

Please answer **both** questions:

1. Please discuss the need for a new “post-2020 Global Biodiversity Framework” and explain under which international environmental agreement this framework is currently being negotiated, the legal reasons for it and what expectations exist for its outcome.

2. On 25 September 2021, the news agency Reuters reported the following:  
«Sept 25, 2021 (Reuters) - Vanuatu is asking the International Court of Justice to issue an opinion on the rights of present and future generations to be protected from the adverse impacts of climate change.

Vanuatu, with a population of some 280,000 people spread across roughly 80 islands, is among more than a dozen Pacific island nations facing rising sea levels and more regular storms that can wipe out much of their economies.

"In response to the catastrophic levels of climate change loss and damage faced by this small Pacific nation, Vanuatu recognises that current levels of action and support for vulnerable developing countries within multilateral mechanisms are insufficient," the government said in a statement on Saturday.

Vanuatu said it will route the initiative through the United Nations General Assembly.»

Please discuss critically the possible legal benefits and disadvantages of this initiative.

Sensorveiledning:

### 1. Question

- Currently being negotiated under CBD (to be adopted by COP15 in China, 2022), explain what the CBD is, its 3 objectives, main legal obligations of Parties, and their indeterminate legal character (e.g, “as far as possible and as appropriate”)
- 10 year work programs to set out more clearly what Parties need to do, e.g. Aichi targets (2010-2020)
- Problem: most targets not met, IPBES report, state of biodiversity decline (include value of biodiversity etc., some scientific background)
- Parties agreed on negotiating a new “post-2020 GBF”, new targets, goals, mission, vision (“living in harmony with nature” in 2050)
- Important to have clear targets (mention some, explain why important), but also challenging (danger of non-implementation), legal nature of COP decision, need for legal safeguards to strengthen the targets (e.g. linking to NBSAPs (art. 6 CBD) and national reporting (Art. 26)

### 2. Question

- Climate change: (some scientific background, IPCC AR6), UNFCCC, Paris Agreement

- Question of climate impacts (“loss and damage”): what are climate impacts?, not addressed, art. 8 and para 51 in 1/CP.21
- Especially vulnerable situation of SIDS (e.g. Vanuatu)
- Responsibility for climate impacts? UN climate treaties, customary law (prohibition against significant transboundary harm) – unclear legal situation
- Responsibility towards future generation: mention intergenerational equity in UNFCCC and PA – but legal situation unclear
- What is an AO?: competence, legal question, international organization (here: UNGA)
- Advantages of an AO: clarify legal questions (see above), give an authoritative statement
- Disadvantages: difficulties in getting a resolution from UNGA to request the ICJ, unclear what ICJ might say, interference with negotiations?, political impact
- Own reflections/statement