POLICY BRIEF

From Courtrooms to COP30

How 2025 Climate Cases Can Raise Global Climate Ambition

1 Introduction

The international climate regime faces a stark contradiction: while the urgency has never been greater to address the climate crisis with ambitious mitigation, adaptation, and loss and damage measures, political progress has been slow, fragmented, and increasingly hampered by geopolitical tensions. 2024 was the first full year with global average temperatures above 1.5°C. Every additional tenth of a degree compounds the risk of irreversible tipping points and exposes humankind and ecosystems to an increasingly dangerous experiment.

In a time of growing polarization, courts are holding the line on climate obligations with clear reasoning grounded in the law. Across the world, affected communities, civil society actors, and legal practitioners are turning to the judiciary to enforce accountability and climate justice. Climate litigation is no longer a side issue – it is becoming a central force shaping international climate policy. The year 2025 marks a turning point, with landmark legal developments such as the Advisory Opinion of the International Court of Justice (ICJ AO), the Advisory Opinion of the Inter-American Court of Human Rights (IACtHR), and the Lliuya v. RWE ruling.

The 2025 climate litigation milestones are highly relevant for COP30 and the broader UNFCCC process, as they clarify legal responsibilities for climate action and harm. They strengthen the legal foundation for demanding stronger action on mitigation, adaptation, loss and damage, and climate finance. These developments also highlight new avenues for demanding accountability, especially for vulnerable nations and communities seeking justice and reparations. Negotiators, the COP30 Presidency, and civil society can use this new reasoning of the court to raise ambition, moving from voluntary pledges towards decisions grounded in legal responsibility.

This policy brief first explores the key results of the 2025 climate litigation milestones (chapter 2). It then analyses how these results can inform and accelerate negotiations under the UNFCCC, with a particular focus on the ambition of Nationally Determined Contributions (NDCs) and the new global climate finance goal, as well as loss and damage (finance) (chapter 3).

The policy brief formulates three key messages relevant for COP30:

1. Based on 2025 climate litigation milestones, States must improve their legislation, administrative procedures, and enforcement mechanisms for effective climate policy – in the run-up to COP30 and in the long term.
2. Climate litigation is reshaping the baseline for COP30 by highlighting legal responsibility across mitigation, adaptation, loss and damage, and climate finance.
3. There is a clear legal reasoning by the court for addressing loss and damage (finance) under the UNFCCC at COP30 and beyond.

2 UNFCCC-relevant takeaways from 2025 litigation milestones

2.1 International Court of Justice – Advisory Opinion on Climate Protection Obligations

Request by	Republic of Vanuatu (with support from small island and Pacific nations, following a youth-led initiative)
Court	International Court of Justice
Subject	Clarification of States' obligations under international law to protect the climate system from anthropogenic greenhouse gas (GHG) emissions and determination of the legal consequences if States cause significant harm through actions or omissions.
Status	Advisory Opinion delivered on 23 July 2025
Relevant for	All States, vulnerable and affected populations, human rights and environmental litigation globally, policy-makers, international climate governance. The advisory opinion is not legally binding on States, but it carries considerable legal, political, and moral authority and contributes to the development of international law. The reasoning of ICJ advisory opinions is frequently cited by national and regional courts, which often align their judgments with ICJ interpretations. For negotiators and civil society, the opinion provides a powerful tool to demand stronger and more ambitious climate action.
Key results	• 1.5°C threshold is legally binding; States do not have unfettered discretion with regard to their NDCs: they must be as ambitious as possible, must be based on the best available scientific evidence, and must become more demanding over time; States must make 'best efforts' to implement NDCs.[1] • 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 that is attributable to that State.[2]

[1] Paragraph 203, 240 ff. of the Advisory Opinion of the International Court of Justice (ICJ AO).

[2] Par. 427, ICJ AO.

	• Customary International Law imposes climate obligations and duty to co-operate, so withdrawal from Paris Agreement does not remove responsibility.[3] • Developed States are legally obliged to provide developing States with financial resources and technology transfers and to support them in capacity building, for the purpose of mitigation and adaptation as well as addressing loss and damage; parties are to fulfil their obligations in a manner and at a level that enables the objectives to be achieved, while the evaluation of their measures depends on several factors, including the capacity of developed States and the needs of developing States.[4] • With regard to the principle of 'common but differentiated responsibilities and respective capabilities, in the light of different national circumstances' the status of a State as developed or developing is not static.[5] • Obligations extend to regulating private actors: States must ensure that companies operating under their jurisdiction comply with climate obligations, including through licensing, subsidy regulation, or impact assessments.[6] • The right to a clean and healthy environment is necessary to secure fundamental human rights such as life and health.[7] • The fact that climate change is a cumulative problem does not limit legal liability. States are responsible for their own conduct, and scientific methods can be used to quantify each State's contribution.[8] • A breach of obligations can constitute an internationally wrongful act that can result, if a causal link is established, in obligations to cease and refrain from certain actions and to make full reparations to the injured States through restitution, compensation, and satisfaction.[9]

Relevant info and links: ICJ Advisory Opinion, 23 July 2025

[3] Par. 271, ICJ AO.
[4] Par. 263 ff., ICJ AO.
[5] Par. 226, ICJ AO.
[6] Par. 282, 403, 428, ICJ AO.
[7] Par. 393, ICJ AO.
[8] Par. 429, ICJ AO.
[9] Par. 447 ff., ICJ AO.

2.2 Inter-American Court of Human Rights – Advisory Opinion on Climate Emergency

Request by	Republic of Colombia & Republic of Chile
Court	Inter-American Court of Human Rights
Subject	Clarification of States' human rights obligations in the climate emergency, including recognition of the right to a healthy climate and duties to prevent irreversible environmental harm and to protect vulnerable populations.
Status	Advisory Opinion OC-32/25 adopted on 29 May 2025, notified 3 July 2025
Relevant for	States and policy-makers across the Americas, courts litigating climate-human rights cases, civil society, Indigenous and vulnerable communities, global climate governance.
Key results	• The current situation constitutes a climate emergency driven by rapidly rising global temperatures; it is attributable to unequal human activities and poses a severe threat, especially to the most vulnerable; it requires urgent, rights-based action on mitigation, adaptation, and sustainable development.[10] • States must, under their general obligations to respect and guarantee rights, act with increased due diligence to address human-made climate change and protect particularly vulnerable populations.[11] • States must allocate resources to protect those most severely exposed to climate impacts.[12] • In their domestic legal frameworks, States must incorporate necessary regulations to respect, guarantee, and progressively develop human rights in the context of the climate crisis.[13] • States are obliged to cooperate internationally to protect human rights and those affected by the climate crisis.[14] • Pursuant to the principle of effectiveness, the absolute prohibition of human activities that could irreversibly harm the interdependence and vital balance of the common ecosystem essential for life is a **jus cogens** norm – a peremptory rule of international law that permits no exceptions.[15]

[10] P. 214 of Advisory Opinion of the Inter-American Court of Human Rights (IACtHR AO)

[11] Ibid.

[12] Unanimously (six to one), p. 215, IACtHR AO.

[13] P. 215, IACtHR AO.

[14] Ibid.

[15] Unanimously (four to three), ibid.

	• Pursuant to the right to a healthy environment, States must protect nature from climate impacts and advance sustainable development.[16] • States should uphold democratic rule of law and procedural rights, ensure access to scientific and traditional knowledge, produce and disclose climate information, counter disinformation, guarantee inclusive participation and prior consultation, protect environmental defenders from threats and criminalisation, and address climate-driven inequality and poverty impacts.[17]

Relevant info and links: IACtHR Advisory Opinion, 29 May 2025

2.3 Lliuya v. RWE

Plaintiff	Saúl Luciano Lliuya (Peruvian farmer and mountain guide)
Defendant	RWE (German energy company)
Court	Higher Regional Court in Germany
Claim	Demand that the defendant bear climate adaptation costs due to significant contribution to climate crisis
Status	Decided with judgement on 28 May 2025
Relevant for	Individual claimants seeking climate-related compensation from major emitters
Key results	• In principle, carbon majors like RWE can be held legally liable under German civil law for the impacts of climate change. • Causation can be established without tracing individual CO_2 molecules. It is sufficient to show that a company significantly contributes to global GHG concentration and that the resulting global warming leads to local climate-related risks.[18] • RWE's emissions are significant: with approximately 0.4% of global historic GHG emissions, its contribution qualifies as legally relevant.[19] • Climate liability begins in 1965: from this year onwards, major emitters could foresee and should have foreseen the harmful effects of GHG emissions, making them potentially liable from that point on.[20] • People affected by the climate crisis now have legal grounds to demand that major emitters contribute to the costs of adaptation and protection.

[16] P. 216, IACtHR AO.

[17] PP. 216–217, IACtHR AO.

[18] PP. 42 ff. of the English translation of the judgement of the Higher Regional Court of Hamm from 28 May 2025 (Lliuya Judgement).

[19] P. 47, Lliuya Judgement.

[20] PP. 44–45, Lliuya Judgement.

	• High-emitting companies must brace for future claims – fossil business models are now legal liabilities. Companies must set aside funds to cover future costs (litigation risk) for worldwide climate-related losses and damages.

Relevant info and links: Court Judgement, 28 May 2025. GW analysis.

3 From moral imperatives to tangible legal duties: What 2025 litigation milestones mean for COP30

By clarifying legal responsibilities for climate action and climate harm, climate litigation is emerging as a central force in international climate policy. The 2025 litigation milestones – including landmark court rulings and advisory opinions – specify that international law is not merely a set of moral imperatives but contains tangible legal duties. They elaborate upon the legal foundation for demanding stronger action on mitigation, adaptation, loss and damage, and climate finance. These developments also highlight new avenues for demanding accountability, especially for vulnerable nations and communities seeking justice and reparations.

For COP30 in Belém, this legal shift means that negotiators, the Presidency, and civil society can draw on binding legal arguments to raise ambition. Climate litigation reinforces the need for more ambitious NDCs, predictable and needs-based finance (particularly for adaptation and loss and damage), and clearer accountability mechanisms within the UNFCCC process.

Three key messages stand out:

1. States must improve their legislation, administrative procedures, and enforcement mechanisms for effective climate policy – in the run-up to COP30 and in the long term.
2. Climate litigation is reshaping the baseline for COP30 by highlighting legal responsibility across mitigation, adaptation, loss and damage, and climate finance.
3. There is a clear legal reasoning by the court for addressing loss and damage (finance) under the UNFCCC at COP30 and beyond.

3.1 States must improve their legislation, administrative procedures, and enforcement mechanisms for effective climate policy – in the run-up to COP30 and in the long term

The 2025 climate litigation milestones, including the ICJ AO and regional court decisions, have clarified that States have binding legal duties to act decisively on climate change. According to the ICJ, under customary international law, States have a primary obligation to prevent significant harm to the climate system and the environment – an obligation that applies to all States, regardless of whether they are parties to climate

treaties.[21] Responsibility is not tied to a particular outcome, but requires countries to take *all feasible measures* to prevent harm. Compliance is assessed through the standard of *due diligence in concreto*; a lack of due diligence constitutes an internationally wrongful act.[22] In light of these standards, States must now review whether their civil, environmental, and human rights laws comply with the stricter legal requirements set in 2025. Their 'to-do list' includes the following:

- **Preparing more ambitious NDCS:** Countries are obliged to submit NDCs that reflect their 'highest possible ambition,' are based on the 'best available science,' and demonstrate their 'best efforts' in implementation.[23] The ICJ makes it clear that States are not only obliged to 'prepare, communicate and maintain successive NDCS' but that these NDCs need to fulfil country's obligations under the Paris Agreement, which means that they must be aligned with the 1.5°C limit.[24] The ICJ confirmed that inadequate NDCs may constitute an internationally wrongful act. Thus, if a State sets an inadequate NDC, a competent court could order that this State adopt 'an NDC consistent with its obligations under the Paris Agreement.'[25] Current NDCs place the world on a 2.3–3.4°C pathway.[26] **The ICJ opinion therefore provides a clear legal reasoning for demanding more ambitious and 1.5°C aligned NDCs.**
- **Improving adaptation efforts and protecting vulnerable groups:** According to the ICJ, States have a binding duty to engage in adaptation planning and implementation.[27] They must make every effort and use the best scientific knowledge available to enhance adaptive capacity, strengthen resilience, and reduce vulnerability. Building on the IACtHR's opinion, States must also implement targeted programs and allocate resources to highly exposed populations, including Indigenous peoples, coastal communities, and informal urban settlements.[28]
- **Providing adequate international climate finance:** The ICJ advisory opinion affirms a legally binding duty of developed countries to provide financial resources to developing States for mitigation, adaptation, and addressing loss and damage.[29] Cuts in climate finance therefore not only contradict climate justice principles but also amount to a breach of international obligations. The ICJ advisory opinion also provides guidance for the discussion on the **contributor base**: it clarified that the principle of *common but differentiated responsibilities* must be interpreted in light of 'national circumstances.'[30] Therefore, the classification of States as 'developed' or 'developing' is not fixed. States with rising emissions and higher income levels may face new obligations regarding the provision of financial resources and transparency.
- **Regulating and holding corporations accountable**: Both the ICJ and IACtHR recognise the role of private entities and stress that States have the obligation to prevent violations by regulating, supervising, and monitoring their activities. If violations occur, States are obliged to investigate and punish them and to guarantee redress for their consequences.[31] If a State fails to properly

[21] Par. 271, ICJ AO.

[22] Par. 427, ICJ AO.

[23] Par. 427, ICJ AO.

[24] Par. 203, 240 ff., ICJ AO.

[25] Par. 447 ff., ICJ AO.

[26] Climate Action Tracker 2024, As the climate crisis worsens, the warming outlook stagnates. Available at: https://climateactiontracker.org/ (Accessed 25 September 2025).

[27] Par. 255 ff., ICJ AO.

[28] Par. 214, IACtHR OA.

[29] Par. 263 ff., ICJ AO.

[30] Par. 226, ICJ AO.

[31] Par. 226, 229–230, 345, IACtHR AO.

regulate harmful activities by private companies, it can be held responsible for that failure.[32] In such cases, the State is not directly responsible for the private actor's conduct, but for **its own failure** to prevent harm through proper laws and oversight. Governments should therefore establish accountability mechanisms for past and future damage caused by corporations, particularly by major emitters, and effectively regulate corporate conduct in the future to prevent further damage.

One way is to require companies to internalise climate liability risks through mandatory reserves, disclosure rules, insurance schemes, or compensation funds. A pioneering model is the New York State's 2024 **Climate Change Superfund Act** that created a Climate Change Adaptation Cost Recovery Program.[33] The law holds large fossil fuel producers strictly liable for historic emissions and requires them to collectively pay USD 75 billion over 25 years into a dedicated climate fund. The law applies to any entity with ties to New York that emitted over **1 billion metric tons of GHGs** between 2000 and 2018, regardless of where those emissions occurred, and assigns penalties proportionate to each party's contribution. The fund will support adaptation and resilience measures, with at least 35% earmarked for disadvantaged communities. This approach could be expanded beyond national borders by establishing mechanisms that guarantee equitable access to finance for communities worldwide. One possible approach would involve States collecting funds at the national level and subsequently contributing to both the Fund Responding to Loss and Damage and the Adaptation Fund.

- **Recognising climate risks as legal risks:** Climate risks must no longer be treated only as environmental or economic problems but also as legal liabilities. This shift is critical for infrastructure planning, public budgeting, and corporate regulation. For governments and major emitters alike, integrating climate liability into decision-making processes will become a defining element of risk management.

3.2 Climate litigation is reshaping the baseline for COP30 by highlighting legal responsibility across mitigation, adaptation, loss and damage, and climate finance

Climate lawsuits are prompting courts to clarify and elaborate on existing, enforceable legal obligations. They also expand avenues for holding States accountable, especially for vulnerable nations and affected communities seeking redress. Ahead of COP30, litigation milestones and advisory opinions are clarifying the legal standards by strengthening the basis for more ambitious NDCs, increased financial commitments (particularly for adaptation and loss and damage), and the enforcement of binding rights and accountability mechanisms. At COP30, countries should:

- **Establish a mechanism to close the ambition gap:** Countries are required to submit new NDCs by September 2025, but it is already foreseeable that these will fall short on mitigation measures needed to stay within the 1.5°C limit. A recent study shows that the remaining CO_2 budget for 1.5°C

[32] Par. 428, ICJ AO.

[33] Senate Bill S2129A. Available at: https://www.nysenate.gov/legislation/bills/2023/S2129/amendment/A (Accessed 25 September 2025).

could be used up in less than three years.[34] How this emission gap is to be closed after 2025 not only remains unclear but is not even on the official COP agenda to date. The ICJ opinion makes it clear that wealthy and high-emitting countries are legally obliged to reduce emissions with the 'highest possible ambition' as part of their human rights and due diligence duties.[35] COP30 should therefore address the ambition gap through measures such as:

- **A heads of state declaration** acknowledging progress since Paris and committing to new measures that raise ambition, particularly with regard to the implementation of the 'Dubai Consensus' to transition away from fossil fuels, triple renewable energy capacity, and double energy efficiency by 2030. The ICJ opinion explicitly holds that States may be held responsible not only for emitting GHGs but also for fossil-fuel production, consumption, providing exploration licences, or granting fossil fuel subsidies, as all of these may constitute an internationally wrongful act.[36] Hence, **States are legally obliged to remove or phase out political support measures for fossil fuels**. The ICJ opinion thus gives legal backing to strengthening regulation, revoking or restricting subsidies, halting new fossil fuel licensing, etc. This new legal basis needs to be reflected in the heads of state declaration.
- **A COP30 decision**, most likely a cover decision, mandating ambitious NDC reviews, annual progress reports, and follow-up until COP35 grounded in the legal obligations clarified by the ICJ opinion.
- **A coalition of the willing to draft a roadmap for phasing out fossil fuels:** Brazil's Minister of the Environment Marina Silva has suggested that COP30 could prepare such a roadmap. The ICJ opinion confirms that appropriate action to protect the climate system from GHG emissions – including through fossil fuel production, consumption, licensing, and subsidies - is part of States' legal duties. Ambitious Parties (e.g. CHAMP) could prepare a draft roadmap for adoption at COP31.

- **Scale up climate finance for developing countries:** Building on the New Collective Quantified Goal (NCQG), the Baku to Belém Roadmap (B2B) aims to chart an actionable pathway to mobilise **at least USD 1.3 trillion per year by 2035**. At COP30, the Roadmap must be translated into concrete implementation measures, particularly for adaptation and loss and damage. Without progress on public climate finance, trust between Parties will continue to erode. The ICJ advisory opinion and the RWE case provide strong legal guidance:
  - The ICJ confirms a binding duty for developed States to provide finance for mitigation, adaptation, and loss and damage.[37]
  - The Lliuya v. RWE case establishes that carbon majors can be held legally liable for climate impacts, opening the door to polluter-pays instruments. COP30 should therefore explore how carbon majors and high-emitting sectors (aviation, shipping) can contribute to climate finance, particularly for loss and damage – for instance, through global liability mechanisms or taxation of fossil fuel profits. The discussions can build on the Global Solidarity Levies Task Force, which is working on levies for premium flights and private jets. It aims to launch a coalition of the willing to implement these solidarity levies.[38]

[34] Copernicus 2025: Indicators of Global Climate Change 2024: annual update of key indicators of the state of the climate system and human influence. Available at: https://essd.copernicus.org/articles/17/2641/2025/ (Accessed 25 September 2025).

[35] Par. 203, 240 ff., ICJ AO.

[36] Par. 427, ICJ AO.

[37] Par. 264, ICJ AO.

[38] Global Solidaritiy Levies Taskforce. Available at: https://solidaritylevies.org/about/ (Accessed 25 September 2025).

- **Anchor legal responsibility in the UNFCCC process and strengthen the UNFCCC compliance mechanism:** In the mid-term, COPs must acknowledge that legal liability is now a core element of international climate governance – with implications for the responsibilities of States and companies alike. The ongoing UNFCCC reform process should reflect new accountability standards, particularly for NDCs. The ICJ advisory opinion is explicit: the 'failure of a State to take appropriate action to protect the climate system from GHG emissions […] may constitute an internationally wrongful act attributable to that State.'[39] This provides a legal foundation for enhancing the UNFCCC compliance mechanism in order to enforce effective implementation of national commitments through incentives and consequences for non-compliance.[40] The transparency framework should go beyond reporting: reviews should lead to binding recommendations to align commitments with the 1.5°C limit, backed by legal consequences if States fail to comply.
- **Institutionalise human rights as guiding principles:** The IACtHR has clarified States' obligations to uphold the right to a healthy environment and to address vulnerability arising from intersectional discrimination.[41] These findings should be embedded in climate governance – for example, by integrating human rights guidance into climate finance and adaptation projects to ensure that everyone enjoys equal rights in the context of the climate emergency.[42]

3.3 There is a clear legal reasoning by the court for addressing loss and damage (finance) under the UNFCCC at COP30 and beyond

The discrepancy between urgency and action is particularly stark in the area of loss and damage. Over the past decade, the international architecture has evolved with the establishment of the Warsaw International Mechanism, the Santiago Network, and more recently, the Fund Responding to Loss and Damage, and the Global Shield against Climate Risks. However, the most critical issue remains unresolved: how to mobilise adequate, predictable, and needs-based finance from those historically most responsible for the climate crisis – including both States and major corporations. When the new global climate finance goal was adopted in 2024, a failure to consider loss and damage undermined global climate justice and the emerging political momentum.

- **Reparations for loss and damage are a legal duty for States:** According to the ICJ advisory opinion, loss and damage is no longer merely a matter of solidarity or voluntary assistance but of legal responsibility and distributive justice. The opinion directly challenges the long-standing reluctance of high-emitting countries to acknowledge liability by clarifying that failure to act on loss and damage may constitute internationally wrongful conduct. It elevates the status of loss and damage within international law and strengthens its normative weight in climate negotiations, including ahead of COP30. The ICJ further affirms that the 'responsibility for breaches of obligation under the climate change treaties, and in relation to the loss and damage associated with the adverse effects of climate change, is to be determined by applying the well-established rules on State responsibility under customary international law.'[43] Under these rules, States must:
  1. Continue to fulfil their obligations,

[39] Par. 427, ICJ AO.

[40] United Call for an Urgent Reform of the UN Climate Talks 2025. Available at: https://www.ciel.org/wp-content/uploads/2025/06/United-Call-to-Action-TheCOPWeNeed.pdf (Accessed 25 September 2025).

[41] Par. 575, p. 194, IACtHR AO.

[42] Par. 596, p. 200, IACtHR AO.

[43] Par. 420, ICJ AO.

2. Cease wrongful acts and ensure non-repetition,
3. Make full reparation for the damage caused (through restitution, compensation, satisfaction, or a combination thereof).

- **Legal obligation to provide finance for the Fund responding to Loss & Damage (FrLD):** The ICJ opinion puts direct legal and political pressure on high-emitting and wealthy States to ensure that the FrLD under the UNFCCC is not merely symbolic but adequately financed, equitably governed, and accessible to affected communities. Failure to operationalise the FrLD with sufficient resources and transparent access modalities could amount to a breach of international obligations, exposing states to reputational harm, legal challenges, and possible claims for reparations. The FrLD must therefore be transformed into a genuine tool of climate justice rather than a placeholder.
- **Carbon majors can be held legally liable for the impacts of climate change:** National and international jurisprudence increasingly recognises that major fossil fuel producers can be held legally liable for climate damage. To avoid fragmented litigation across jurisdictions, States in the Global North should establish national funds into which fossil fuel companies and other major contributors to climate change are required to pay. Revenues could be used both domestically – to address local climate impacts – and internationally, to support vulnerable countries in adapting and coping with loss and damage. This approach operationalises the polluter-pays principle and aligns with growing jurisprudence on corporate responsibility.
- **States can seek accountability for loss and damage outside UNFCCC:** Under the Paris Agreement, developed countries pushed for language excluding liability and compensation. The COP decision accompanying Article 8 (Loss and Damage) explicitly states that 'Article 8 of the Agreement does not involve or provide a basis for any liability or compensation.' However, the ICJ opinion makes it clear that the UNFCCC and Paris Agreement are not lex specialis regimes that replace other legal frameworks. Obligations to prevent and redress climate-related harm also arise under customary international law, international human rights law, the law of the sea, and other multilateral environmental treaties. These obligations remain binding and cannot be overridden by climate treaties. In practice, this gives States – particularly those most affected by climate damage – a stronger legal basis for seeking accountability outside the UNFCCC framework, whether in international courts and tribunals or by pursuing compensation when treaty mechanisms prove inadequate or too slow.

Authors: Francesca Mascha Klein and Laura Schäfer

Edited by: Jakob Borchers

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Germanwatch e.V.

Office Bonn
Kaiserstr. 201
D-53113 Bonn
Phone +49 (0)228 / 60 492-0, Fax -19
Website: www.germanwatch.org

Office Berlin
Stresemannstr. 72
D-10963 Berlin
Phone +49 (0)30 / 5771 328-0, Fax -11
E-mail: info@germanwatch.org