evidence and the growing international consensus regarding the critical effects of climate change on the enjoyment of human rights*", and must take into account the "*the consensus flowing from the international-law mechanisms to which the member States voluntarily acceded and the related requirements and commitments which they undertook to respect […], such as those under the Paris Agreement*" ([455]-[456]).

72. Those factors and the "*considerable weight*" to be given to "*climate protection*" informed the Grand Chamber's approach regarding the margin of appreciation ([541]-[542]). It drew a distinction between: (i) "*the State's commitment to the necessity of combating climate change and its adverse effects, and*

[96] An overview and summary of the judgment was provided by Chamberlain J in *R (Friends of the Earth, Kevin Jordan and Douglas Paulley) v Secretary of State for the Environment, Food and Rural Affairs* [2025] PTSR 893, notwithstanding that the judgment concerned the separate issue of adaptation.

the setting of the requisite aims and objectives in this respect": and (ii) "*the choice of means designed to achieve those objectives*" (emphasis added):

(a) As regards the former, "*the nature and gravity of the threat and the general consensus as to the stakes involved in ensuring the overarching goal of effective climate protection through overall GHG reduction targets in accordance with the Contracting Parties' accepted commitments to achieve carbon neutrality, call for a reduced margin of appreciation for the States.*"

(b) As regards the choice of means, "*including operational choices and policies adopted in order to meet internationally anchored targets and commitments in the light of priorities and resources, the States should be accorded a wide margin of appreciation*" ([543]).

73. Against that background, the Grand Chamber held that Article 8 contains "*a right for individuals to enjoy effective protection by the State authorities from serious adverse effects on their life, health, well-being and quality of life arising from the harmful effects and risks caused by climate change*" ([544]). The corollary is "*the State's obligation under Article 8 is to do its part to ensure such protection.*" Central to that obligation: "*the State's primary duty is to adopt, and to effectively apply in practice, regulations and measures capable of mitigating the existing and potentially irreversible, future effects of climate change*" ([545]).

74. The 1.5°C LTTG was central in shaping the content of that duty. The Grand Chamber held that "*effective respect*" for Article 8 "*requires that each Contracting State undertake measures for the substantial and progressive reduction of their respective GHG levels, with a view to reaching net neutrality within, in principle, the next three decades*" ([547]-[548]). The Grand Chamber further observed that "*immediate action needs to be taken and adequate intermediate reduction goals must be set for the period leading to net neutrality*"([549]).

75. In assessing whether a State has remained within its margin of appreciation, the Grand Chamber held that the ECtHR "*will examine whether the competent domestic authorities, be it at the legislative, executive or judicial level, have had due regard to the need to*":

(a) "*[A]dopt general measures specifying a target timeline for achieving carbon neutrality and the overall remaining carbon budget for the same time frame, or another equivalent method of quantification of future GHG emissions*";

(b) "*[S]et out intermediate GHG emissions reduction targets and pathways (by sector or other relevant methodologies) that are deemed capable, in principle, of meeting the overall national GHG reduction goals within the relevant time frames undertaken in national policies*";

(c) "*[P]rovide evidence showing whether they have duly complied, or are in the process of complying, with the relevant GHG reduction targets*";

(d) "*[K]eep the relevant GHG reduction targets updated with due diligence, and based on the best available evidence*"; and

(e) "*[A]ct in good time and in an appropriate and consistent manner when devising and implementing the relevant legislation and measures*" ([550]).

76. That those requirements are not exhaustive is clear from the Grand Chamber's assessment of Switzerland (see below). Importantly, the Grand Chamber held that its assessment of compliance will "*be of an overall nature, meaning that a shortcoming in one particular respect alone will not necessarily entail that the State would be considered to have overstepped its relevant margin of appreciation*" ([551] (see also [556])). However, that assessment was to be undertaken "*without it being necessary to examine whether the ancillary adaptation measures were put in place*" ([555]).

77. Applying those principles to Switzerland, the Grand Chamber concluded that "*there were some critical lacunae in the Swiss authorities' process of putting in place the relevant domestic regulatory framework*" which exceeded its margin of appreciation ([573]):

(a) Switzerland's 2020 target (of reducing GHGs by 20% by 2020 relative to 1990 levels) was unduly low. The Grand Chamber attached particular weight to the Swiss Federal Council's view, based on the fair share range in the IPCC AR4 report for Annex I States (25-40%), that Switzerland's 20% target fell short of the level of reductions required by industrialised States to hold global warming to 2°C ([558]).

(b) Switzerland had missed its 2020 target, only achieving 11% emissions reductions ([559]).

(c) Switzerland had no binding 2030 target in place. While the State put in place annual targets for 2021-2024, "*the period after 2024 [was] unregulated and thus incompatible with the requirement*" to have a target in place specifying the State's mitigation measures ([560]-[561]).

(d) Switzerland's 2040 and net neutrality target for 2050 and an intermediate target for 2040 did not rectify matters as they only concerned targets from 2031 (leaving the period up to 2030 unregulated) and the means of implementing them were not identified, and were only required "*in good time*" ([565]-[568]).

(e) Assessed against the global carbon budget from 2020, "*Switzerland allowed for more GHG emissions than even an "equal per capita emissions" quantification would entitle it to use*" ([569]).

(f) Switzerland had not set their GHG reduction targets with reference to a carbon budget. The Grand Chamber rejected the argument that it was impossible to set a national carbon budget, noting the principle of CBDR, which *"requires the States to act on the basis of equity and in accordance with their own respective capabilities*" ([570]-[571]).

Subsequent Strasbourg authorities applying *KlimaSeniorinnen*

78. *Greenpeace Nordic* concerned a challenge to Norway's granting of fossil fuel exploration permits. The scope of the application was limited to Norway's procedural obligations under Article 8: [317]-[318]. The Court held that those obligations applied in the context of petroleum projects, requiring – at a minimum – assessments of the GHG emissions anticipated to be produced by petroleum projects and the compatibility of the relevant activity with the State's national and international climate obligations, as well as informed public participation ([319]). Norway had not overstepped its margin in that petroleum activities were "*highly regulated*" at different stages of its framework, that framework – as a whole – satisfied the aforementioned procedural obligations, and there was not any "*structural problem*" undermining the effective implementation of the framework ([325]-[337]).

79. In the admissibility decision of *Fliegenschnee and Others v Austria* App no 40054/23 (ECtHR, 18 November 2025), the Court held that the applicants' complaint challenging Austria's refusal to ban completely the sale of fossil fuels was manifestly ill-founded ([33]-[35]). The Court held that Article 8 did not grant a right to the particular measure sought, and that it fell within Austria's choice of means to achieve its climate change goals ([33]).

The Climate Change Act 2008

80. The CCA places the following main obligations on the Defendant:[97]

(a) A duty under s.1 to "*ensure that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline*" (i.e. the 2050 Net Zero target);

(b) A duty under s.4 to set and to meet five-yearly carbon budgets (the carbon budgets set "*an amount for the net UK carbon account*" which must not be exceeded within the budget period);

(c) Those carbon budgets must be set "*with a view to meeting*" the s.1 target, and complying with the UK's international obligations (ss.5 and 8(2)); and,

[97] For a detailed exposition of Parts 1 and 2 CCA, see: *Friends of the Earth Ltd* (2023), [28]-[55].

(d) Duties under s.13 to prepare, and under s.14 to publish, proposals and policies for meeting the legislated budgets, with a view to meeting the 2050 target.

81. Part 2 establishes an expert advisory body in the form of the CCC. The CCC has a duty under s.36 to publish annual reports setting out progress towards meeting legislated budgets, and what further progress is required. The Defendant must then, by s.37(1), publish "*a response*" to the points raised in the CCC reports.

82. The CCA is limited to territorial emissions of specified GHGs (defined in s.24(1) CCA). "*[N]et UK emissions*" are defined as net emissions (i.e. emissions minus removals and credits: s.26-27) of the seven GHGs listed in s.92(1) CCA, insofar as they arise from sources or processes in the UK (s.29(1)) and UK coastal waters (s.89(1)). The amount of emissions must be determined consistently with international carbon reporting practice (s.29(2)); that is, as adopted by the UNFCCC, which adopts a territorial method for allocating emissions to states.

83. In one respect, however, the accounting methodology under the CCA is not limited solely to domestic emissions: ss.26-27 establish that the accounting basis under the CCA is the '*carbon unit*', and make provision to allow the Defendant to meet carbon budgets by purchasing units from carbon markets. Per s.27(1), the "*net UK carbon account*" (referred to in s.1) is the amount of net UK GHG emissions, reduced by the amount of carbon units credited to the UK, and increased by the amount of carbon units debited to the UK. The detail of which schemes are valid for this purpose is left to regulation. Section 11 places a duty on the Defendant to specify a limit on the use of carbon units for each budgetary period.

84. There is no duty in the CCA to review the 2050 target. There is only a power to do so, per s.2(1) CCA, where it appears to the Defendant that there have been significant developments in scientific knowledge about climate change, or European or international law or policy, that make it appropriate to do so (s.2(2)(a)); or when amending the list of GHGs or making provision about accounting for international aviation and shipping emissions (s.2(2)(b)).

85. Section 10 requires the Defendant and the CCC, when taking any decision or giving any advice in relation to carbon budgets, to take into account various factors listed in s.10(2)(a)-(i). These include "*(a) scientific knowledge about climate change"* and *"(b) circumstances at European and international level*". However, the majority of the factors listed in s.10(2) are ones that direct the Defendant and the CCC to consider factors relevant to feasibility and cost, for example (c), (d) and (e) refer to economic, fiscal and social circumstances respectively, raising issues such as impacts on economic competitiveness, taxation and public spending and fuel poverty. Accordingly,

while the relative weight to give to the various mandatory considerations will be a matter for the Secretary of State, the scheme of the CCA militates against the setting of carbon budgets solely or even mainly by reference to fair share or equity considerations.

E. POLICY AND IMPLEMENTATION

The UK's GHG reduction targets for territorial emissions

86. With a view to meeting the net zero target in s.1 CCA (100% by 2050 (formerly 80%)), the UK has a series of intermediate targets defined in its carbon budgets under the CCA and reflected in its NDCs:

(a) Under the Fifth Carbon Budget (made on 20 July 2016), the UK set an effective 2030 target of reducing emissions by 57% relative to 1990 levels (including emissions from international aviation and shipping (**'IAS'**)).[98] Importantly, the Fifth Carbon Budget was associated with the former 2050 target under s.1 CCA of 80% relative to 1990 levels, which was deemed to be consistent with the LTTG of 2°C.[99]

(b) Section 1 CCA was amended on 27 June 2019 to commit the UK to a Net Zero 2050 target, purportedly aligned with the 1.5°C.[100] Pursuant to that objective, the UK's 2030 NDC (published in December 2020, updated in September 2022) is a target of reducing GHG emissions by 68% by 2030 relative to 1990 levels (excluding IAS).[101]

(c) The Fifth Carbon Budget was not amended to account for the increased s.1 CCA objective or the 1.5°C LTTG. While considering it to be for the Government to decide whether to amend the Fourth and Fifth Carbon Budgets to be brought in line with the Net Zero 2050 target, the CCC advised that it was not "*necessary to reset these in law*" on the basis that "*[o]nce the NDC and Sixth Carbon Budget are set on the path to Net Zero, those will provde a clear target for UK emissions reduction over the coming decade*".[102]

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[98] The Carbon Budget Order 2016 SI/785/2016 [**CB/144-149**]. CCC, 'The Fifth Carbon Budget: The next step towards a low-carbon economy' (November 2015) (**'the Fifth Carbon Budget Report'**), pp 11, and 113 14. It is UN convention to report IAS emissions separately, but the Defendant sets its carbon budgets including IAS.
[99] Fifth Carbon Budget Report, p 53.
[100] The Climate Change Act 2008 (2050 Target Amendment) Order 2019 SI/1056/2019.
[101] UK Government, 'United Kingdom of Great Britain and Northern Ireland's Nationally Determined Contribution' (September 2022), pp 1, 4 and 8 **[CB/160, 163 & 167]**. See also: CCC, 'The Sixth Carbon Budget Report: The UK's path to Net Zero' (December 2020), pp 13, 16, 320, 414 and 428-429 [**SB/106, 109, 134, 167, 181-182**]. The 68% target is equivalent to 57% (relative to 2010 levels) and 42% (relative to 2019 levels). When IAS is included, the equivalent targets are 64% (1990), 54% (2010) and 39% (2019).
[102] Sixth Carbon Budget Report, p 15 **[SB/108]**.

(d) Under the Sixth Carbon Budget (adopted on 23 June 2021), the UK has an effective 2035 target of reducing emissions by 78% relative to 1990 levels (including IAS).[103] The equivalent target when IAS is excluded is 81% relative to 1990 levels.[104]

(e) Those targets were adopted pursuant to the advice of the CCC in "*The Sixth Carbon Budget– The UK's path to Net Zero*", dated December 2020 (**'the Sixth Carbon Budget Report'**) and the "*Impact Assessment for the sixth carbon budget*", published by the Department for Business, Energy and Industrial Strategy (**'BEIS'**), dated 16 April 2021 (**'the BEIS Impact Assessment'**).[105]

(f) On 30 January 2025, the UK submitted its 2035 NDC target to the UNFCCC. That target is to reduce emissions by 81% by 2035 relative to 1990 levels (excluding IAS) (**'the 2035 NDC'**).[106] The level of the 2035 NDC is broadly equivalent to the UK's 2035 target under the Sixth Carbon Budget (i.e. 78%) when IAS is included.[107] The 2035 NDC was based on advice from the CCC dated 26 October 2024 (**'the NDC Letter'**).

(g) In "*The Seventh Carbon Budget: Advice for the UK Government*", dated February 2025 (**'the Seventh Carbon Budget Report'**), the CCC advised the Defendant to set a target for the Seventh Carbon Budget to reduce emissions by 90% by 2040 (IAS excluded).[108] The equivalent target when IAS is included is 87%.[109] The Defendant must set the level of Seventh Carbon Budget by 30 June 2026 (s.4(2)(b)).

The Sixth Carbon Budget Report

87. In the Sixth Carbon Budget Report, the CCC recommended that the UK adopt the "*Balanced Net Zero Pathway*" for the sixth carbon budget of 2033-2037, one of four scenarios it analysed to reach Net Zero by 2050.[110]

88. In Chapter 7, the CCC set out why it considered the emissions reductions envisaged by the Balanced Net Zero Pathway to be "*an appropriate contribution from the UK towards the global goals of*

[103] The Carbon Budget Order 2021 SI/750/2021 **[CB/153]**. When compared to different base years, the 78% target is equivalent to 72% (relative to 2010 levels) and 63% (relative to 2019 levels): Sixth Carbon Budget Report, p 427 **[SB/180]**.
[104] When compared to different base years: 76% (2010); 67% (2019): Sixth Carbon Budget Report, p 427 **[SB/140]**.
[105] BEIS existed until 2023 when it was split to form the Department for Business and Trade, the Department for Energy Security and Net Zero (**'DESNZ'**) and the Department for Science, Innovation and Technology.
[106] Seventh Carbon Budget Report, pp 62 and 360 **[SB/831 & 886]**. The 81% target is equivalent to 71% (relative to 2010 levels) and 62% (relative to 2019 levels): CCC, "Letter: Advice on the UK's 2035 Nationally Determined Contribution (NDC)" (26 October 2024) (the **'NDC Letter'**), pp 1 and 4 (Table 1) **[SB/743 & 746]**.
[107] NDC Letter, p 6 **[SB/748]**.
[108] Seventh Carbon Budget Report, pp 60, 62 and 358 **[SB/829, 831 & 884]**. When compared to different base years, the 90% target is equivalent to 83% (relative to 2010 levels) and 78% (relative to 2019 levels).
[109] Seventh Carbon Budget Report, pp 60 and 62 **[SB/829 & 831]**.
[110] Sixth Carbon Budget Report, p 59 **[SB/128]**.

the Paris Agreement".[111] The CCC considered that the design of its scenarios reflected the principles in the Paris Agreement for the following reasons:

(a) As regards "*highest possible ambition*", the *"[s]cenarios are designed to reduce emissions as fast as reasonably possible, rather than making changes as late as possible, while still allowing the 2050 Net Zero target to be met."*[112]

(b) All scenarios represented considerable progression from the existing European Union NDC and the UK's previous carbon budgets.[113]

(c) The pathways were consistent with the principle of CBDR in that the net zero date of 2050 is "*around two decades earlier than when global GHG emissions reach Net Zero in emissions pathways assessed by the IPCC as limiting warming to 1.5°C (50% probability with no or low overshoot)*", which is *"consistent with the UK's responsibilities as a relatively rich country with a high historical contribution to climate change and high overseas consumption emissions footprint."*[114]

(d) The pathways in the report were consistent with the principle of respective capabilities. They were based on "*detailed bottom-up analysis"* which informed judgments on the "*feasible limits for ambitious but credible emissions reductions targets in the near-term."*[115]

89. The CCC set out why, in its view, the Balanced Net Zero Pathway was a "*fair and ambitious contribution"* to the global goals in the Paris Agreement. The CCC adopted what it called a "*hybrid*" and "*holistic*" approach, based upon the following premises (emphasis added):

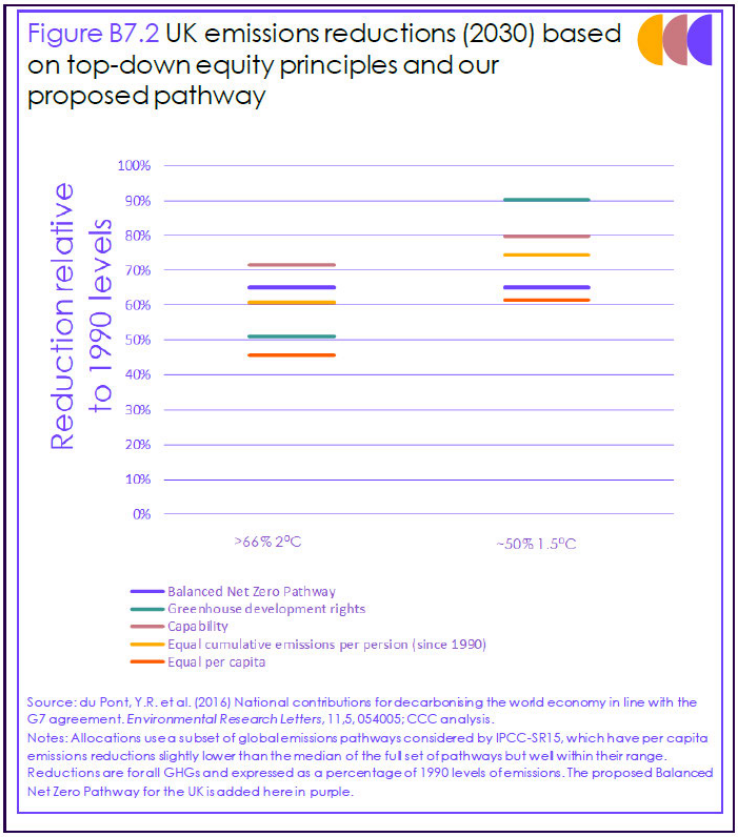
- *"**Recognising the need to go further than global averages.** We recognise that a robust result from top-down analyses is that a 'fair' contribution from the UK (alongside other developed nations) is to take responsibility for reducing emissions faster than needed from the world as whole to achieve the Paris Agreement long-term temperature goal (Box 7.2).*
- ***Using bottom-up modelling to test feasibility.** We use our bottom-up assessment to identify the credible limits of 'highest possible ambition' for UK (domestic) reductions that are likely to support the global efforts to rapidly reduce emissions and reach Net Zero globally. In practice, this will mean ambitious but still credible pathways to lead the development and deployment of actions to reduce emissions sooner than required from the world as a whole.*
- ***Considering all aspects of the UK's contribution to causing and tackling climate change.** We also recognise that some top-down allocation formulas suggest more ambitious emissions reductions than the Committee currently deems credible as the basis for legally binding targets. Therefore, we also consider additional contributions that the UK can make to reducing global emissions in the round to complement rapid domestic decarbonisation. This includes contributions through actions*

[111] Sixth Carbon Budget Report, p 315 [**SB/129**].
[112] Sixth Carbon Budget Report, p 319 [**SB/133**].
[113] Sixth Carbon Budget Report, p 319 [**SB/133**].
[114] Sixth Carbon Budget Report, p 320 [**SB/134**].
[115] Sixth Carbon Budget Report, p 319 [**SB/133**].

to reduce the UK's overseas consumption emissions and wider international climate policy, including climate finance, to support critical parts of the global decarbonisation transition."[116]

90. The CCC considered certain "*top-down equity principles*", noting that "*[t]erritorial emissions are only one part of a country's contribution*". The CCC further observed that the "*emissions reductions that a country is 'responsible' for*" under allocations formulas "*can be made up of domestic reductions but should also consider a country's wider contribution to tackling climate change through climate finance efforts and funding of emissions reduction through international carbon markets*". The CCC noted that "*[a]ctions such as funding development of a key low-carbon technology may only have a small direct impact on global emissions but could be a major contribution to the global effort to tackle climate change in the long-run.*"[117]

91. The CCC assessed the Balanced Net Zero Pathways against different measures of equity drawn from a study from Yann Robiou du Pont and others in relation to the LTTGs of 2°C and 1.5°C.[118] That assessment is reflected in the figure below:



92. Figure B7.2 demonstrates that the Balanced Net Zero Pathway reflected a level of ambition that is near the bottom of the equitable range for 1.5°C relied on by the CCC. The only equity

[116] Sixth Carbon Budget Report, p 322-323 [**SB/136-137**]..
[117] Sixth Carbon Budget Report, p 323 [**SB/137**].
[118] Sixth Carbon Budget Report, pp 323-324 [**SB/137-138**]. The methodology of the study of Dr Yann Robiou du Pont et al, and the effort sharing approaches in the fair share range in Figure B7.2, are explained in the witness statement of [redacted], [12]-[17] **[EB/XX]**.

measure that the Balanced Net Zero Pathway exceeds in relation to 1.5°C is equal per capita emissions (which is one of the most favourable measures for developed States). Further, the Balanced Net Zero Pathway is 8% points short of the average of the effort-sharing approaches associated with 1.5°C in the figure (75% by 2030).[119] That is despite the approaches relied upon by the CCC involving grandfathering and being relatively favourable to the UK.[120]

93. The CCC concluded that those "*high-level metrics*" demonstrated that the Balanced Net Zero Pathway was "*broadly aligned to global pathways for the Paris Agreement, including the 1.5°C goal*" and should be considered "*the minimum level of ambition for the transition to Net Zero*".[121] The CCC's conclusion on Paris Agreement appears to have been based upon the following premises:

    (a) The Paris Agreement goal under Article 2(1)(a) does not necessarily require global warming to be held to 1.5°C insofar as it is well below 2°C;

    (b) The UK's targets are more stringent than the global average emissions reductions required to achieve the 1.5°C LTTG (leaving aside considerations of equity);[122] and,

    (c) The UK's targets are consistent with achieving the LTTG of 2°C when considerations of equity are taken into account.

94. At no point did the CCC claim that the Balanced Net Zero Pathway is consistent with achieving the 1.5°C LTTG when equity considerations are taken into account. This was made explicit in the section "*Supporting global efforts to reduce emissions*", which indicated that the Balanced Net Zero Pathway is only consistent with holding global warming "*to the 1.5°C to 2°C corridor of the Paris Agreement long-term temperature goal*", when equity is taken into account.[123]

95. The corollary is that the CCC acknowledged that its pathway is insufficient to achieve the 1.5°C LTTG when equity considerations are taken into account. It observed (emphasis added):

> "*Keeping peak warming to below 1.5°C will likely require additional ambition beyond the 'leadership-driven scenario' outlined previously. This would require global Net Zero CO2 to be reached earlier (around 2050) and more rapid global emissions reductions on the path to Net Zero. […]*

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119 [redacted], [33] **[EB/XX]**.
120 [redacted], [14]-[17] **[EB/XX]**. See also [redacted], [82] (Figure 4) **[EB/XX]**.
121 Sixth Carbon Budget Report, p 325 **[SB/139]**.
122 Sixth Carbon Budget Report, p 325 **[SB/139]**. The CCC notes that (i) the UK's net zero date of 2050 was earlier than that required for the world to reach net zero in 1.5°C pathways (two decades earlier for aggregated GHGs; around 5 years earlier for CO2); and (ii) the GHG emissions reduction target of c.55% by 2030 (relative to 2010) envisaged by the Balanced Net Zero Pathway was higher than the global average of 45% reductions in the IPCC's SR1.5 NLO pathways.
123 Sixth Carbon Budget Report, pp 333-334 **[SB/147-148]**. In a similar vein, in the introduction to the Sixth Carbon Budget Report, the CCC stated: "*Comparable action from other developed countries, with developing countries following slightly later (i.e. where they generally adopt low-carbon measures later, achieve lower percentage reductions to 2030 and reach Net Zero emissions after 2050) would limit warming well below 2°C.*" (p 17) **[SB/110]**.

Further accelerations in domestic emissions reductions by developed regions beyond the levels in this scenario can only play a marginal role in delivering this additional ambition need for a fully 1.5°C aligned transition, due to the declining share of emissions they will comprise, although additional opportunities to reduce their emissions should be taken where they become feasible. For this ambition to be realised it will be essential for all mitigation actions to proceed immediately in all global regions with no significant space for differing dates of deployment across the world. Developed regions will need to provide additional support for this required global increase in effort."[124] (emphasis added)

96. The Sixth Carbon Budget Report went on to identify measures which the UK could take to provide that additional support and keep global warming to 1.5°C. Those included trade measures, capacity building, direct financial support and action on overseas supply chains to address "*overseas emissions 'embedded' within global supply chains of products consumed by the UK*".[125] The CCC considered that whilst international carbon units should not be used to achieve the Balanced Net Zero Pathway, they could be used to provide additional emissions reductions although "*capacity building and climate finance would likely have more benefits for sustainable development and transformational change towards deeper decarbonisation than funding through global carbon markets.*"[126]

The Department for Business, Energy and Industrial Strategy Impact Assessment

97. BEIS assessed what level of ambition could be considered cost-effective, fair and equitable under different effort-sharing approaches. That assessment is summarised in the table below:

Table 13: Illustrative 2035 UK contributions to global emissions reductions

UK effort-share, % reduction on 1990 in 2035 (exc. IAS)	Minimum global cost	Equal Cost	Contraction and Convergence	Capability	Global Carbon Budget	Weighted Global Carbon Budget
Well Below 2°C	63%	74%	68%	91%	99%	87%
1.5°C with no or low overshoot	76%	86%	80%	94%	106%	96%

98. When the accounting assumptions used in the BEIS Impact Assessment are applied to the Balanced Net Zero Pathway, it implies 84% reductions by 2035 on 1990 levels.[127] Excluding "*[m]inimum global cost*" on the basis that it does not reflect any principle of equity, the table demonstrates that the Balanced Net Zero Pathway only exceeds BEIS' assessment of *"contraction and convergence",* but envisages a lower level of emissions than all other assessed effort-sharing measures.[128] Further, the Balanced Net Zero Pathway falls 8% below the average of the effort-sharing approaches for 1.5°C represented in Table 13 (92% by 2035) (excluding

[124] Sixth Carbon Budget Report, p 338 [**SB/152**].
[125] Sixth Carbon Budget Report, p 341 [**SB/155**].
[126] Sixth Carbon Budget Report, pp 342-343 [**SB/157-158**].
[127] BEIS Impact Assessment, [151]. See also: [redacted] [24]-[25] **[EB/XX]**.
[128] [redacted], [26]-[27], [32] **[EB/XX]**.

minimum global cost).[129] That is despite each of those effort-sharing approaches being relatively favourable measures of equity from the perspective of developed States.[130]

99. Critically, BEIS recognised that the effort-sharing "*metrics do not necessarily imply emission reductions that are consistent with the UK's long-term net zero target*" (in that they would require reaching net zero before 2050).[131] BEIS observed that additional measures, supplementing the UK's domestic mitigation targets, would be required in order to align the UK's climate action with equity principles."[132] BEIS observed: *"These equity approaches therefore provide a guide for what an appropriate contribution from the UK would be to the global emission reduction, not all of which should necessarily be delivered through domestic emissions cuts."*[133]

The 2030 NDC

100. In December 2020, BEIS submitted the 2030 NDC to the UNFCCC. BEIS then submitted an updated 2030 NDC in September 2022 in light of the Glasgow Climate Pact and "*the urgency conveyed by the latest science*".[134] The 2030 asserts that the 2030 target of 68% emissions reductions relative to 1990 is aligned with the 1.5°C LTTG.[135] The development of the NDC was "*closely linked with the UK's domestic processes for delivery of the net zero commitment under the framework of the* [CCA]".[136] The 2030 NDC further notes:

(a) While the UK intends to meet its NDC target through territorial emissions reductions, "*it reserves the right to use voluntary cooperation under Article 6 of the Paris Agreement*".[137]

(b) The NDC is "*fair and ambitious contribution to global action on climate change*", having regard to the UK's target requiring the fastest rate of reduction in all major economies, the 1.5°C LTTG, the principle of equity, the latest available science, an analysis of domestic decarbonisation potential, the s.1 CCA target, and the CCC's guidance.[138]

(c) "*There is no international consensus on which indicators should be used, and so the UK considered a range of internationally recognised effort sharing metrics and took into account other independent assessments of the level of ambition of the UK's NDC*". The 2030 target envisages greater emissions reductions

[129] [redacted], [33] **[EB/XX]**.
[130] [redacted], [27]-[32] **[EB/XX]**.
[131] BEIS Impact Assessment, [152] **[SB/223]**.
[132] BEIS Impact Assessment, [146] **[SB/222]**.
[133] BEIS Impact Assessment, [152] **[SB/223]**.
[134] UK Government, 'United Kingdom of Great Britain and Northern Ireland's Nationally Determined Contribution' (September 2022), p 1 **[CB/160]**.
[135] 2030 NDC, p 1 **[CB/160]**.
[136] 2030 NDC, p 23**[CB/182]**.
[137] 2030 NDC, p 40**[CB/199]**.
[138] 2030 NDC, p 41**[CB/200]**.

than the median of IPCC NLO pathways and "*emissions per person in 2030 would be below 4tCO2e, which is a comparable level (3.5-4 tCO2e) to estimates for the global average implied by the IPCC's median pathways*" consistent with the 1.5°C LTTG. The 2050 Net Zero target is "*aligned with a least-cost global pathway*" to hold global warming to 1.5°C.[139]

(d) In relation to Article 4(4) of the Paris Agreement, "*[t]he UK recognises the importance of supporting developing country parties*" and has committed to provided £11.6bn in climate finance between 2021/2022 and 2025/26 (split between mitigation and adaptation).[140]

The CCC's advice on the 2035 NDC

101. On 26 October 2024, the CCC sent the Secretary of State a letter on 26 October 2024, recommending that the UK's NDC commits to reducing "*territorial [GHG] emissions by 81% from 1990 to 2035*" (excluding IAS).[141] The advice in the NDC Letter reflects that in the later Seventh Carbon Budget Report. Further, the NDC Letter explained that "*the ambition set out in this recommended NDC is consistent with the ambition that the UK Government is already committed to achieving*" in its 2030 NDC and Sixth Carbon Budget.[142]

102. The NDC Letter states that achieving the recommended 2035 NDC would be a "*fair and ambitious contribution to the Paris Agreement*", noting that *inter alia*:[143]

> "***• It reflects the UK's 'highest possible ambition'.*** *Our Seventh Carbon Budget pathway reflects the UK's 'highest possible ambition' that can be achieved under a deliverable pathway to Net Zero"*
> "***• It is a credible contribution towards limiting warming to 1.5ºC.*** *The recommended ambition would imply future total emissions reductions at least as fast as the global average under scenarios from the IPCC Sixth Assessment Report (AR6) that limited warming to close to 1.5ºC, with per capita emissions in line with the required global average by 2035 (Table 1). It is a stepping stone on an ambitious and deliverable pathway to Net Zero GHGs by 2050 – ahead of when global Net Zero is reached in IPCC scenarios that limit warming to close to 1.5ºC. Our recommended 2035 NDC sits within a range*

[139] 2030 NDC, pp 42-43[**CB/201-202**].
[140] 2030 NDC, p 44[**CB/203**].
[141] CCC, 'Letter: Advice on the UK's 2035 Nationally Determined Contribution (NDC)' (26 October 2024), pp 1 and 4 (Table 1) [**SB/743 & 746**].
[142] NDC Letter, p 5 [**SB/747**].
[143] NDC Letter, p 3 [**SB/745**].

of Paris-consistent equity metrics and the UK should complement domestic action by making a strong global contribution".[144] (emphasis added)

103. The analysis regarding the "*highest possible ambition"* reflects the CCC's feasibility assessment for territorial emissions. As to the *"credible contribution towards limiting warming to 1.5°C*":

(a) In respect of the statement that the recommended 2035 NDC is "*at least as fast as the global average*" under the AR6 1.5°C scenarios, Table 1 states that the recommended NDC is 2% more ambitious that the global averages under the AR6 relative to 2019.[145]

(b) The statement that the recommended 2035 NDC "*sits within a range of Paris-consistent equity metrics*" relies upon a study of Yann Robiou du Pont cited in the footnote (Robiou du Pont, Y. et al. (2017) *"Equitable mitigation to achieve the Paris Agreement goals"*. Nature Climate Change 7, 38–43). Based on that study, the footnote provides: *"Illustrative equity-based approaches suggest ambition in the range of a 71% to 109% reduction on 1990 levels for 1.5ºC scenarios and a 56% to 85% reduction on 1990 levels for well-below 2ºC scenarios.*"[146] The 2035 NDC falls at the lower end of the fair share range relied upon by the CCC.

104. The CCC recommended that the 2035 NDC "*should be complemented by commitments across all pillars of the Paris Agreement*" and, in order to *"demonstrate international leadership*", the Government should *inter alia* put forward "*[a]n ambitious and fair contribution towards the new collective quantified goal on climate finance pending its agreement at COP29*".[147] The NDC Letter later provides that "*[i]nternational climate leadership, as well as the UK's high historical responsibility for GHG emissions and relatively high consumption emissions requires more than an ambitious NDC target.*"[148]

The 2035 NDC

105. On 30 January 2025, the Defendant submitted the 2035 NDC to the UNFCCC.[149] The 2035 NDC asserts that the 2035 target is in line with the advice of the CCC and the Sixth Carbon Budget, and is "*a 1.5°C aligned*" target,[150] and the 2035 NDC is "*a fair and ambitious contribution to global action on climate change*".[151] In support of that, the 2035 NDC states:[152]

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[144] NDC Letter, pp 3-4 [**SB/745-746**].
[145] NDC Letter, p 4 [**SB/746**]. The differential is 16% when a base year of 2010 is used.
[146] NDC Letter, p 4 [**SB/746**].
[147] NDC Letter at p 1 [**SB/743**].
[148] NDC Letter, p 6 [**SB/748**].
[149] UK Government, 'United Kingdom of Great Britain and Northern Ireland's 2035 Nationally Determined Contribution' (January 2025) [**CB/207-280**].
[150] 2035 NDC, p 1 (see also p 63) [**CB/212**].
[151] 2035 NDC, p 63 [**CB/343**].
[152] 2035 NDC, pp 63-65 [**CB/343-345**].

(a) The 2035 target was determined taking into account the 1.5°C LTTG and principles of equity, CBDR and respective capabilities, noting: "*There is no international consensus on which indicators should be used, and so the UK considered a range of internationally recognised effort sharing metrics and took into account other independent assessments of the level of ambition of the UK's NDC*".

(b) The target is on a trajectory to net zero by 2050, which is consistent with cost-effective 1.5°C pathways and exceeds the global average emissions reductions by 2035.

(c) The target implies that "*UK per capita emissions would remain in line with the required global average*" in 2035 implied by IPCC median pathways consistent with the 1.5°C.

(d) In relation to Article 4(3) of the Paris Agreement, the target represents the UK's "*highest possible ambition*", in line with the CCC's advice, and is a clear progression from 2030.

(e) In relation to Article 4(4) of the Paris Agreement, the 2035 NDC recognises the importance of supporting developing States to strengthen their NDCs. In particular: "*The UK is committed to delivering climate finance to keep 1.5°C alive in line with our international commitments. This is why we are honouring the existing commitment to spend £11.6bn in International Climate Finance between April 2021 and March 2026"*. Between April 2011 to March 2024, *"it is estimated that the UK's International Climate Finance (ICF) programmes have reduced or avoided 105 million tonnes of* [GHG]".

The Seventh Carbon Budget Report

106. The CCC's advice in the Seventh Carbon Budget Report was informed by an "*updated Balanced Pathway*" to reach Net Zero by 2050.[153] The updated Balanced Pathway is similar in ambition to the Balanced Net Zero Pathway in the Sixth Carbon Budget Report.[154]

107. In Chapter 10, the CCC unpacked its claim that the updated Balanced Pathway "*represents a fair and ambitious contribution to global efforts to tackle climate change*" and that it is a "*credible*

[153] Seventh Carbon Budget Report, pp 41 and 43 [**SB/810 & 812**].
[154] Seventh Carbon Budget Report, pp 64-65 [**SB/833-834**].

contribution" to limiting global warming to 1.5°C.[155] The CCC assessed the Balanced Pathway against its interpretation of the key principles in the Paris Agreement. It assessed: [156]

(a) The Balanced Pathway "*reflects the UK's 'highest possible ambition' that can be achieved under a deliverable pathway to Net Zero*", reflecting the CCC's assessment of domestic feasibility.

(b) As regards the principles of CBDR and respective capabilities, "*developed countries […] should take a lead*" and "*capability to reduce emissions depends on wealth, development needs, and country-specific sources of emissions*". Against that, "*emissions reductions in the UK would be towards the top end of the range of emissions reductions committed to* [by] *comparable economies*".

(c) "*[C]limate action should be informed by up-to-date scientific evidence and analysis*" and that the Balanced Pathway follows the latest science from the IPCC.

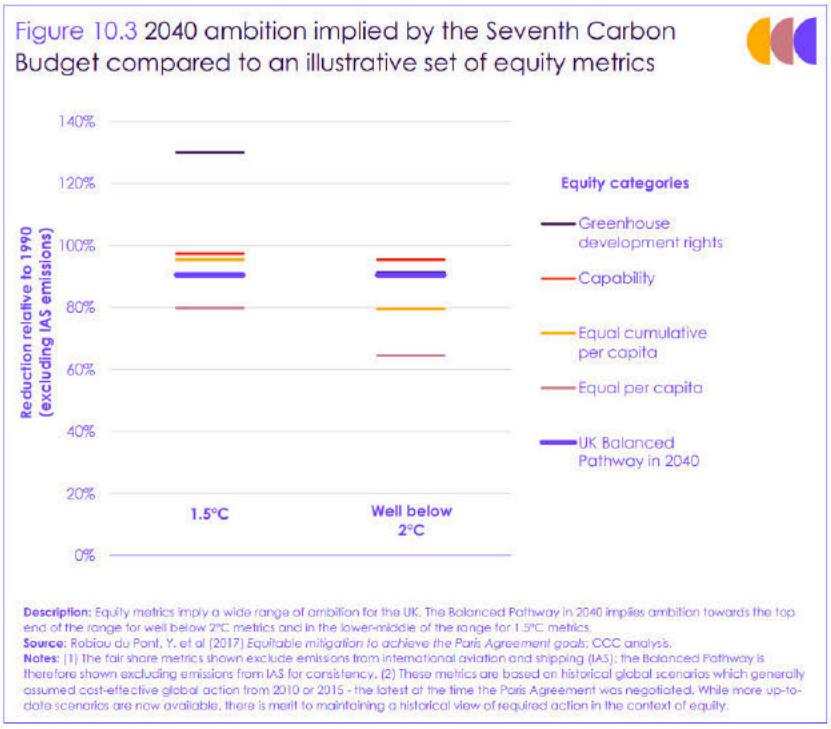
(d) "*[T]he Balanced Pathway represents a credible contribution towards limiting warming to 1.5°C*".

108. The CCC set out a series of further justifications as regards the purported alignment of the Balanced Pathway with the 1.5°C LTTG. The first was that "*[t]he Balanced Pathway implies reductions in UK GHG emissions at least as fast as the global average under 1.5°C scenarios, on various baselines."*[157] Table 10.1 set out that the Updated Balanced Pathway envisages 17% greater emissions reductions than the global average in 1.5°C scenarios (relative to a 2010 baseline) and 9% greater emissions reductions (relative to a 2019 baseline).[158]

109. The second justification was that "*UK emissions per capita would be below the global average in cost-effective 1.5°C scenarios".*[159] However, Figure 10.2 in the Seventh Carbon Budget Report shows that the UK's emissions under the updated Balanced Pathway will exceed the emissions aligned with an equal per capita approach until some point between 2030 and 2035.[160]

110. Third, the CCC justified the Balanced Pathway by reference to a range of equity metrics:[161]

[155] Seventh Carbon Budget, p 354 [**SB/880**].
[156] Seventh Carbon Budget, pp 355-356 [**SB/881-882**].
[157] Seventh Carbon Budget Report, p 356 [**SB/882**].
[158] The extent of the difference between the UK's targets and the global average are significantly greater in Table 10.1 than they are in Table 1 of the NDC Letter for the UK's 2035 NDC. It is unclear why that is the case.
[159] Seventh Carbon Budget Report, p 357 [**SB/883**].
[160] [redacted], [21]-[23] [**EB/XX**].
[161] Seventh Carbon Budget Report, p 359 [**SB/385**].



111. The equity metrics relied upon in Figure 10.3 were drawn from the study of Yann Robiou du Pont relied upon in the NDC Letter.[162] On the basis of those equity metrics, the CCC noted:

> *"The reductions implied by the Balanced Pathway in 2040 are within the range of an illustrative set of equity metrics (Figure 10.3). These metrics - reflecting several interpretations of a country's equitable contribution - are often interpreted to reflect a country's global contribution, not just their domestic emissions pathway. The ranges for metrics aligned with 1.5°C and well below 2°C emphasise the need for the UK to continue to make a broader contribution than domestic mitigation alone".*[163]

112. The aforesaid demonstrates that the updated Balanced Pathway reflects a level of ambition that is at the lower end of the equitable range set out in the Seventh Carbon Budget Report. As with the Sixth Carbon Budget Report, the only equity measure the Balanced Pathway exceeds in relation to 1.5°C is equal per capita.[164] The updated Balanced Pathway also falls 10% below the average of the effort-sharing approaches for 1.5°C represented in Figure 10.3 in the Seventh Carbon Budget Report (100% by 2040).[165] That is, again, despite all the effort-sharing approaches relied upon by the CCC involving grandfathering and being relatively favourable to developed States.[166]

113. The final sentence in the above extract confirms that the CCC recognises that it is insufficient for a State to exceed the amount of reductions at the least stringent end of its

[162] The study was relied upon in the NDC Letter of October 2024 in evaluating the fairness of the UK's 2035 NDC: [redacted]

[163] Seventh Carbon Budget Report, p 357 **[SB/883]**.

[164] [redacted] [32]-[33] **[EB/XX]**.

[165] [redacted] [33] **[EB/XX]**.

[166] [redacted] [14]-[17], [19] **[EB/XX]**.

equity range – otherwise there would be no need "*to make a broader contribution than domestic mitigation alone*". Reflecting that, one of the "*Key Messages*" in Chapter 10 was that "*UK domestic emissions reduction should be complemented by strong contributions to international efforts, supporting global action on climate through all available avenues*".[167] Elsewhere, the CCC stated that "*UK action to support the global transition to Net Zero must go beyond domestic emissions reduction*".[168] The CCC highlighted that *inter alia* the following "*should be considered*":

(a) "*International climate finance*": "*The UK Government should also set out an ambitious and fair contribution to the new global climate finance goal agreed at COP29*" and "*should leverage its position as a global financial hub to support a wider mobilisation of public and private climate finance"*.[169]

(b) "*Collaborating to reduce supply chain and imported emissions […] and UK-based businesses acting to reduce emissions across their whole value chain*".[170]

114. Finally, the CCC noted that *"[w]hile international credits should not be part of the UK's decarbonisation plan at this stage, there are potential future circumstances which might warrant their consideration"* in terms of leading to "*genuinely additional and permanent emissions reduction*".[171]

The CAT *and Rajamani et al.* assessments of the UK's targets

115. The CAT's fair share assessment indicates the level of ambition required by the UK to achieve the 1.5°C LTTG, on the assumption that other States pursue equivalent levels of ambition on their respective fair share ranges under the CAT (as per the methodology explained at paragraph 29 above). According to the CAT, the UK's targets for 2030, 2035 and 2050 would result in global warming between 2 and 3°C (66% probability) by 2100 if all countries were to set targets of an equivalent level of ambition.[172] The CAT thus observes, on its website, that *"[t]he UK's target is at the least stringent end of what would be a fair share of global effort and is not consistent with the 1.5°C limit, unless other countries make much deeper reductions and comparably greater effort"*.[173]

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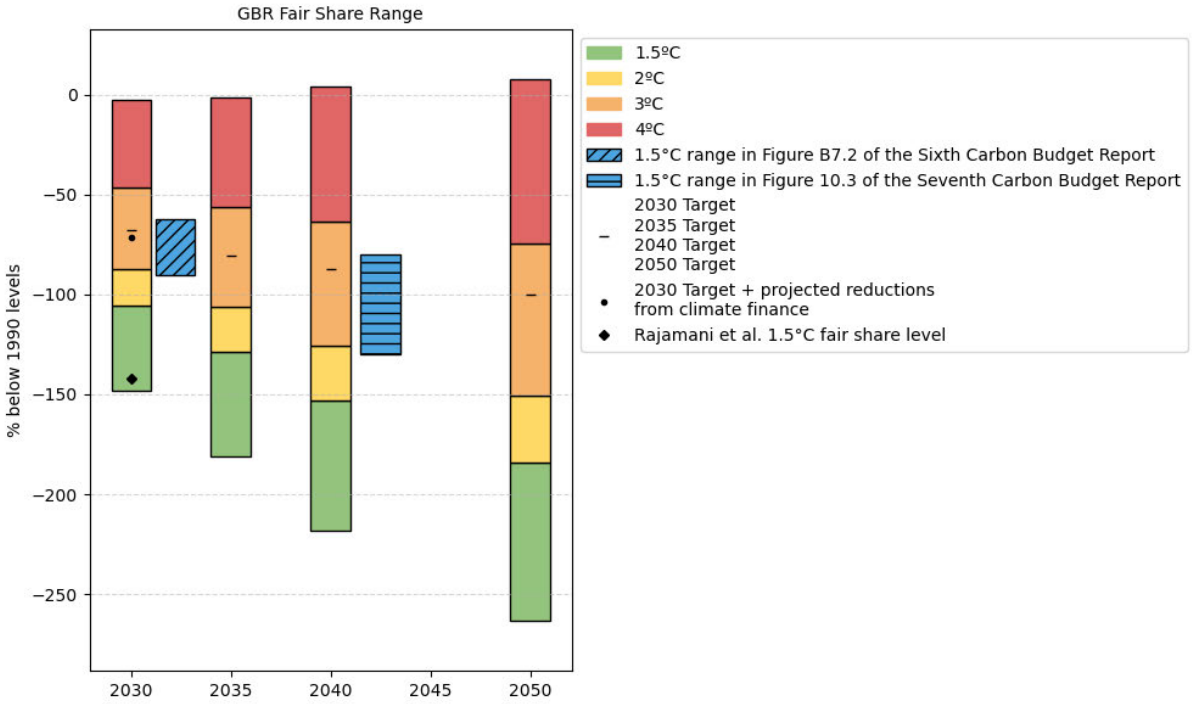
[167] Seventh Carbon Budget Report, p 354 [**SB/880**].
[168] Seventh Carbon Budget Report, p 360 **[SB/886]**.
[169] Seventh Carbon Budget Report, p 360 **[SB/886]**. At COP15 in 2009, developed States committed to a collective goal of mobilising USD 100 billion per year from a variety of sources by 2020 to address the mitigation needs of developing States (UNFCCC, 'Decision 2/CP.15 Copenhagen Accord' (18 December 2009), at § 8). At COP 21 in Paris, the deadline was extended to 2025. A new climate finance goal (the New Collective Quantified Goal; **'NCQG'**) was agreed at COP 29. Under the NCQG, developed States have committed to take the lead in providing USD 300 billion of climate finance per year to developing countries by 2035 (UNFCCC, 'Decision -/CMA.6 New collective quantified goal on climate finance' (24 November 2024)).
[170] Seventh Carbon Budget Report, p 361 **[SB/887]**.
[171] Seventh Carbon Budget Report, pp 361-362 **[SB/887-888]**.
[172] [redacted] [82]-[85] (Figure 4) **[EB/XX]**. See also: 'United Kingdom (Summary)' (CAT, accessed 26 January 2026).
[173] 'United Kingdom (Targets)' (CAT, accessed 26 January 2026).

116. To achieve a level of ambition consistent with 1.5°C, the UK would need to achieve emissions reductions of at least 105% below 1990 levels by 2030, 129% by 2035, 153% by 2040 and 184% by 2050 (provided all other countries pursued an equivalent level of ambition according to their respective fair share ranges).[174] The above assessments are reflected in the figure below:



117. The figure also demonstrates the leniency of the effort-sharing ranges relied upon by the CCC in Figure B7.2 of the Sixth Carbon Budget Report and Figure 10.3 of the Seventh Carbon Budget Report. When those ranges are set against the CAT fair share range, one can see that almost of the entirety of effort-sharing approaches featured in the CCC ranges are consistent with <3°C global warming.[175]

118. In terms of how the shortfall between the UK's territorial emissions reduction targets and the 1.5°C-compatible segment on its CAT fair share range could be overcome, the CAT considers that *"[s]ome of these additional reductions can be achieved domestically*", but that "*[w]here further emissions reductions are not possible, the UK would need to support climate action in other countries, particularly through capacity building, technology transfer and climate finance. Without this, the UK cannot be seen to be aligned with the Paris Agreement's commitment to reflect 'equity and the principle of common but differentiated*

[174] [redacted] [86] **[EB/XX]**. The figure of 124% cited in the PAPL was taken from [redacted], 'Are G20 Countries Doing their Fair Share of Global Climate Mitigation?' (Oxfam Discussion Papers, September 2023), p 5. With the benefit of expert evidence, the Claimants confirm that 105% is the correct and up-to-date figure.
[175] [redacted], [82] (Figure 4) **[EB/XX]**.

responsibilities' in climate action."[176] As discussed below, the UK is not bridging the gap between its emissions targets and its CAT fair share through climate finance.

119. It follows from the CAT's assessment of the UK's mitigation ambition that if global warming is going to be held to 1.5°C, other States will have to significantly exceed the "*1.5°C Paris Agreement Compatible*" level on their CAT fair share ranges to compensate for the shortfall in the UK's mitigation ambition.[177]

120. According to the Rajamani Study, the UK's GHG targets fall even further below its fair share of the global emissions reduction burden consistent with 1.5°C. On that analysis, the UK would need to achieve reductions globally equivalent to reducing its domestic emissions by 142% below 1990 levels by 2030.[178]

Carbon credits, climate finance and measures of international cooperation

121. To date, the only regulations made under s.26 and s.27 CCA (Carbon Accounting Regulations 2009 SI/1257/2009 **[CB/123-143])** relate to carbon units associated with (i) commitment periods under the Kyoto Protocol (which have expired) and (ii) the EU Emissions Trading Scheme (which the UK has left). The Defendant has accepted the CCC's advice that the UK should aim to meet its targets under the CCA through reduction of domestic emissions, not the purchase of international credits.[179] The carbon unit mechanism under ss.26-27 CCA is, therefore, effectively dormant.

122. In 2019, the UK committed to providing at least £11.6 billion of international climate finance from 2021/2022 to 2025/2026.[180] That commitment is split between mitigation and

[176] 'United Kingdom (summary)' (CAT, accessed 26 January 2026). See also: 'United Kingdom (2035 NDC)' (CAT, accessed 26 January 2026); [redacted] [80]-[81], [87] **[EB/XX]**.

[177] The [redacted] report illustrates the repercussions of the UK failing to meet its fair share by showing the amount Germany would need to exceed the "*1.5°C Paris Agreement compatible*" level on its CAT fair share range (i.e. 47%) to compensate for the gap between the UK's domestic target and the 1.5°C compatible level on its fair share range: [redacted] [87]-[88] (Figure 5) **[EB/XX]**.

[178] [redacted] [86]**[EB/XX]**. See also: The Rajamani Study, p 997 **[SB/337]**.

[179] Sixth Carbon Budget Report, pp 342-343 **[SB/157-158]**; Seventh Carbon Budget Report, pp 361-362 **[SB/887-888]**. The CCC has not advised against the UK using carbon credits to achieve additional emissions reductions to its domestic emissions reductions.

[180] 2035 NDC, p 65 **[CB/276]**. See also: [redacted] [80] **[EB/XX]**.

adaptation.[181] The UK has not committed to increasing its climate finance commitment following the agreement of the NCQG, as recommended by the CCC.[182]

123. The Defendant has estimated that the UK's international climate finance between April 2011 to March 2024 has reduced or avoided approximately 105 million tonnes of greenhouse gas emissions.[183] If the UK continues to provide an equivalent level of climate finance to 2030 as it spent between 2021/2022 to 2025/2026, that would result in approximately 182 $MtCO_2e$ of emissions reductions.[184]

124. Adding emissions reductions achieved (and projected to be achieved) through the provision of climate finance does not materially change the assessment of the adequacy of the UK's overall emissions reductions under the CAT fair share methodology. As illustrated in the figure above, even when a projection of the emissions reductions to be achieved by the UK through climate finance by 2030 is accounted for, the UK's emissions reductions remain consistent with global warming between 2 and 3°C by 2100.[185] On its website, the CAT thus observes that the UK's climate finance *"contributions to date have been far below its fair share*" and *"[t]o improve its rating the UK needs to increase climate finance substantially."*[186]

The UK's imported consumption emissions and policies

125. The UK's imported consumption emissions have risen by 28% since 1990 (and 56% since 1996).[187] As the CCC has observed: *"[e]missions associated with imports are similar in magnitude to territorial emissions and are therefore a significant part of the UK's contribution to climate change*".[188] The UK's overall consumption emissions have fallen at a significantly slower rate than territorial emissions and now exceed territorial emissions precisely "*because emissions associated with imports*

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[181] House of Common Library, 'The UK and the US$100 billion climate finance goal' (11 July 2024), p 10 **[SB/738]**. International climate finance can take the form of grants, loans, guarantees, bilateral funding or contributions to multinational climate finance funds, such as the Green Climate Fund or the Global Environment Facility.
[182] BBC, 'Huge COP29 climate deal too little too late, poorer nations say' (24 November 2024) **[SB/751-760]**; Seventh Carbon Budget Report, p 360 **[SB/886]**.
[183] 2035 NDC, pp 65-66 **[CB/276-277]**.
[184] [redacted] [80] **[EB/XX]**.
[185] [redacted] 82] (Figure 4) **[EB/XX]**.
[186] 'United Kingdom (Summary)' (CAT, accessed 26 January 2026) **[SB/995-1001]**. An ODI 2022 working paper also assessed that the UK's climate finance commitments and its anticipated level of provision in 2025 ($3.7 billion) will only account for 63% of the UK's fair share of the previous climate finance goal of USD 100 billion ($5.84 billion): [redacted] et al, 'A fair share of climate finance? An appraisal of past performance, future pledges and prospective contributors' (ODI, June 2022), at p 9 **[SB/353]**.
[187] [redacted] [6.5] **[EB/XX]**; "Official Statistics: Carbon footprint for the UK and England to 2022"" (DEFRA, updated 15 May 2025) **[SB/917-931]**.
[188] Seventh Carbon Budget Report, at p 375 **[SB/901]**. See also: [redacted] [6.2]-[6.6] **[EB/XX]**.

exceed those from exports".[189] The CCC has predicted that the UK's imported consumption emissions may exceed territorial emissions by 2038 to 2042.[190]

126. In line with the dynamic outlined at paragraphs 34-36 above, the UK has become a net-importer of emissions affected by carbon leakage. This trend has been driven by a combination of a general growth in global trade, the outsourcing of domestic manufacturing, and increased and unmanaged domestic consumption and demand for imported carbon intensive goods and services.[191] Reductions in the emissions intensity of trading partners' production have been more than offset by increased demand for imported goods and services from UK consumers.[192] In light of the aforesaid, [redacted] observe: "*[U]nmanaged UK demand for imported goods and services is continuing to contribute towards global emissions increases by shifting the responsibility of emissions intensive production to other countries, undermining progress towards staying withing a global carbon budget that is Paris-compliant.*"[193]

127. Owing to the significance of imported consumption emissions to the UK's carbon footprint and the risks of carbon leakage, various experts, Parliamentary and Governmental bodies have recognised that the Government needs to take further action to reduce its imported consumption emissions.[194] As far back as 2012, the House of Commons Select Committee on Energy and Climate Change stated its concern that "*the UK could be meeting its domestic carbon budgets at the expense of the global carbon budget*", and recommended that the Government "*no longer rely exclusively on territorial emissions as their primary policy driver*" and "*explore the options for setting emissions targets on a consumption-basis*".[195]

128. In the Sixth Carbon Budget Report, the CCC advised that *"the UK must also reduce its consumption emissions*" and that *"[r]educing [territorial] emissions in the UK must not be at the expense of exporting jobs and emissions overseas."*[196] The CCC concluded that "*the UK can and should aim to reduce its overseas consumption footprint as part of its contribution to reducing global emissions*", "*[a]s UK territorial emissions decline […] the overseas emissions associated with UK consumption will become an ever more*

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[189] 2024 Progress Report, at p 29 **[SB/724]**. See also: [redacted] [6.2]-[6.5] **[EB/XX]**.
[190] Seventh Carbon Budget Report, at p 375 **[SB/901]**.
[191] [redacted] [6.1] and [6.8] **[EB/XX]**.
[192] [redacted] 6.9] **[EB/XX]**.
[193] [redacted] [6.9] **[EB/XX]**.
[194] [redacted] [10.1]-[10.23] **[EB/XX]**. See also: 'Introduction of a UK carbon border adjustment mechanism from January 2027: Consultation' (HM Treasury, 21 March 2024), at p 13 **[SB/709]**; 'Net Zero Strategy: Build Back Greener' (BEIS and DESNZ, 19 October 2021), at p 296; 'Net Zero Review – Analysis exploring the key issues' (HM Treasury, October 2021), at pp 40-41; House of Commons Select Committee on Energy and Climate, *Consumption-Based Emissions Reporting* (HC 2010-12 1646).
[195] *Consumption-Based Emissions Reporting*, at pp 35-37. See also: [redacted] [10.1]-[10.9] **[EB/XX]**.
[196] Sixth Carbon Budget Report, at p 19 **[SB/112]**.

important part of the UK's contribution to climate change", and that *"there are several levers available to the UK to help tackle its consumption emissions footprint to support its domestic efforts.*"[197] The CCC also developed an exploratory scenario, which found that to be compatible with the LTTG of well below 2°C, the UK's imported consumption emissions would be expected to fall by 75% by 2050 (relative to 1990 levels), compared to 15% in a current ambition scenario.[198]

129. In the Seventh Carbon Budget Report, the CCC highlighted that "*[t]here are significant climate benefits to addressing emissions from imports*", namely: (i) "*Limiting carbon leakage*" so as to "*prevent the UK's strong domestic climate policy from being undermined by increased emissions elsewhere, while helping to ensure competitiveness for UK industry*"; (ii) "*Driving global emissions reductions*" by supporting the growth of low-carbon markets; and (iii) "*Demonstrating leadership*".[199] The CCC recommended that the Government set a "*non-legally binding benchmark on imported emissions as a supplementary aim alongside the territorial emissions targets*", aligned with the 1.5°C LTTG, in order to set a clear direction for policymakers. The CCC noted that, where appropriate, the benchmark could be accompanied by specific quantitative targets.[200] The CCC recommended that the Government should explore a series of measures to address priority sources of imported consumption emissions, such as carbon border adjustment mechanisms, product standards, resource efficiency, low-carbon public procurement and multinational partnerships.[201]

130. Notwithstanding, the UK's climate change framework does not address the UK's rising imported consumption emissions and the associated risks of carbon leakage, thus obscuring the true climate impact of domestic demand and consumption.[202] The trajectory of the UK's imported consumption emissions are incompatible with the 1.5°C LTTG, the Defendant has not set any economy-wide targets or benchmarks for imported consumption emissions, and the vast majority of the UK's imported consumption emissions are not covered by any comprehensive regulation.[203]

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[197] Sixth Carbon Budget Report, at p 344 **[SB/158]**. In its 2023 Progress Report, the CCC recommended that "*[t]he Government should outline the UK's future ambitions on reducing consumption emissions*": 2023 Progress Report, at p 417 **[SB/568]**.
[198] Sixth Carbon Budget Report, at pp 348-349 **[SB/162-163]**. See also: [redacted] [10.11]-[10.12] **[EB/XX]**.
[199] Seventh Carbon Budget Report, at p 378 **[SB/904]**.
[200] Seventh Carbon Budget Report, at pp 378-379 **[SB/904-905]**. See also: [redacted] [10.19]-[10.20] **[EB/XX]**.
[201] Seventh Carbon Budget Report, pp 380-384 **[SB/906-910]**. Similarly, see: Sixth Carbon Budget Report, p 347 **[SB/347]**.
[202] [redacted] [11.14]-[11.18] **[EB/XX]**.
[203] [redacted] [11.10]-[11.26] **[EB/XX]**.

The UK's fossil fuel production

131. The UK's approach to fossil fuel production has long been underpinned by the "*principal objective*" of "*maximising the economic recovery of UK petroleum*" (s.9A(1), Petroleum Act 1998).[204] The longstanding view of the Government and Oil and Gas Authority (**'OGA'**) was that that objective was compatible with the UK's domestic Net Zero target.[205]

132. The framework regulating the emissions stemming from fossil fuel production was principally comprised of:

(a) The North Sea Transition Deal (**'NSTD'**), which only set targets to reduce production-based emissions (so-called scope 1 and 2 emissions).[206]

(b) The "*Climate Compatibility Checkpoint Design*" (**'the Checkpoint'**). The Checkpoint set out three tests to be considered before launching new oil and gas licensing rounds, which concerned (i) the performance of the UK oil and gas industry against the NSTD targets, (ii) the production emissions of the industry compared to global producers, and (iii) whether the UK would remain a net-importer of oil and gas.[207]

133. The UK has historically been a significant fossil fuel producer. It is estimated that the UK Continental Shelf has produced nearly 50 billion barrels of oil and gas (**'boe'**), equivalent to nearly 20 billion tCO2 which is equivalent to nearly half of global CO2 emissions or over 50 years' worth of UK territorial CO_2 emissions.[208] While the UK's North Sea basin is in terminal decline, shifts in Government policy resulted in production remaining steady or marginally increasing in years following 2014.[209] Since 2021, the NSTA has offered 85 licenses for oil and gas fields (through its in its 33rd Offshore Licensing Round, beginning in 2022), and some 10 approvals have been granted.[210]

134. At the time, the CCC commented that, while the UK is a net importer of fossil fuels, "*the extra oil and gas extracted will support a larger global market overall*".[211] In the 2023 Progress Report, the CCC assessed that the "*[e]xpansion of fossil fuel production is not in line with Net Zero*". The CCC

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[204] See also: Oil and Gas Authority, 'The OGA Strategy' (11 February 2021), [2] **[SB/XX]** and [redacted] [7.7] **[EB/XX]**.
[205] *R (Greenpeace and Uplift) v SSENZ* [2023] EWHC 2608 (Admin), [71]-[73] (Holgate LJ (as he then was)); OGA Strategy; Department for Business, Energy and Industrial Strategy, Climate Compatibility Checkpoint Design (September 2022) [**SB/1091**], at p 4; [redacted] [7.12] [**EB/XX**].
[206] Department for Business, Energy and Industrial Strategy and OGUK, North Sea Transition Deal (March 2021) at p 25 [**SB/210**]; [redacted] [7.10] [**EB/XX**].
[207] Checkpoint, pp 8-9 [**SB/1023-1024**]; [redacted] [7.13] **[EB/XX]**.
[208] Uplift, 'UK faces unique opportunity to prevent 1.5 billion tonnes of CO2 emissions from the North Sea' (12 December 2024) [**SB/761-769**]; [redacted] [7.3] [**EB/XX**].
[209] 'United Kingdom' (IEA, accessed 31 July 2025); PGR 2023, p 3 [**SB/640**]; [redacted] [7.3] [**EB/XX**].
[210] 'Licensing rounds' (NSTA); [redacted] [7.16]-[7.17] [**EB/XX**].
[211] CCC OG Letter, pp 1 and 4-5 [**SB/684, 687-688**].

noted that "*[t]he UK will continue to need some oil and gas until it reaches Net Zero, but this does not in itself justify the development of new North Sea fields.*"[212] The CCC recommended *inter alia* that the Defendant should develop tests "*underpinned by a presumption against exploration and tighter limits on production, be assessed against more ambitious decarbonisation targets*".[213]

135. In the 2024 Progress Report, the CCC identified as a priority action the need to "*[l]imit expansion of fossil fuel production*" in line with the commitment made at COP28 Global Stocktake to accelerate the transition away from fossil fuels, noting that:

> *"As a developed country with a binding commitment to transition to Net Zero, the UK should reassess whether further exploration for new sources of fossil fuels is aligned to the UNFCCC principle of Common but Differentiated Responsibility and the Global Stocktake"*[214]

136. The previous Government declined to follow the CCC's recommendations.[215] Recently, there have been two significant policy developments.

137. First, following the Supreme Court's judgment in *Finch* and the publication of the guidance '*Environmental Impact Assessment (EIA) – Assessing effects of downstream scope 3 emissions on climate*' in June 2025 (the **'EIA Guidance'**), it is now established that EIAs for extractive projects must describe the effect on the climate of the combustion of fossil fuels to be produced in the project (including resultant Scope 3 emissions).[216] The EIA Guidance provides that: when estimating downstream emissions, there should be "*a (rebuttable) presumption that all produced hydrocarbons over the lifetime of a project will eventually be combusted*"; estimates must reflect the highest anticipated hydrocarbon production; project emissions should be assessed against global and national climate targets; and developers need to provide evidence in order to rely on substitution in contextualising scope 3 emissions.[217] However, the EIA Guidance offers no clear methodology for assessing the significance of the emissions from oil and gas developments.[218]

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[212] 2023 Progress Report, p 15 [**SB/566**].
[213] 2023 Progress Report, p 392 [**SB/567**]. See also: CCC OG Letter, p 1 **[SB/684]**.
[214] 2024 Progress Report, p 95 [**SB/731**]. See also: Seventh Carbon Budget Report, p 363 [**SB/889**] and [redacted] [6.4] [**EB/XX**] (citing the equivalent recommendation from the CCC's 7CB Advice in 2025).
[215] For example, see: Response to 2023 Progress Report, pp 47-48 [**SB/570-571**].
[216] As for the requirement to conduct an EIA, see: Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020 (SI/2020/1497), regulation 4; Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (SI/2017/571).
[217] DESNZ, 'Environmental Impact Assessment (EIA) – Assessing effects of downstream scope 3 emissions on climate' (June 2025), at pp 9-10 and 12 [**SB/1089-1090, 1092**]; [redacted] [7.20]-[7.24] [**EB/XX**].
[218] [redacted] [7.22]-[7.24] [**EB/XX**].

138. The EIA requirement is, moreover, only one component of the regulatory framework. When making decisions on whether to grant consent, the environmental effects of a project will be weighed against other considerations.[219]

139. Second, in November 2025, the UK Government published the North Sea Future Plan (**'NSFP'**).[220] The NSFP states: '*Scientific evidence from the* [IEA], [UNEP], *and* [IPCC] *shows that new fossil fuel exploration risks exceeding the 1.5°C threshold.*"[221] Based on that evidence, the NSFP contains an important new commitment not to issue licenses to explore new fields. However, it does allow for new production consents in existing licensed fields.[222] The UK's position thus conflicts with the recommendation of the IEA that there should be no new oil and gas development (also accepted by UNEP).[223]

140. The discrepancy between potential fossil fuel production under the UK's current policy, and under a policy aligned with the IEA evidence, is very significant. There is an estimated 7.1 Bln boe in currently unsanctioned reserves and resources in licensed fields; that is, that could be extracted and combusted under the UK's current policy, but not under an IEA-compliant scenario. That is more than double the amount that could potentially be extracted under currently sanctioned production (3 Bln boe); that is, the amount available in an IEA-compliant scenario. If combusted, the potential additional production is equivalent to an additional 2.9 $GtCO_2$ emissions (to the 1.2 $GtCO_2$ for sanctioned production). That is equivalent to more than 9 years' worth of domestic UK CO_2 emissions.[224]

F. THE GROUNDS

141. The Claimants' ground of review is this: the UK's climate change framework, for which the Defendant is responsible, is incompatible with its overarching duty under Article 8 to adopt and apply effective measures to mitigate climate change in a manner consistent with the 1.5°C LTTG.

142. The Claimants identify below three flaws and/or lacunae in the climate change framework which, taken individually and/or cumulatively, result in the Defendant exceeding his margin of appreciation and breaching Article 8 and his duty under s.6(1) HRA. In sum:

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[219] The EIA Guidance, at p 15 **[SB/1095]**; [redacted] [7.21] **[EB/XX]**.
[220] DESNZ (2025). Building the North Sea's Energy Future: consultation document. Department for Energy Security and Net Zero. March 2025.
[221] DESNZ, 'North Sea Future Plan' (November 2025), p.11 **[CB/281-407]**. See also: [redacted] [7.26] **[EB/XX]**.
[222] [redacted] [7.26]-[7.28] **[EB/XX]**.
[223] [redacted] [9.2], [9.4]-[9.5] **[EB/XX]**.
[224] [redacted] [8.2-8.3] and [9.2] **[EB/XX]**

(a) The UK's emissions reduction targets and the projected emissions reductions through additional measures are inconsistent with achieving the 1.5°C LTTG in that they fall manifestly short of a reasonable and effective measure of the UK's fair share of the global emissions reduction burden (**Ground 1(a)**).

(b) The climate change framework fails to effectively regulate (and, in particular, contains no reduction targets or limits in respect of) imported consumption emissions (**Ground 1(b)**).

(c) The climate change framework fails to effectively limit or regulate the UK's fossil fuel production and exported emissions, and permits the sanctioning of production from as yet unsanctioned oil and gas fields (**Ground 1(c)**).

143. The additional measures relevant to Ground 1(a) (i.e. climate finance, carbon credits, technology transfer and capacity building) are recognised forms of positive and cooperative action under the Paris Agreement through which the UK can and must augment the ambition of its territorial emissions reduction targets by supporting developing States to achieve further emissions reductions within their territories (see further paragraph 172 below). By contrast, the UK's imported consumption emissions and exported supply of fossil fuel actively drive up the territorial emissions of other States, offsetting any contribution the UK makes towards holding global warming to 1.5°C through its territorial emissions reductions. Effective reduction of imported consumption emissions and fossil fuel production/export (which can be done unliterally) is thus a freestanding requirement for the effective protection of Convention rights (see further paragraphs 183-184 and 195-196 below).

General observations

144. Before expounding upon the aforesaid, we make seven preliminary observations.

145. **First**, *KlimaSeniorinnen* represents the authoritative starting point as to how the Convention is to be interpreted and applied in the context of climate change. The Court is required to "*take into account*" the judgment, pursuant to s.2 HRA. It is well-established that "*[i]n the absence of some special circumstances*" or some other "*good reason*", "*the court should follow any clear and constant jurisprudence of the [ECtHR]*": *R (Alconbury Developments Ltd) v Secretary of State for the Environment, Transport and the Regions* [2003] 2 AC 295, [26] (Lord Slynn).[225] The presumption to follow Strasbourg under s.2 HRA is a strong one, having regard to the "*general aim of the* [HRA]" in

[225] See also: *R (Ullah) v Special Adjudicator* [2004] 2 AC 323, [20]; *Manchester City Council v Pinnock* [2011] 2 AC 104, [48].

seeking to "*align domestic law with Strasbourg*": *D v Commissioner of the Police of the Metropolis* [2019] AC 196, [153] (Lord Kerr).[226]

146. Set against that presumption, there are no special circumstances or reasons justifying a departure from *KlimaSeniorinnen*:

(a) *KlimaSeniorinnen* sets down the principles to be applied in future Convention-based climate litigation across the Council of Europe.[227] It is a carefully considered judgment of the Grand Chamber rooted in longstanding principles under the Convention and the best available science.

(b) Save for a single dissenting opinion, the Grand Chamber spoke with one voice on an issue for which there was no prior authority. *KlimaSeniorinnen* represents the "*clear and constant jurisprudence of the ECtHR*" in the climate context.[228] Further, its principles have been followed and applied in subsequent Strasbourg authorities: e.g. *Greenpeace Nordic*.

147. The ECtHR has not yet applied the principles in *KlimaSeniorinnen* to the UK or to all the issues raised in this claim. Where necessary, the Court's task is "*anticipate, where possible, how the European court might be expected to decide the case, on the basis of the principles established in its case law*", allowing for the possibility of incremental development: *R (AB) v Secretary of State for Justice* [2022] AC 487, [59] (Lord Reed).

148. **Second**, for the reasons set out in Annex Two, Article 8 is applicable in this instance and the Defendant's positive obligations under Article 8 are engaged.

149. **Third**, as to the content of those obligations, the crux is that the Defendant has a primary duty under the Convention to adopt and apply *effective* measures to mitigate climate change and reduce GHG emissions in a manner that is consistent with achieving the 1.5°C LTTG (i.e. 'the overarching duty'). There are two components to that duty.

150. The first is that the Defendant must regulate and limit GHG emissions. In particular:

(a) The existence of a mitigation duty stems from indisputable facts that: (i) anthropogenic climate change above a certain level will have catastrophic and irreversible consequences for Convention rights; (ii) global warming of around 1.3-1.4°C has already caused serious

[226] See also: *In re McCaughey* [2012] 1 AC 725, [59].
[227] Compare to *R (RJM) v Secretary of State for Work and Pensions* [2009] 1 AC 311, [31]-[32], where the House of Lords followed a Grand Chamber judgment which was "*expressly intended to be generally applied by national courts*".
[228] It is not necessary for there to be a line of several ECtHR judgments for the s.2 HRA duty to apply, see: *R (Chester) v Secretary of State for Justice* [2014] AC 271, [27]; *Cadder v HM Advocate* [2010] 1 WLR 2601, [46]; *RJM*, [31].

impacts on those rights; (iii) GHG emissions are the key determinant of temperature increases and the cause of such harms; (iv) the UK's acts and omissions contribute to those harms by causing and/or permitting the release of GHGs; and (v) the only way to mitigate the increase in temperature is for States to act to reduce GHGs (paragraphs 12-18 above). If the effective protection of Article 8 is to require anything of the UK, it is that it regulates and limits GHG emissions.

(b) Thus, the Grand Chamber thus held that "*the State's primary duty is to adopt, and to effectively apply in practice, regulations and measures capable of mitigating the existing and potentially irreversible, future effects of climate change*": *KlimaSeniorinnen,* [545].

(c) Such a duty is consistent with and supported by the UK's obligations under international law and the harmonious interpretation principle. As affirmed in the *ICJ Advisory Opinion*, the UK has duties under the UNFCCC and the Paris Agreement to take mitigation measures and reduce emissions in order to stabilise GHG concentrations in the atmosphere and prevent dangerous climate change ([268]: see also, Articles 2, 3(2) and 4(2)(a), UNFCCC; Articles 4(1)-(2), 9 and 10, Paris Agreement). Further, the existence of a mitigation duty under the Convention accords with *inter alia*: (i) the UK's duty under customary international law to take appropriate measures "*to achieve the deep, rapid, and sustained reductions of GHG emissions that are necessary for the prevention of significant harm to the climate system*" (*ICJ Advisory Opinion,* [292]); (ii) the general comments and decisions of multiple UN Treaty Bodies; and (iii) the UK's duties under Article 194 UNCLOS (*ITLOS Advisory Opinion*, [243]).

(d) It is no answer that climate change is a global problem. Each State must do its part to ensure effective protection against the impacts of climate change and can be held individually responsible for its own acts and omissions: *KlimaSeniorinnen*, [443].[229]

151. The second component is that the Defendant's duty to regulate and limit emissions under Article 8 must be applied and interpreted in a manner which is consistent with holding global warming to 1.5°C. Further to that averment:

(a) The touchstone of 1.5°C follows from the established consensus that the LTTG of restricting the global temperature rise to that threshold is an essential minimum to avoid the worst, catastrophic and irreversible consequences of climate change (see paragraphs 16-17 above). Due to the severity of those consequences, a lesser duty cannot be

[229] See also: *ICJ Advisory Opinion,* [430] [**CB/1116**]; *Urgenda* at [7.5.1] and [8.3.5]; *Neubauer*, headnote at [2(c)].

reconciled with the effectiveness principle. A failure to act consistently with the 1.5°C LTTG exceeds the Defendant's margin of appreciation and cannot strike a fair balance between the competing interests at stake.

(b) Thus, the Grand Chamber held that "*effective respect*" for Article 8 "*requires that each Contracting State undertake measures for the substantial and progressive reduction of their respective GHG levels, with a view to reaching net neutrality within, in principle, the next three decades*" ([548]). The reference to "*reaching net neutrality within, in principle, the next three decades*" is a proxy for a duty that States must limit emissions in a manner consistent with achieving the 1.5°C LTTG. Noting:

(i) The AR6 indicates that "*Global net zero CO_2 emissions are reached in the early 2050s in modelled pathways that limit warming to 1.5°C (>50%) with no or limited overshoot*".[230] Achieving net zero emissions by the early 2050s is the other side of the coin in holding global warming to 1.5°C with no or limited overshoot.

(ii) The Grand Chamber endorsed the IPCC science regarding the 1.5°C LTTG and the need to achieve net neutrality in the early 2050s in its findings of fact: [109].[231]

(iii) In its analysis on causation and individual State responsibility, the Grand Chamber recognised that "*the relevant risks are projected to be lower if the rise in temperature is limited to 1.5°C*": [436] (see also: Greenpeace Nordic, [298]).

(iv) It is also plain from the Grand Chamber's assessment of Switzerland's compliance that it was focused upon the 1.5°C LTTG ([558] and [569]).

152. The linkage between the mitigation duty under Article 8 and the 1.5°C LTTG is reinforced by reference to the international law. Having regard to Article 2(1)(a) of the Paris Agreement and subsequent COP decisions, the ICJ has confirmed that LTTG of 1.5°C is now the *"agreed primary temperature goal"* under the Paris Agreement, and that States' NDCs "*when taken together, [must be] capable of achieving the temperature goal of limiting global warming to 1.5°C*": ICJ Advisory Opinion, [224] and [245].[232]

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[230] IPCC AR 6 WG3 SPM, § C.2 [**SB/479**].

[231] "*The IPCC [SR1.5] report sought to quantify mitigation requirements in terms of 1.5°C pathways that refer to "carbon budgets". The report explained that cumulative CO2 emissions would be kept within a budget by reducing global annual CO2 emissions to net zero. This assessment suggested a remaining budget of about 420 GtCO2 for a two-thirds chance of limiting warming to 1.5°C, and of about 580 GtCO2 for an even chance (medium confidence). At the same time, staying within a remaining carbon budget of 580 GtCO2 implied that CO2 emissions would have to reach carbon neutrality in about thirty years, reduced to twenty years for a 420 GtCO2 remaining carbon budget (high confidence).*" (emphasis added)) .

[232] See also: CRC General Comment No 26, [97]; ITLOS Advisory Opinion, [243].

153. Taking those averments together, the essential question is whether the climate change framework is compatible with the Defendant's overarching duty under Article 8.

154. **Fourth**, pursuant to the approach of the Grand Chamber in *KlimaSeniorinnen*, answering that question entails an assessment of an "*overall nature*": [551] and [556]. The focus of the claim is thus upon the inadequacy of the UK's overall climate change framework rather than of specific policies (the appropriate approach and the target for judicial review is discussed further in Annex One). The caveat to that overall assessment is that the Defendant's compliance with its mitigation duties under the Convention should be examined without considering whether and to what extent adaptation measures were in place: [555].

155. **Fifth**, the Defendant has a "*reduced margin of appreciation*" for the reasons outlined in *KlimaSeniorinnen*: [541]-[543]. The flaws and lacunae identified herein concern "*the setting of the requisite aims and objectives*" in respect of the UK's "*commitment to the necessity of combatting climate change*". The proposed challenge does not involve the choice of means designed to achieve the UK's climate objectives; it concerns the level of ambition of the UK's objectives and fundamental gaps in its climate change framework (c.f. *Fliegenschnee*).

156. **Sixth**, pursuant to its duties under s.6(1) HRA and Articles 6 and 8, the Court must properly "*engage with a body of complex evidence*" and "*ensure the necessary of compliance with legal requirements*" under the Convention: *KlimaSeniorinnen*, [412]-[413], [420], [427] and [639]. Careful and intense scrutiny is required, having regard to the gravity of the threat posed by climate change: *R (Fighting Dirty Ltd) v Environment Agency* [2024] EWHC 2029 (Admin), [34]-[35] (Fordham J).

157. **Seventh**, the flaws identified by the Claimants correspond to structural limitations of the CCA regime, which have not been adequately supplemented elsewhere within the UK's overall climate change framework. The Claimants do not seek to impugn the CCA regime's effectiveness as a mechanism for achieving the s1 target. However, because it only applies to territorial emissions (save for the unutilised provisions on carbon units – see paragraph [121] above), it does not provide for any targets or duties in respect of: (i) emissions reductions to be achieved by additional measures (such as climate finance); (ii) imported consumption emissions; and (iii) fossil fuel production.

158. Thus, while the CCA offers a robust mechanism for achieving a defined amount of domestic emissions reductions, a Convention-compliant climate change framework for the

UK must include commitments that go well beyond what the UK can feasibly achieve in terms of territorial emissions reductions and what is currently envisaged under the CCA.

Ground 1(a): Incompatibility in respect of the Defendant's emissions reduction targets

159. The level of the UK's emissions reduction targets and projected emissions reductions through additional measures are inconsistent with achieving the 1.5°C LTTG and are incompatible with its overarching duty. That claim is based on three central contentions.

(1) Necessity of a fair share analysis

160. As a starting point of principle, the UK must reduce its emissions, and its reductions targets must be calculated, in accordance with a fair share of the global emissions burden associated with 1.5°C. That is, the UK's contribution to the global mitigation effort must be equitable and reflect the principle CBDR and respective capabilities.

161. **First**, the aforesaid is a matter of practical necessity and effective protection:

(a) Climate change is "*a common concern of mankind*" (UN General Assembly resolution 43/53), which no individual State can resolve on its own. The global emissions burden must be distributed, and each State must meet an individual share of the global emissions reduction burden in order to mitigate the grave risk posed by climate change.

(b) It follows from the divergent levels of States' development, capacity and historic levels of responsibility, that individual States' contributions to the necessary global emissions reductions must differ and be allocated in a manner that is equitable and sensitive to their respective capacities and levels of development if climate change is to be effectively mitigated. Plainly, if the most developed States only reduced their emissions in line with global averages under the IPCC pathways, the prospect of holding global warming to 1.5°C would be negligible as it is wholly unrealistic to expect developing States to do the same without assistance.

162. This has been roundly endorsed by the IPCC. In its AR6 report, the IPCC stated that "*[e]quity is critical to addressing climate change*" and that "*it is only in relation to […] 'fair share' that the adequacy of a state's contribution can be assessed in the context of a global collective action problem*".[233] And, as stated in the AR5: "*equitable burden sharing will be necessary if the climate challenge is to be effectively met*". One reason for that, as the AR5 explained, "*is derived from the fact that climate change is a classic commons problem. As with any commons problem, the solution lies in collective action. […] Inducing*

[233] IPCC AR6 WG3, p 1468 [**SB/538**]. See further: paragraph 21 above.

cooperation relies, to an important degree, on convincing others that one is doing one's fair share. This is why notions of equitable burden-sharing are considered important in motivating actors to effectively respond to climate change."[234] The importance of a fair share analysis has also been acknowledged by the CCC and the Government (see paragraphs 89-90, 94-96, 99, 104, and 111-113 above).

163. **Second**, a fair share approach is supported by international law. The principles of equity, CBDR and respective capabilities are a red thread through the UNFCCC and the Paris Agreement (UNFCCC, Articles 3(1), 4(2); Paris Agreement, preamble, Articles 2(2) and 4). Both treaties explicitly provide that developed States "*should take the lead*" in reducing their emissions, taking into account "*the need for equitable and appropriate contributions by each of these Parties to the global effort regarding that objective"* (UNFCCC, Articles 3(1) and 4(2)(a); Paris Agreement Article 4(4)).[235] Thus, the ICJ held that the principle of CBDR and respective capabilities was a "*cardinal principle*" in the climate change treaties, and reflected the need to distribute mitigation burdens "*equitably"*, taking into account historical responsibility, current emissions levels, capacity and economic development (*ICJ Advisory Opinion*, [148] and [179]). The ICJ further considered that the standard of due diligence required of States in preparing their NDCs varied according to equitable considerations, and that developed States "*must take more demanding measures*" to prevent significant harm to the climate system ([247] and [292]).[236]

164. **Third**, the Grand Chamber accepted the relevance and importance of a fair share analysis in its assessment of Switzerland's GHG reduction targets. This is demonstrated in its consideration of Switzerland's failure to adopt the Swiss Federal Council's recommendation for its 2020 target (which was based on the fair share range in the AR4; *KlimaSeniorinnen*, [558]), its assessment of Switzerland's targets against the measure of equal per capita emissions ([569]), and in its observation that Switzerland should have quantified a carbon budget by reference to CBDR, principles of equity and its respective capabilities ([571]). Noting:

(a) The Grand Chamber did not need to determine or further articulate its fair share analysis because its breach of Article 8 could be established with respect to obvious flaws and lacunae in Switzerland's climate change framework, such as its failure to meet its own targets, have targets in place between 2025 and 2030, and set reduction targets with

[234] IPCC AR5 WG3, p 295 [**SB/34**].
[235] Pursuant to those principles, the UNFCCC's reporting obligations – as summarised in the AR6 – provide: "*The Paris Agreement encourages Parties, while submitting their NDCs, to explain how these are 'fair and ambitious' […] The Rulebook obliges Parties to provide information on 'fairness considerations, including reflecting on equity' as applicable to their NDC*": IPCC AR6 WG3, p 1468 [**SB/538**]. See also: The Rajamani Study at 986-988 [**SB/326-328**]; IPCC AR5 WG3, p 317 [**SB/38**].
[236] Also: *CRC General Comment No.26*, [98], [113]; *ITLOS Advisory Opinion*, [227]; *IACtHR Advisory Opinion*, [327]-[331].

reference to a carbon budget. It can be anticipated that the ECtHR will have to do so in future cases where it is necessary to assess compliance with the Convention.

(b) The Grand Chamber's reliance upon Switzerland's targets allowing more GHG emissions "*than even an "equal per capita emissions" quantification*" does not imply that equal per capita emissions represent the minimum threshold for compliance under the Convention. The use of the word "*even*" shows that the Grand Chamber understood that equal per capita was a favourable standard of equity from the perspective of developed States and used that metric to demonstrate the manifest inadequacy of Switzerland's level of ambition.[237]

(2) Convention-compliant quantification of fair share

165. To be Convention compliant, the Defendant's determination of what is a fair share must be reasonable and consistent with the principle of effective protection. To be effective and reasonable, a State's targets must reflect a level of ambition on its "*fair share range*" which does not require other States to exceed an equivalent level of ambition on their respective fair share ranges for global warming to be held to 1.5°C.

166. **First**, that there is no single or agreed approach (under the UNFCCC or otherwise (see paragraphs 22-24 above)) to calculating States' fair shares does not relieve States of their duties under the Convention to limit their emissions so as to prevent the catastrophic climate impacts that will occur if global warming surpasses 1.5°C. That would be antithetical to the effectiveness principle. Further, it would be inconsistent with the Grand Chamber's findings as to States' individual responsibility ([442]), and its rejection of Switzerland's argument that it would be impossible to quantify a national carbon budget ([571]). In the absence of an agreed methodology, the burden is on the Defendant to determine (and then meet) a fair share of the global emissions burden.

167. **Second**, the Defendant does not have an unlimited margin of appreciation when it comes to its fair share calculation. As above, reduced margin of appreciation applies to the setting of targets (rather than the means of achieving those targets), and States must "*keep the relevant GHG targets updated with due diligence, and based on the best available science*": *KlimaSeniorinnen*, [550(d)]. It is axiomatic that if all States had unlimited discretion in quantifying their fair shares and pursued emissions reductions consistent with the less stringent measures of their fair share, or were able to select the equity interpretations more favourable to them, then global warming would exceed 1.5°C, and significantly so (paragraph 28 above). As the AR5 observed, "*[e]ffective*

[237] It is evident that the Grand Chamber agreed in principle with the applicants' submission at [303].

mitigation of climate change will not be achieved if each […] country acts independently in its own interest".[238] There must be, and are, guardrails delimiting the Defendant's margin of appreciation.

168. **Third**, to comply with the overarching duty, a State's determination of what is a fair share must be reasonable and consistent with the principle of effective protection. In other words, the UK must reduce its emissions in accordance with a reasonable and effective measure of its fair share. That reflects: (i) the Defendant's positive obligation under Article 8 is to "*take reasonable and appropriate measures*" to secure the right to respect for private life and home (*Hatton*, [98]); and (ii) the centrality of the effectiveness principle when it comes to interpreting and applying the Convention, which guided the Grand Chamber's approach in *KlimaSeniorinnen* ([418], [436], [543]-[545], [555]).[239] The bounds of reasonableness and the effectiveness principle constrain the means by which States must calculate their fair shares of the global mitigation burden. That is consistent with their duties under international law to "*employ all means reasonably available*" to prevent significant harm to the climate system and the "*stringent*" due diligence standard against which their acts and omissions are assessed: *ICJ Advisory Opinion*, [136]-[138], [245] and [290].

169. **Fourth**, to be reasonable and effective, States' targets must reflect a level of ambition capable of holding global warming to 1.5°C. Thus, their targets must not reflect a less stringent or self-serving measure of equity or fair share, as that would be predicated upon other States pursuing emissions reductions in accordance with relatively more stringent measures of their fair shares if the 1.5°C LTTG is to be achieved. The corollary is that States' targets must identify a level of ambition capable of holding global warming to 1.5°C if all States pursued an equivalent level of ambition (when equity is taken into account)

170. The above propositions can be expressed and practically applied by reference to "*fair share ranges*":[240]

(a) If one State or a group of States pursue emissions reductions in accordance with the less stringent end of their fair share ranges, it would not be possible to limit global warming to 1.5°C unless other States compensated for that shortfall in ambition by pursuing emissions

[238] IPCC AR5 WG3, p 214 [**SB/17**].
[239] It further reflects the IPCC's observation in its AR5 report that "*[e]ven in the absence of a formal, globally agreed burden sharing framework, such [plausible interpretations of equity] principles are important in establishing expectations of what may be reasonably required of different actors*": IPCC AR5 WG3, p 317 [**SB/38**].
[240] As explained earlier, fair share ranges demonstrate quantitively the range of emissions reductions required of States according to different approaches to equity (paragraph 27 above).

reductions consistent with the more stringent ends of their fair share ranges: that is a vanishingly unlikely prospect (paragraphs 28 and 31 above).

(b) To avoid that outcome, States' must pursue a level of ambition on their fair share ranges which does not require other States to exceed an equivalent level of ambition on their respective fair share ranges for global warming to be held to 1.5°C.

171. **Fifth**, the above approach is consistent with and supported by international law. An approach which permitted developed States each to rely upon less stringent equity interpretations more favourable to them, and to quantify their fair share of the global emissions burden without regard to their historic responsibility or greater levels of development and capacity, would contravene the UK's obligations under international law. As confirmed by the ICJ, States' NDCs "*must […] when taken together, be capable of achieving the temperature goal of limiting global warming to 1.5°C*", which can only be assessed in accordance with the core guiding principles of CBDR and respective capabilities within the UNFCCC (Articles 3(1) and 4(2)) and the Paris Agreement (preamble, Articles 2(2) and 4(3)): *ICJ Advisory Opinion*, [245]-[249]. At a very minimum, those principles require that the UK's greater levels of historic responsibility, economic development and capability weigh heavily within the assessment of its fair share of the global emissions reduction burden.[241]

172. **Sixth**, the UK's fair share of the global emissions reduction burden can and inevitably must be achieved through a combination of domestic emissions reductions and securing emissions reductions in other States. That reflects Article 4(5) of the UNFCCC and Articles 3, 6, 9, 10 and 11 of the Paris Agreement, which envisage and, in some cases, require developed States to take additional measures – such as climate finance, carbon credits, technology transfer and capacity building – to supplement their domestic emissions reduction targets: *ICJ Advisory Opinion*, [260]-[270].[242] The EGR 2024 underscores the need for the UK and other developed States to take such measures to "*achieve robust alignment with the Paris Agreement's long-term temperature goal*",[243] and the ICJ has affirmed that the level of climate finance and support provided must be sufficient to achieve the objects of the Paris Agreement, having regard to, *inter alia*, "*the capacity of developed States and the need of developing States*": *ICJ Advisory Opinion*, [265].

[241] *ICJ Advisory Opinion*, [136]-[138], [148], [245], [247], [249], [290]. The same approach is required by the UK's obligations under the UNCRC (*CRC General Comment No. 26*, [91], [93] and UNCLOS (*ITLOS Advisory Opinion*, [243]).
[242] See also: *CRC General Comment No 26*, [112]; *ITLOS Advisory Opinion*, [327].
[243] EGR 2024, pp 36 and 39 [**SB/776**]. See also: [redacted] [27] [**EB/XX**].

(3) Assessment of the UK's emissions reduction targets

173. Evaluated on that basis, the UK's GHG reduction targets fall manifestly short of any reasonable and effective determination of its fair share of the global emissions reduction burden associated with the 1.5°C LTTG, and that shortfall has not been met through additional measures.

174. **First**, the UK's targets manifestly fall short of its fair share targets under the CAT and the Rajamani Study (paragraphs 115-120 above). The 2030, 2035 and 2050 targets are at the least stringent end of the UK's fair share range under the CAT, and are consistent with global warming of between 2 and 3°C (66% probability) by 2100 if all countries were to set targets of an equivalent level of ambition. Under the CAT, the UK's 2030, 2035 and 2050 targets fall short of the level of ambition consistent with the 1.5°C LTTG by 37%, 48% and 84% respectively. The 2030 target envisages less than half of the emissions reductions that would be consistent with its fair share and 1.5°C under the Rajamani Study. Even if the LTTG was adjusted to 2°C or "*well below 2°C*", the UK's targets would still fall short of the level of emissions reductions required under the CAT and the Rajamani Study.

175. In this regard, the CAT and Rajamani Study represent the best evidential and indicative basis of measuring whether the UK is complying with its overarching duty and an effective and reasonable measure of its fair share in that:

(a) The studies are based primarily on a dataset of studies quantifying different approaches to fair share used by the IPCC, are rooted in the best available climate science, and provide an evidentially robust basis for the Court's assessment.[244]

(b) The studies are based upon an aggregation of the different approaches which seek to quantify States' fair shares of territorial emission reductions. They do not depend upon a single measure of fair share being deemed superior to others, or require the Court to make such an assessment.[245]

(c) By identifying a level of ambition on a State's fair share range that is consistent with the 1.5°C LTTG, on the premise that all States pursue an equivalent level of ambition on their respective fair share ranges, the CAT and Rajamani Study eliminates the fundamental risk of States picking less stringent measures of their fair share, which would run counter to the effectiveness principle. The methodology in the CAT and the Rajamani Study reflect

[244] [redacted] [44] **[EB/XX]**.
[245] [redacted] [41], [47]-[48] **[EB/XX]**.

the obligation that States' NDCs "*must […] when taken together, [be] capable of achieving the temperature goal of limiting global warming to 1.5°C*": ICJ Advisory Opinion, [245].

(d) The CAT and Rajamani Study do not impose an impossible or disproportionate burden upon the UK. The emissions reductions envisaged by both studies reflect developed States' higher levels of capacity and development.[246] Further, the fair share targets in each study can be achieved through a combination of domestic emissions reductions and securing emissions reductions in other States (for example, through climate finance).

176. **Second**, that the UK's GHG reduction targets reflect less stringent measures of its fair share is further demonstrated by the fact they fall short of all the equity approaches or are at the less stringent end of the fair share ranges identified by the CCC and BEIS:

(a) The 2030 target of 68% falls short of all but one of the equity measures and is at the least stringent end of the range identified by the CCC at Figure B7.2 in its Sixth Carbon Budget Report (paragraphs 91-92 above). When measured against the 1.5°C LTTG, the UK's 2030 target is only a few percent above the measure of equal per capita (one of the most favourable measures for developed States), and is 8% points short of the average of the effort-sharing approaches represented in the CCC's assessment. The 2030 NDC similarly indicates that the 2030 target would only result in emissions per person in 2030 being "*comparable*" to estimates for the global average implied by the IPCC median pathways. It is manifestly insufficient that the UK's 2030 target merely exceeds global average reductions and is aligned with "*least-cost global pathway[s]"* (paragraph 100(c) above).

(b) The 2035 target falls short of all the equity approaches assessed at Table 13 in the BEIS Impact Assessment, save for Contraction and Convergence (a highly favourable measure for high emitting States), and falls 8% below the average of the effort-sharing approaches represented in the Table (paragraph 97-98 above). It is also towards the less stringent end of the "*range of Paris-consistent equity metrics*" identified in the CCC's NDC Letter; namely, 71%-109% reductions by 2035 on 1990 levels (paragraph 103 above). It is manifestly insufficient, as stated in the 2035 NDC, that "*UK per capita emissions would remain in line with the required global average*" implied by IPCC median pathways: KlimaSeniorinnen, [569] (paragraph 105(c) above).

[246] Indeed, the CAT has been criticised as being overly lenient towards developed States: [redacted] [71]-[73] [**EB/XX**].

(c) The 2040 target of 90% is towards the less stringent end of the equity metrics identified in Figure 10.3 of the Seventh Carbon Budget Report. When assessed against the 1.5°C LTTG, the only metric the Balanced Pathway exceeds is that of equal per capita, and pathway falls 10% of the effort-sharing approaches represented in the CCC's assessment (paragraphs 110-112 above). Further, Figure 10.2 in the Seventh Carbon Budget demonstrates that the UK's emissions under the updated Balanced Pathway will actually exceed the emissions aligned with an equal per capita approach until some point between 2030 and 2035.[247]

177. Whilst the fair share ranges relied upon in those studies involve a narrower range of approaches and studies than the CAT and the Rajamani Study, they illustrate the same fundamental point: the UK's targets reflect less stringent measures of its fair share, and a level of ambition on the its fair share range that *would* necessarily require other States to achieve significantly greater levels of ambition on their fair share ranges if global warming is to be held to 1.5°C.[248] This is inequitable, unreasonable and contrary to the effectiveness principle.

178. **Third**, and tellingly, the CCC and BEIS appeared to accept in the Sixth Carbon Budget Advice, the NDC Letter, the Seventh Carbon Budget Report, and the Impact Assessment, respectively, that the UK needs to take additional measures beyond reducing its territorial emissions to meet its fair share and be consistent with 1.5°C (paragraphs 95-96, 99, 104, and 111-114 above). However, there is no evidential basis to conclude that the UK has closed the fair share gap between its domestic emissions reduction targets and any reasonable or effective measure of its fair share through additional measures, such as climate finance, capacity building, carbon credits, technology transfer or extraterritorial emissions reductions.

179. The UK has no targets regarding the level of emissions reductions that it intends to achieve through additional measures capable of supplementing its GHG reduction targets. Moreover, the level of climate finance the UK has committed to provide in its 2030 and 2025 NDCs, and the projected emissions reductions resulting therefrom, are manifestly insufficient to close the fair share gap (paragraphs 122-124 above). The CCC has recommended that the Government set a "*ambitious and fair contribution*" to the NCQG set at COP29, beyond its existing commitment of £11.6 billion, but that recommendation has not yet been followed (paragraph 104 above). Further, the UK is not currently utilising carbon units pursuant to ss.26-27 CCA to enhance the ambition of its domestic emissions reduction targets, nor are the Claimants

247 [redacted] [21]-[23] [**EB/XX**].
248 [redacted] [33]-[34] [**EB/XX**].

aware of any credible analysis demonstrating that the UK is taking sufficient additional measures, such as technology transfer or capacity building, to close the fair share gap (paragraph 121 above).

180. **Fourth**, the Defendant has not even quantified what it considers the UK's fair share to be, still less a reasonable and effective fair share, let alone how to close the gap between the aforesaid and its existing territorial emissions reduction targets. Quantifying what would be a fair share of the global emissions reduction burden (inclusive of additional measures, such as climate finance) is an essential first step in assessing the level of emissions reductions that the UK needs to achieve in order to be consistent with the 1.5°C LTTG. While the CCC and BEIS have accepted – in principle – that the UK needs to take additional measures beyond reducing its territorial emissions to meet a fair share and be consistent with 1.5°C, the Defendant has never assessed or identified *the level* of emissions reductions the UK needs to achieve through additional measures to close the fair share gap. That amounts to a failure of "*due diligence*" and a failure to carry out "*appropriate investigations and studies*", contrary to the Defendant's procedural obligations under Article 8: *KlimaSeniorinnen*, [538(e)], [539] (also *Greenpeace Nordic*, [318]). Insofar as the Defendant contends that it has quantified its fair share as being equivalent to or less than its current targets (inclusive of its climate finance commitment or not), that would not be a reasonable or effective determination of its fair share for the reasons above.

181. Those failures are significant lacunae and/or flaws in the UK's climate change framework. For those reasons, the Defendant has exceeded its margin of appreciation under Article 8.

Ground 1(b): Incompatibility in respect of imported consumption emissions

182. The Defendant's failure to effectively regulate imported consumption emissions is a significant lacuna in the climate change framework, which is incompatible with its overarching duty under Article 8.

(1) The relevance of imported consumption emissions to a Convention analysis

183. The Defendant's overarching duty must extend to the regulation and limitation of imported consumption emissions for the following reasons:

(a) The failure of developed States to effectively regulate their imported consumption emissions risks jeopardising efforts to hold global warming to 1.5°C. Imported consumption emissions contribute significantly to global warming and the corresponding impacts on Convention rights. As the IPCC observed in AR6, consumption met through global supply chains are often "*causing emissions in producing countries*" and adopting a

consumption-based approach "*is important to avoid outsourcing of pollution and to achieve global decarbonisation*".[249] The developed world's shifting of production and uncontrolled demand for imported goods drives up territorial emissions in developing States, with the IPCC noting in AR5 that 20% of developing States' territorial CO2 emissions are attributable to increased demand for products in developed States. This gives rise to "*carbon leakage*", whereby developed States' territorial emissions reductions are offset by increases in their imported consumption emissions (and the territorial emissions in exporting States), resulting in an increase in global emissions (paragraphs 34-36 above).

(b) Imported consumption emissions are particularly significant in the UK context. The UK's imported consumption emissions have grown by 28% since 1990 (and 56% since 1996), whilst its territorial emissions have fallen. Its imported consumption emissions are of a similar magnitude to, and are expected to exceed, its territorial emissions by around 2040 (paragraph 125 above). The CCC and the Government have accepted the risks of carbon leakage and the importance of regulating the UK's imported consumption emissions. The critical point is that the UK's unmanaged demand for imported goods and the Defendant's failure to effectively regulate imported consumption emissions are contributing to global emissions increases, giving rise to carbon leakage and undermining progress to achieving the 1.5°C (paragraphs 126-130).[250] In this regard, the Claimants recall the Grand Chamber's recognition that "*the relative importance of various sources of emissions and the necessary policies and measures required for achieving adequate mitigation […] may vary to some extent from one State to another*": *KlimaSeniorinnen*, [421].

(c) Any assumption that imported consumption emissions will be adequately constrained if all States reduce their territorial emissions in a manner that is consistent with 1.5°C has, manifestly, not materialised in practice. Further, that assumption ignores the role of developed States' demand and outsourcing of production in driving up the territorial emissions of developing States and increasing global emissions. Without intervention, the level of the UK's imported consumption emission is and is predicted to remain inconsistent with the 1.5°C LTTG into the future.[251]

184. It follows that interpreting the duty to adopt and apply mitigation measures in a manner that is exclusively limited to territorial emissions would undermine the effectiveness of

[249] IPCC AR6 WG3, p 239 [**SB/521**].
[250] [redacted] 6.9] [**EB/XX**].
[251] [redacted] [6.9], [11.10]-[11.26] [**EB/XX**].

protection under the Convention, as one of the principal means through which the UK contributes to global warming would be free from scrutiny. An exclusive focus on territorial emissions would enable the UK to take steps to reduce its territorial emissions in a manner apparently consistent with the 1.5°C LTTG whilst simultaneously increasing its imported consumption emissions and offsetting any progress made by territorial emissions reductions. While our domestic courts cannot evaluate compliance of foreign States in reducing their territorial emissions, they can and must assess the UK's acts and omissions which cause or permit imported consumption emissions, are attributable to the UK under international law and which occur within the UK's jurisdiction: *KlimaSeniorinnen*, [287].

185. In *KlimaSeniorinnen*, the Grand Chamber recognised that "*[i]t would be difficult, if not impossible, to discuss Switzerland's responsibility for the effects of its GHG emissions on the applicants' rights without taking into account the emissions generated through the import of goods and their consumption":* [280]. The Grand Chamber thus accepted, in principle, that a State's imported consumption emissions are relevant to – and may have to be considered as part of – any assessment of compliance with the Convention in relation to climate change: [280]-[283].[252]

186. Further, the Claimants' position is consistent with the UK's duties under international law. In the *ICJ Advisory Opinion*, the Court observed that the "*relevant conduct*" encompassed "*all actions or omissions of States which result in the climate system […] being adversely affected by anthropogenic GHG emissions*" and, therefore, "*the material scope of its inquiry encompasse[d] the full range of human activities that contribute to climate change as a result of the emission of GHGs, including both consumption and production activities*": [94]. The court further observed that States' failures to take appropriate action to protect the climate system, including in respect of "*fossil fuel consumption*", could constitute an internationally wrongful act: [427].[253]

187. Any concerns regarding "*double counting*" are misconceived.[254] The importance of avoiding double counting is limited to the calculation of States' territorial emissions within the UNFCCC framework so as to enable the construction of an accurate picture of the total amount of GHGs produced worldwide. Outside the UNFCCC accounting framework,

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[252] While the Grand Chamber did not assess Switzerland's policies regarding imported consumption emissions in its analysis of the merits, that does not detract from its acceptance of their relevance in principle. The Grand Chamber did not consider it necessary to make any findings regarding Switzerland's imported consumption emissions because of its other findings in respect of breach. See also: Partly Concurring Partly Dissenting Opinion of Judge Eicke in *KlimaSeniorinnen* at [4].

[253] See also: CRC *General Comment No.26*, [107]-[108]; *CESCR 2018 Statement*, [9]; *IACtHR Advisory Opinion*, [328].

[254] [redacted] [9.1]-[9.2] [**EB/XX**].

however, there is no practical or conceptual difficulty in different States having overlapping responsibilities with respect to the same emissions.

(2) Assessment of Compliance

188. Against that background, the Defendant's regulatory framework in respect of imported consumption emissions is incompatible with its overarching duty under Article 8. The climate change framework is predicated upon a territorial accounting approach which cannot address the rise in the UK's imported consumption emissions, the associated risks of carbon leakage, and which distorts the true climate impact of domestic demand and consumption. The following shortcomings follow from that structural flaw in the climate change framework.

189. **First**, the Defendant has not achieved any reductions in the UK's imported consumption emissions since 1990. The UK's imported consumption emissions (in absolute terms and relative to territorial emissions) and the associated carbon leakage have risen substantially since 1990. As a comparison with the CCC's "*Paris Agreement-aligned*" scenario in the Sixth Carbon Budget Report indicates, the trajectory of the UK's imported consumption emissions are inconsistent with holding global warming to well below 2°C (still less 1.5°C).[255]

190. **Second**, beyond piecemeal and disparate measures, the UK has no comprehensive framework regulating the great majority of its imported consumption emissions. The Defendant has not developed any credible plan or policy envelope capable of effectively mitigating the UK's imported consumption emissions (paragraph 130 above).[256]

191. **Third**, the UK's imported consumption emissions are not subject to any reduction target, limit or benchmark. The Claimants' position broadly accords with the recommendations of the Select Committee and the CCC. In the Seventh Carbon Budget Report, the CCC advised that the Government set a benchmark aligned with the 1.5°C LTTG, which could be followed by specific quantitative targets.[257] A target or benchmark is a key component of an effective framework, setting direction and acting as a catalyst for policy interventions, against which the UK's progress can be measured.[258]

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[255] [redacted] [11.10]-[11.13] **[EB/XX]**. See also: Sixth Carbon Budget Report, pp 348-349 **[CB/XX]**.
[256] [redacted] [11.14]-[11.18] **[EB/XX]**.
[257] The Defendant has failed to follow the CCC's recommendations, which is significant within a Convention analysis (compare to Switzerland's failure to heed the advice of the Swiss Federal Council in setting its 2020 target; *KlimaSeniorinnen*, [558] **[CB/935]**). Further, the lacuna in the UK's climate change framework in having no targets or benchmarks in respect of imported consumption emissions is comparable to Switzerland's failure to have any binding targets for between 2025 and 2030 in respect of territorial emissions (*KlimaSeniorinnen*, [560]-[561] **[CB/936]**).
[258] [redacted] [11.19]-[11.26] **[EB/XX]**.

192. **Fourth**, the Defendant has not even assessed whether to set a reduction target or benchmark which covers its imported consumption emissions, nor what level of imported consumption emissions reductions would be feasible or appropriate for the UK to achieve, and consistent with the 1.5°C LTTG. Given the importance of reducing imported consumption emissions in the UK context and the CCC's recommendations on the issue, that lack of assessment amounts to a failure to "*approach […] the matter with due diligence and* [give] *consideration to all competing interests*": *KlimaSeniorinnen*, [538(e)]. Put another way, the Defendant has failed to carry out "*appropriate investigations and studies in order to allow [it] to strike a fair balance between the various conflicting interests at stake*": *KlimaSeniorinnen*, [539] (also *Greenpeace Nordic*, [318]).

193. Those failures correspond to significant flaws and/or lacunae in the climate change framework that are incompatible with the overarching duty under Article 8.

Ground 1(c): Incompatibility in respect of fossil fuel production and exports

194. The Defendant's failure to effectively regulate and limit fossil fuel production and exported emissions is a significant lacuna in the climate change framework, which is incompatible with its overarching duty under Article 8.

(1) The relevance of fossil fuel production to a Convention analysis

195. The Defendant's overarching duty must extend to the regulation and limitation of fossil fuel production for the following reasons:

(a) Steep reductions in fossil fuel supply is a minimum requirement to hold global warming to 1.5°C. Fossil fuel extraction and combustion is the largest source of GHGs globally, responsible for close to 90% of global CO2 emissions. The supply of fossil fuels, the inevitable prerequisite for combustion, is a primary driver of global warming, regardless of where the fossil fuels are ultimately combusted (paragraph 38 above). There is overwhelming evidence that "*[s]teep and sustained reductions*" in fossil fuel production are a minimum precondition in holding global warming to 1.5°C. In the IEA's words, reducing fossil fuel production "*holds the key to averting the worst effects of climate change*".[259] Or, as the UNEP put it, "*[c]ontinued production and use of coal, oil and gas are not compatible with a safe and liveable future*".[260]

[259] IEA NZE 2021, pp 13 and 18 [**SB/278 & 283**]. See also: paragraph 39 above.
[260] PGR 2023, p 8 [**SB/645**]. See also, p 12 [**SB/649**].

(b) Supply-side measures are required to achieve such reductions. The synthesis report on the technical dialogue of the first global stocktake under the Paris Agreement thus found that achieving net zero requires system transformations including "*phasing out all unabated fossil fuels*" and "*implementing both supply- and demand-side measures*".[261] A myopic focus on demand (i.e. the territorial emissions in the State where fossil fuels are combusted) at the expense of supply (i.e. the extraction of fossil fuels in the State of production and exportation) ignores what Lord Leggatt recognised in *Finch* as the "*elasticities of supply and demand*".[262] Demand in modern economies is often stimulated by supply.[263] The theory of perfect substitution (i.e. fossil fuels kept in the ground in one State will be substituted by increased production in another State in order to meet global demand) has been debunked by the evidence. The UNEP has found, and the Supreme Court has accepted, that "*each barrel of oil left undeveloped in one region will lead to 0.2 to 0.6 barrels not consumed globally over the longer term.*"[264] The necessity of focusing on supply in addition to demand is particularly acute when one has regard to the "*risk of locking in emissions*" if production of fossil fuels and the opening of new oil and gas fields continue at pace.[265]

(c) The UK's production and export of fossil fuels are one of its key contributions to climate change but are not adequately constrained by its territorial emissions targets. The UK exports the vast majority of its oil and gas, the Scope 3 emissions in respect of which are not covered by its GHG reduction targets. As the CCC has observed, "*the extra oil and gas extracted [from the North Sea] will support a larger global market overall*".[266]

196. In similar premises to imported consumption emissions, it follows that the overarching duty must not be exclusively limited to territorial emissions if Article 8 is to be effectively protected. An exclusive focus on territorial emissions would enable the UK to take steps to reduce its territorial emissions in a manner consistent with limiting global warming to the 1.5°C LTTG whilst simultaneously maintaining or increasing its extraction and exports of fossil fuels. The result would be an appearance of progress as the UK's territorial emissions reduce, while it is in fact contributing to an increase on global emissions in a manner that would result in the 1.5°C LTTG being exceeded.

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[261] Synthesis report on the technical dialogue of First Global Stocktake, FCCC/SB/2023/9, 8 September 2023, at Key Finding 6 [**SB/1040**].
[262] *Finch*, [2].
[263] [redacted] [5.3] [**EB/XX**]; CCC OG Letter at p 6 [**SB/689**].
[264] *Finch*, [2]. See also: [redacted] [5.6]-[5.7] [**EB/XX**]
[265] IEA NZE 2023 at p 16 [**SB/678**]; see also UNEP PGR 2025 at p 5 [**SB/975**] and p 23 [**SB/993**].
[266] CCC OG Letter, pp 1 and 4-5 [**SB/684, 687-688**].

197. That fossil fuel production was not addressed in *KlimaSeniorinnen* is explained by the simple fact Switzerland is not a fossil fuel producing State. The relevance of fossil fuel production to a Convention-based analysis has now been confirmed by the ECtHR in *Greenpeace Nordic*. The ECtHR found that "*there is a sufficiently close link between the disputed procedure for the licensing of exploration and serious adverse effects of climate change on the lives, health, well-being and quality of life of individuals*" for Article 8 to be applicable ([299]), and held that Norway's obligations under Article 8 extended to its licensing of petroleum production licenses ([317]-[319]). While the scope of that case was limited to procedural obligations, there is no reason in principle why the UK's substantive obligations under Article 8 would not equally apply to its fossil fuel production. Indeed, it is implicit in the ECtHR's finding at [319] that "*[i]n the context of petroleum production projects […] there must be an assessment of whether the activity is compatible with their obligations under national and international law to effective measures against the adverse effects of climate change*" (a proxy for the substantive duty under Article 8) that, if a project is properly assessed to be incompatible with Article 8, the State is under a duty not to sanction the project.

198. The Claimants' position is further supported by international law and the harmonious interpretation principle. In the Dubai Outcome at COP28, States recognised that fulfilling the goals of the Paris Agreement requires "*transitioning away from fossil fuels in energy systems in a just, orderly and equitable manner, accelerating action in this critical decade*".[267] Further, the ICJ observed in its Advisory Opinion that States' failures to take appropriate action to protect the climate system, including in respect of "*fossil fuel production*" and "*the granting of fossil fuel exploration licences"*, could constitute an internationally wrongful act: [427].[268]

(2) Assessment of Compliance

199. Against that background, the Defendant's regulatory framework in respect of fossil fuel production and exported emissions is incompatible with its overarching duty under Article 8. The framework permits the sanctioning of new oil and gas development, and places no effective control upon the level of fossil fuel production or emissions exported from the UK.

200. **First**, as a matter of principle, the UK must reduce its fossil fuel production in a manner that is equitable. That proposition is supported by the Dubai Outcome and is consistent within the principles of CBDR and respective capabilities in the UNFCCC and the Paris Agreement

[267] UNFCCC, 'First global stocktake, Conference of the Parties serving as the meeting of the Parties to the Paris Agreement' (13 December 2023) FCCC/PA/CMA/2023/L.17 [**SB/597-617**]
[268] See also: *CRC General Comment No 26*, [65(d)] and [98(d)]; *CESCR 2018 Statement*, [8]; *CESCR General Comment No 26*, [56].

(as incorporated into the decision in *KlimaSeniorinnen*). Among other experts in the field, the UNEP has assessed that "*countries with greater capacity and lower dependency on fossil fuels will likely need to wind down their production faster than the global average*" (paragraph 41 above). As a State with greater capacity and lower dependency on fossil fuels, the UK must reduce its fossil fuel production at speed substantially exceeding global average rates of decline set out by the IEA, UNEP and IPCC.

201. However, in contrast to territorial emissions, there is presently less evidence available against which the Claimants can assess in numerical terms the levels of the UK's fossil fuel production from the perspective of equity. An alternative approach is therefore adopted of assessing the UK's approach to new production capacity against the standards set in the UNEP and IEA reports, which represent the best available science. Those reports indicate that, in order to limit its fossil fuel production in a manner that is consistent with the 1.5°C LTTG and thus its duty under Article 8, the UK should, at a minimum, permit no new oil and gas developments (paragraphs 42-43 above).

202. **Second**, and transgressing those minimum requirements, the Defendant has permitted the sanctioning of new oil and gas fields post-2021. Refraining from sanctioning new oil and gas fields is a minimum requirement for any framework to be effective and consistent with 1.5°C in that:

(a) Existing sanctioned fossil fuel reserves significantly exceed the global carbon budget associated with achieving the 1.5°C LTTG. If the UK continues to open new oil and gas fields, there is no credible basis to assume or expect that other States will reduce their levels of fossil fuel production from existing oil and gas assets to offset the UK's continued production from new fields.

(b) There is a significant risk that sanctioning new fossil fuel reserves will lock in increased fossil fuel supply for decades given the long-life cycles of oil/gas fields and coal mines, and the elasticity of supply and demand.

(c) Therefore, the consequent scientific consensus, as represented in the IEA and UNEP reports, is that limiting global warming to the 1.5°C LTTG requires that no State sanctions any new fossil fuel reserves beyond those approved for development in 2021 (paragraphs42-44 above).

203. That minimum requirement applies *a fortiori* to developed States with high capacity and low levels of dependency, such as the UK. Indeed, since the requirement applies to all States, the

principles of equity indicate that the UK should go further than a simple moratorium on new production. However, given the current difficulty of (i) identifying the UK's equitable share of fossil fuel production and (ii) of mandating the early retirement of productive infrastructure, the Court is invited to treat a moratorium, beginning in 2021, as the irreducible (and highly conservative) minimum requirement for a developed State such as the UK.

204. Set against that minimum requirement, the UK's framework is inconsistent with holding global warming to 1.5°C:

(a) The Defendant has, since 2021, permitted the sanctioning of new oil and gas development. Since 2021, the NSTA has issued some 85 licences, and the Defendant has sanctioned some 10 new oil and gas projects (paragraph 133 above). Fossil fuels produced from these developments will be in excess of the minimum requirement of no new oil and gas projects, and thus inconsistent with the 1.5°C and the overarching duty.

(b) The NSFP allows for new production consents to continue to be issued in existing licensed fields. Any development and production from such fields will be further in excess of the minimum requirement of no new oil and gas projects (paragraph 139 above).

(c) The above inconsistencies are highly material in terms of the resulting production and CO_2 emissions. Currently unsanctioned reserves in licensed fields (i.e. those that would be off-limits under a policy that complied with the minimum requirement, but are potentially available for exploitation under the NSFP) amount to some 7.1 Bln boe. That is more than double the potential production from sanctioned reserves (3 Bln boe). Full exploitation of unsanctioned reserves in licensed fields would lead to a tripling of CO_2 emissions from UK-produced fossil fuels, relative to a scenario in which the minimum requirement was applied: an additional 2.9 $GtCO_2$ emissions, equivalent to more than 9 years' worth of domestic UK CO_2 emissions (paragraph 140 above).

205. **Third**, outside the commitment in the NSFP, the UK's framework places no substantive control or limit upon the level of fossil fuel production and exported emissions from the UK (including from new fields). While each individual project will be subject to the requirements of the EIA Guidance, the guidance offers no clear methodology for assessing the significance of emissions from oil and gas developments, nor their compatibility with the 1.5°C LTTG. In any event, there statutory regime places no duty upon the Defendant, when deciding to grant production consent, to assess *whether the* [proposed] *activity is compatible* with [the UK's] *obligations under national and international law to take effective measures against the adverse effects of climate*

change": *Greenpeace Nordic*, [319]. Nor, even if such assessments were performed, is there any requirement in the statutory regime to refuse consent if a project's emissions are shown to be incompatible with the 1.5°C LTTG or the overarching duty under Article 8, since the significance of CO_2 emissions is only one factor to be weighed against many others in the determination of the overall balance of advantage (paragraphs 137-138 above).

206. Those failures correspond to significant flaws and/or lacunae in the climate change framework that are incompatible with the overarching duty under Article 8. To the extent necessary, the Claimants maintain that the policy set out in the NSFP is unlawful as incompatible with Article 8 precisely because it manifests the decision, contrary to the best available science, to allow new production consents to be issued in existing licensed fields absent any relevant criteria or restriction that would prevent total fossil fuel production and export from exceeding the level consistent with the 1.5°C LTTG.

G. RELIEF AND ORDERS

207. In their N461, the Claimants apply for: (i) A cost capping order under CPR r. 46.26; (ii) permission to rely on a Statement of Facts and Grounds that exceeds 40 pages, pursuant to PD 54A para 4.2(3); (iii) permission to rely on expert evidence, as required by CPR r. 35.4(1); (iv) insofar as necessary, an extension of time in respect of the s.1 CCA, the Fifth Carbon Budget Order, the Sixth Carbon Budget Order, the Carbon Accounting Regulations 2009 SI/1257/2009 and the 2030 NDC and the 2035 NDC; and (v) Disclosure of specified categories of documents. The reasons and evidence in support of those applications are addressed in section 9 of the N461 and the continuation page annexed thereto.

208. The Claimants seek the relief identified in the N461. In sum, the Claimants seek declarations that the Defendant has acted incompatibly with Article 8 and s.6(1) (or in the case of s.1 CCA, under s.4 HRA) to the extent made out in these grounds.

Jamie Burton KC / Alison MacDonald KC

Doughty Street Chambers / Essex Court Chambers

Joshua Jackson Peter Lockley

Doughty Street Chambers/Landmark Chambers

3 February 2026

ANNEX ONE: THE TARGET OF THE CLAIM AND LIMITATION

1. As mentioned in the Introduction and Summary of Claim, the Defendant did not provide a substantive answer to the claim in his LOR and limited himself to two preliminary objections. The first objection is addressed in this Annex, namely, that the Claimants have failed to identify a legitimate target for judicial review. There are three strands to that objection:

   (a) The Claimants are "*in essence*" challenging a failure to legislate, which is excluded by s.6(6) HRA;

   (b) The Claimants are "*in truth*" challenging the CCA, and such a challenge is out of time per CPR 54.5; and,

   (c) The claim is out of time per s.7(5) HRA as the Claimants have not identified a justiciable decision, action or failure to act dating from within the last 12 months.

The target for judicial review: the Claimants' primary case

2. The Defendant's objections fall away once the target of the judicial review is properly understood. The Claimants' challenge is to the UK's overall legislative and administrative framework for mitigating climate change ("the climate change framework") on the basis that it is incompatible with the Defendant's continuing and overarching duty under Article 8 to protect human health and life. On the Claimant's case, that incompatibility arises as a result of the structural flaws and lacunae in the climate change framework set out in the SFG, in summary: (i) the UK's emissions targets are not consistent with 1.5°C and a reasonable and effective measure of the UK's fair share; (ii) the failure to effectively regulate imported consumption emissions; and (iii) the failure to effectively regulate production and export of fossil fuels.

3. The Claimants' approach accords with that called for by the Grand Chamber in *KlimaSeniorinnen*, which held that the State's "*primary duty is to adopt, and to effectively apply in practice, regulations and measures capable of mitigating the existing and potentially irreversible, future effects of climate change"* [545], and that determining whether a State's mitigation measures, aims and objectives comply with Article 8 requires an assessment of "*an overall nature, meaning that a shortcoming in one particular respect alone will not necessarily entail that the State would be considered to have overstepped its relevant margin of appreciation*"*:* (emphasis added) [551] (see also [556]).

4. That approach was evident in the Grand Chamber's assessment of Switzerland, which addressed (i) the insufficiency of its target for 2020, (ii) its failure to meet that target, (iii) the

absence of a 2030 target, and (iv) its failure to set its targets with reference to a carbon budget: [558]-[571].

5. The Grand Chamber's finding of breach was based on the cumulation of those flaws within the Swiss climate change framework:

> "*In conclusion, there were some critical lacunae in the Swiss authorities' process of putting in place the relevant domestic regulatory framework, including a failure by them to quantify, through a carbon budget or otherwise, national GHG emissions limitations. Furthermore, the Court has noted that, as recognised by the relevant authorities, the State had previously failed to meet its past GHG emission reduction targets (see paragraphs 558 to 559 above). By failing to act in good time and in an appropriate and consistent manner regarding the devising, development and implementation of the relevant legislative and administrative framework, the respondent State exceeded its margin of appreciation and failed to comply with its positive obligations in the present context.*" ([573])

6. The focus on "*structural problem[s]*" in a State's climate change legislative and administrative framework is also clear from the ECtHR's assessment in *Greenpeace Nordic*: [336]. It is the inverse of the "*choice of means*" principle that the focus of the assessment is the overall climate change framework as opposed to particular mitigation measures or operational choices: *Fliegenschnee*, [33].

The objections to the Claimants' primary case

(a) The Claimants are "*in essence*" challenging a failure to legislate, which is excluded by s.6(6) HRA.

7. Section 6(6) HRA provides that, for the purposes of the s.6(1) duty on public authorities not to act incompatibly with Convention rights, "'*an act' includes a failure to act but does not include a failure to – (a) introduce in, or lay before, Parliament a proposal for legislation; or (b) make any primary legislation or remedial order*".

8. The short point is that the Claimants do not challenge a failure by the Defendant to introduce or lay a proposal for legislation before Parliament nor a failure of Parliament to make any primary legislation, such that s.6(6) is not engaged. The challenge, again, is to the overall climate change framework. A number of points follow:

(a) The Defendant's compliance with the overarching duty does not necessarily require him to propose or Parliament to make legislation. The flaws identified by the climate change framework could be remedied by a range of legislative, regulatory, policy and/or administrative measures. For example, in the absence of an amendment to the CCA or introducing further primary legislation:

(i) The UK could achieve a reasonable and effective measure of its fair share by increasing its level of climate finance, technology transfer and/or capacity building measures to secure emissions reductions in other States, as well as by further utilising carbon credits under the CCA. Those measures could be taken pursuant to an increased CCA target; but could also take the form of some other non-legislative target or commitment at the level of policy. For example, neither the UK's 2030 and 2035 NDC targets, nor its current climate finance commitment, are enshrined in legislation and increasing any of those to a compatible level would not require legislation. A Convention-compliant contribution of the UK's fair share does not necessarily require legislative intervention.

(ii) The Defendant could achieve reductions in the UK's imported consumption emissions through a wide range of regulatory and administrative measures under existing legislation and powers. Those measures *could* be taken pursuant to either a legislative or non-legislative target or benchmark for imported consumption emissions, and a policy delivery plan. The Defendant's impugned failures of assessment and implementation in that regard are manifestly distinct from a failure to introduce legislation.

(iii) The Defendant could commit to not sanctioning any further new oil and gas fields either through legislation or as a matter of policy. Indeed, the current policy to permit new oil and gas production is contained in his policy, the 'North Sea Futures Plan'.

(b) The claim, rightly, focuses on the flaws in the climate change framework; it does not prescribe (implicitly or otherwise) the measures beyond the absolute minimum required to achieve compliance, still less the means through which such measures are introduced, which is for the Defendant to determine (albeit within the bounds of his legal obligations: *KlimaSeniorinnen*, [538(e)]; *Greenpeace Nordic*, [315]). That is consistent with the separation of powers: *R (RA and AA) v Secretary of State for Foreign, Commonwealth and Development Affairs* [2026] EWCA Civ 3, [5] (Jackson LJ).

(c) The Claimants have not and do not seek an order that the Defendant must introduce or lay a proposal for legislation before Parliament. The action requested of the Defendant in the PAPL (at paragraph 281) did not specify that any of the targets called for had to be introduced by way of legislation. No mandatory orders are sought.

9. If s.6(6) HRA was interpreted to cover any case where UK public authorities' positive obligations under the ECHR *could be* discharged by introducing legislation but, equally, could be discharged by other measures, that would be irreconcilable with the UK's "*primary duty*" under Article 8 (and many other Convention rights) to put in place "*legislative and administrative frameworks*" for the effective protection of Convention rights, and/or the ECtHR's clear elucidation of the need to ensure climate policy and the adequacy of that framework is reviewable by the domestic courts: *KlimaSeniorinnen*, [538(a)] and [639]. The proper interpretation of s.6(6) HRA must be that it only excludes claims which *specifically challenge* a failure to legislate and/or which *necessarily require* the introduction of legislation. This claim does not fall into that category. To the extent necessary, the Claimants will invoke s.3 HRA to require an interpretation of s.6(6) HRA that is compatible with the overarching duty in this claim.

(b) The Claimants are "*in truth*" challenging the CCA, and such a challenge is out of time per CPR 54.5;

10. The Claimants' primary case is not a challenge to the CCA or to any emissions targets introduced under the CCA, but to the overall climate change framework, of which the CCA forms a part. The CCA is an effective mechanism of ensuring that the UK reduces its territorial emissions in service of the Net Zero target in s.1 CCA and the Claimants do not contest that the budgets made under the CCA are ineffective or insufficient in achieving that limited statutory purpose. The issue is that for the reasons set out under Ground 1(a)) the targets set under the CCA are insufficient of themselves to constitute an effective and Convention-compliant climate framework, and have not been sufficiently complemented by the deployment of additional measures, such as climate finance, to make up that shortfall. As above, the setting of a target(s) compatible with Article 8 would not necessarily have to be implemented through the CCA regime. To find otherwise would be to focus impermissibly on the means of achieving a compatible climate change framework.

(c) The claim is out of time per s.7(5) HRA as the Claimants have not identified a justiciable decision, action or failure to act dating from within the last 12 months.

11. Once the target of the judicial review is properly understood (see above), it follows that the challenge is to a continuing breach of an ongoing statutory duty and/or to a continuing state of affairs (namely, the climate change framework's ongoing incompatibility with the Defendants' continuing duty to not act incompatibly with ECHR rights, per s.6(1) HRA). Consequently, time will not begin to run (under CPR r. 54.5 or s.7(5) HRA) until the

incompatible state of affairs is brought to an end: *R (G) v Secretary of State for Justice* [2010] EWHC 3407 (Admin), [11] (Burton J). This is a "*continuing situation*" rather than a "*one off*" case: *R (Johnson) v Secretary of State for the Home Department* [2017] AC 365, [28] (Lady Hale); *O'Connor v Bar Standards Board* [2017] 1 WLR 4833, [23]-[24] (Lord Lloyd-Jones).[1] The UK's climate change framework continues to evolve, but it remains incompatible with Article 8.

The Claimants' alternative targets for judicial review

12. The Claimants submit that the above analysis is plainly correct, in light of *KlimaSeniorinnen* in particular. However, in the event that the Court does not agree, the Claimants, to the extent necessary, advance their challenge in the alternative to the following measures that are central to the framework:

Ground 1(a)

(1) The UK NDCs 2035 NDC of 30 January 2025 and 2030 NDC as updated September 2022

13. The reason why the NDCs represent a tenable alternative target is that, in principle, the NDCs could, but did not, commit the UK to a compatible contribution to climate change mitigation (at least in respect of Ground 1(a)). As the reference in Article 3 of the Paris Agreement to Articles 9, 10 and 11 demonstrates, the scope of States' obligations in respect of their NDCs is not necessarily limited to territorial emissions reductions (see the SFG at paragraph 54). That the NDCs do not contain sufficient commitments is made out by the reasons set out under Ground 1(a); viz. the targets (and other matters) set out in the 2030 and 2035 NDCs are insufficient to meet the UK's obligations under Article 8.

(2) Section 1 Climate Change Act 2008

14. If legally binding targets are the exclusive means of complying with the overarching duty under Article 8, the CCA is the existing legislative framework through which the Defendant sets all such targets (in that it has the "*implicit effect*" of setting the UK's emissions reduction targets not solely in respect of territorial emissions reductions, but also in respect of emissions reductions to be secured through additional measures - c.f. *Secretary of State for Business and Trade v Mercer* [2024] HRLR 8, [116] (Lady Simler)) it is against those targets that compliance with Article 8 must be judged.

[1] That reflects the ECtHR's approach to the four-month time limit under Article 4 of Protocol No.15 to the ECHR, see: *Hudorovič v Slovenia* (2020) EHRR 16, [87]; *Oliari v Italy* (2017) 65 EHRR 26, [96]-[97].

15. The Net Zero 2050 target under s.1 CCA (Net Zero by 2050), by itself, is incompatible with the overarching duty under Article 8 for the reasons set out under Ground 1(a). On that basis, the Claimants would seek a declaration of incompatibility in respect of s.1 CCA pursuant to s.4 HRA.

    (3) Carbon Budget Order 2016 (SI 2016/785) Carbon Budget Order 2021 (SI 2021/750), and regulation 3(1) of the Carbon Accounting Regulations 2009 (SI 2009/1257).

16. The Claimants further challenge the Fifth Carbon Budget Order and the Sixth Carbon Budget Order, made under the CCA, as alternative targets of the claim. It follows from the aforesaid that the interim emissions reduction targets set under the CCA are necessarily insufficient to comply with the Defendant's overarching duty under Article 8.

17. Furthermore, insofar as the insufficiency of the said Orders arises from the definition of the circumstances in which carbon units may be credited to the UK carbon account, the Claimants challenge regulation 3(1) of the Carbon Accounting Regulations 2009 (SI 2009/1257) pursuant to s. 6(1) HRA. By its restrictive definition of 'carbon units', that regulation prevents the Defendant from setting legally binding emissions targets, in the form of carbon budgets, encompassing emissions reductions achieved through additional measures (such as climate finance) where it is necessary to do so in order to meet the UK's positive obligation under Article 8.

    Ground 1(c)

    (4) The North Sea Futures Plan (NSFP)

18. The North Sea Futures Plan (NSFP), which contains the Defendant's policy decision to permit new oil and gas production in the North Sea. For the reasons set out in Ground 1(c) of the SFG, that decision reflects a relevant flaw in the UK climate change framework, to the extent that it is not subject to any criteria or restrictions that are adequate to prevent fossil fuel production and export from exceeding the level consistent with the 1.5°C LTTG (which criteria or restrictions would not necessarily have to sit in the NSFP itself).

The Defendant's objections as they apply to the Defendant's alternative case

19. As regards the Defendant's objections set out above.

    (a) The Claimants are "*in essence*" challenging a failure to legislate, which is excluded by s.6(6) HRA;

20. Section 6(6) HRA does not bite on the Claimants' alternative targets for judicial review set out in paragraph 6 above. Section 1 CCA is a provision of primary legislation and a declaration is sought under s.4(2) HRA. The Carbon Budget Orders and and regulation 3(1) of the Carbon Accounting Regulations 2009 (SI 2009/1257) are acts (not failures to legislate) which are incompatible with Article 8, and the Claimants seek ordinary declarations of incompatibility accordingly.

    (b) The Claimants are "*in truth*" challenging the CCA, and such a challenge is out of time per CPR 54.5;

21. Plainly the Claimants' alternative case does involve a challenge to the CCA and as such the claim is ostensibly out of time. That issue is dealt with under (c) below.

    (c) The claim is out of time per s.7(5) HRA as the Claimants have not identified a justiciable decision, action or failure to act dating from within the last 12 months.

22. In the event that it is deemed necessary for the Claimants to challenge the 2030 NDC, the 2035 NDC, Fifth Carbon Budget Order, the Sixth Carbon Budget Order, regulation 3(1) of the 2009 regulations and/or s.1 CCA, they apply for an extension of time to do so under CPR r. 3.1(2) for the reasons set out in section 9 of the N461 continuation sheet (not repeated herein).

ANNEX TWO: VICTIM STATUS, APPLICABILITY AND STANDING

Relevant Principles

1. Article 34 ECHR provides that the Court "*may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation*" of Convention rights by a Contracting State. That requirement must not be applied in a "*rigid, mechanical or inflexible way*", with excessive formalism, or in a way which renders the protection of an individual's Convention rights ineffective: *KlimaSeniorinnen*, [461].[1] The threshold of applicability for Article 8 is closely related to the victim status requirement.

2. The authoritative starting point for both requirements in the climate context is *KlimaSeniorinnen*. The Grand Chamber considered that there was a need for a "*special approach to victim status*" in that context ([478]-[479]), having regard to: (i) the importance of enabling individuals to access collective bodies to challenge complex climate change decisions, noting its nature as a "*common concern of humankind*" ([489], [497]); (ii) the principle of intergenerational equity and the importance of collective action in overcoming the representational disadvantage of future generations ([489]); (iii) the principles of the Aarhus Convention regarding access to justice for NGOs ([490]-[491], [501]); (iv) State practice across the Council of Europe in giving broad standing to environmental associations ([492]-[494]); and (v) the urgency of combatting the adverse effects of climate change, and the gravity of those effects ([478], [498]-[499]).

3. Taking those considerations together, the Grand Chamber recognised that it was:

> "*appropriate in this specific context to acknowledge the importance of making allowance for recourse to legal action by associations for the purpose of seeking the protection of the human rights of those affected, as well as those at risk of being affected, by the adverse effects of climate change, instead of exclusively relying on proceedings brought by each individual on his or her own behalf.*" ([499])

4. The Court then held (at [502]) that associations would have standing to lodge an application under Article 34 ECHR in relation to the alleged failure of a State to take adequate measures to protect individuals against the adverse effects of climate change, if the association is:

> "*(a) lawfully established in the jurisdiction concerned or have standing to act there; (b) able to demonstrate that it pursues a dedicated purpose in accordance with its statutory objectives in the defence of the human rights of its members or other affected individuals within the jurisdiction concerned, whether limited to or including collective action for the protection of those rights against the threats arising from climate change; and (c) able to demonstrate that it can be regarded as genuinely qualified and representative to act on behalf of members or other affected individuals within the jurisdiction who are subject to specific threats or adverse effects of climate change on their lives, health or well-being as protected under the Convention.*"

[1] *Roman Zakharov v Russia* (2016) 63 EHRR 17, [164]-[165]; *Gorraiz Lizarraga v Spain* (2007) 45 EHRR 45, [38]. Recognised in *R (Reprieve) v Prime Minister* [2022] QB 447, [41].

5. In that connection, the Grand Chamber noted:

> "*In this connection, the Court will have regard to such factors as [i] the purpose for which the association was established, [ii] that it is of non-profit character, [iii] the nature and extent of its activities within the relevant jurisdiction, [iv] its membership and representativeness, [v] its principles and transparency of governance and [vi] whether on the whole, in the particular circumstances of a case, the grant of such standing is in the interests of the proper administration of justice.*"

6. The Grand Chamber also underlined that standing of associations "*will not be subject to a separate requirement of showing that those on whose behalf the case has been brought would themselves have met the victim-status requirements*": [502].

7. Against that background, the Grand Chamber held that Verein KlimaSeniorinnen Schweiz, a non-profit association established for the purpose of bringing proceedings, with the support of Greenpeace Switzerland, satisfied the victim status and applicability criteria: [521]-[524].

8. Those principles have since been applied in subsequent Strasbourg authorities:

   (a) In *Greenpeace Nordic* (at [308]-[312]), the ECtHR held that Greenpeace Nordic (a non-membership professional NGO acting on behalf of its supporters and engaging in various activities aimed at reducing GHG emissions in Norway) and Young Friends of the Earth (a membership-based association with thousands of youth members) had standing to challenge the granting of fossil fuel exploration permits.

   (b) In *Fliegenschnee*, the Court considered that it was unclear whether the environmental association in question had standing as no detailed information as to its membership or statutes had been provided to the Court, but did not determine the issue ([32]).

9. Sections 7(3) and (7) HRA incorporate the victim status requirement under Article 34 ECHR. Pursuant to s.2 HRA and for the reasons given at paragraph 142 of the SFG, there are no special circumstances or reasons justifying a departure from *KlimaSeniorinnen*. Further:

   (a) Article 34 ECHR is an admissibility requirement under the Convention which is for the ECtHR to authoritatively interpret. The Grand Chamber authoritatively set down the principles on associational standing to be applied in future cases, and those criteria have been applied by the ECtHR in *Greenpeace Nordic* and *Fliegenschnee*.

   (b) While *KlimaSeniorinnen* represents a development in the ECtHR's jurisprudence on victim status, the Grand Chamber identified cogent reasons why an adapted approach to victim status was appropriate in the context of climate change. While that adaptation may, in part, be founded on "*broad policy than strict logic […] it is by no means exceptional, for the ECtHR to*

found a decision on such a basis" and that has not dissuaded our appellate courts from following Strasbourg judgments on previous occasions: *RJM*, [31]-[32].

(c) If the domestic courts failed to follow *KlimaSeniorinnen,* that would place the UK in breach of its duties under Article 6 ECHR and the duty not to act incompatibly with Convention rights under s.6(1) HRA (noting *KlimaSeniorinnen*, [621]-[623], [630] and [636]-[639]).

Application to the Proposed Claimants

10. The Claimants satisfy the criteria for victim status and applicability in *KlimaSeniorinnen* for the following reasons, and on the basis of the evidence set out in their witness statements.

Save Hemsby Coastline

11. **First**, SHC is a not-for-profit association lawfully established in the UK, incorporated as a Private Limited Company by guarantee without share capital and being a registered charity. Its membership and governance structure are set out in its Articles of Association [SHC/§§19].

12. **Second**, SHC pursues a dedicated purpose in accordance with its statutory objectives in the defence of the human rights of its members and other affected individuals in the UK from the threats of climate change. SHC's statutory objectives are as follows [SHC/§§16]:

> "*For the benefit of the community, the preservation of human life and property and for the protection of the environment to provide, preserve and maintain, and/or improve sea defences and flood protection measures, and to mitigate the effects on members and others from the threats and issues caused by climate change in the area of the village of Hemsby, Great Yarmouth, Norfolk.*"

13. While climate change was not explicitly recognised in SHC's statutory objectives until recently, protecting local residents from and raising awareness about the impacts of climate change has always been central to SHC's reason for being [SHC/§§18]. Protecting Hemsby from the impacts of climate change has always been an implicit part of SHC's statutory objectives.

14. **Third**, SHC is representative of its members and other individuals affected by climate change in the UK. SHC is a local organisation which directly represents the interests of Hemsby as a community acutely affected by climate change. Hemsby is a coastal village that is vulnerable to sea level rise, coastal erosion, storms and flooding. Its residents are under threat of losing their homes every time a storm comes in, as sea levels rise and coastal erosion accelerates. Since 1978, 108 homes have been removed and residents have had to move or leave the area, and many residents' homes are now centimetres away from being lost [SHC/§§5-7].

15. SHC is a membership-based organisation with around 120 members from the local area, and many more persons in the local community volunteer and are involved in SHC's activities

[SHC/§§24]. Its trustees have all lived near Hemsby and have a close connection to the area. In addition, SHC wants to fight to protect people in other parts of the UK from suffering similar climate impacts [SHC/§§23].

16. **Fourth**, SHC is genuinely qualified to act on behalf of its members and individuals affected by climate change in the UK. It has a strong track record of taking action to pursue its statutory objectives and protecting its members and local residents from the impact of climate change (specifically, sea level rise and coastal erosion). SHC's activities include fundraising efforts, campaigns, petitions, political lobbying and media engagement [SHC/§§21]. One of SHC's members, [redacted], has taken legal action challenging the Government's adaptation efforts (*Paulley* [2024] EWHC 2707 (Admin).

Climate Tipping Point Ltd (trading as "Tipping Point UK")

17. **First**, TPUK is a not-for-profit association lawfully established in the UK, being a private company limited by guarantee without share capital [TPUK/§§5, 9]. Its membership and governance structure are transparent, being set out in its publicly available Articles of Association [TPUK/§§4].

18. **Second**, TPUK pursues a dedicated purpose in accordance with its statutory objectives in the defence of the human rights of its members and other affected individuals in the UK from the threats of climate change. TPUK's statutory objectives are to: "*carry on the business as a co-operative to build, train, support, resource, organise, mobilise and connect a movement of grassroots groups tackling the intersections between climate, social, economic and racial justice.*" Pursuant to its statutory objectives, TPUK seeks to protect both its members and other affected individuals in the UK and beyond from the threats of climate change by equipping grassroots groups with the necessary tools to achieve the objectives of the climate justice movement [TPUK/§§6-7].

19. **Third**, TPUK is representative of its members and other groups and individuals affected by climate change in the UK. TPUK is a membership-based cooperative. Its formal membership is comprised of its 15 members of staff. Many of TPUK's members are personally affected by climate change, and are personally affiliated with a range of climate focused grassroots organisations [TPUK/§§10]. TPUK's representativeness is further demonstrated through its network and connections with grassroots and community organisations around the UK. TPUK has also established networks of grassroots organisations, namely: the Climate Reparations Network, the Stop Rosebank campaign, and the Bank Better and Boycott Bloody Insurance campaign networks [TPUK/§§8].

20. **Fourth**, TPUK is genuinely qualified to act on behalf of its members and groups and individuals affected by climate change in the UK. It has a strong track record in taking action and supporting grassroots groups to protect people from the impacts of climate change [TPUK/§§8]. TPUK pursues its statutory objectives through a combination of mobilising grassroots groups and providing training, resources, tools and grants [TPUK/§§8].

Students Organising for Sustainability UK

21. **First**, SOSUK is a non-profit organisation and a charity. Its governance and membership structure are transparent. Its publicly accessible constitution explains how decisions are made, and its current trustees and members are publicly available: [SOSUK/§15].

22. **Second**, SOSUK pursues a dedicated purpose in accordance with its statutory objectives in the defence of the human rights of its members and other affected individuals in the UK from the threats of climate change. SOSUK's charitable objectives are [SOSUK/§§9]:

> "*[T]o advance the education of the public in sustainable development, social responsibility and the conservation, protection, and improvement of the physical and natural environment so as to further the protection of the world's natural environment, including by reducing and making sustainable the use of energy and water and ensuring the prudent use of natural and human-made resources for public benefit. Sustainable development means "development which meets the needs of the present without compromising the ability of future generations to meet their own needs*"

23. SOSUK was established in response to the climate emergency and the ecological crisis, and its impact on young people. Young people, as a generation, will be particularly impacted by climate change. Decisions affecting them will have a longer-term and more significant impact on their interests relative to older generations, given their longer remaining lifespans and the progressively intensifying nature of climate change [SOSUK/§§4]. SOSUK supports students to be the change that society needs to combat the climate emergency and ecological crisis, and to deliver climate justice [SOSUK/§§10].

24. **Third**, SOSUK is representative of its members and young people and students affected by climate change in the UK. SOSUK was born from and remains closely connected to the National Union of Students (**'NUS'**) student movement. Its members are its trustees, which include NUS representatives and several other student representatives and leading student campaigners. Through its trustees and the organisations they represent, SOSUK represents the interests of the wider student population of the UK. In addition, SOSUK partners with student unions in its activities [SOSUK/§§13].

25. **Fourth**, SOSUK is genuinely qualified to act on behalf of its members and students affected by climate change. It has a strong track record in taking action to protect its members and the

students it represents from climate change. SOSUK pursues its objectives through its campaigns and engagement programme, and its research work [SOSUK/§§11].