

The “Duty To Cooperate”

As the ICJ has accurately perceived, and as indicated in the previous paper on customary international law, cooperation is essential internationally in relation to climate change. The Advisory Opinion has made a major contribution in highlighting this, and the theme of the duty to cooperate runs right through the decision. Momentum has been building toward greater international recognition of international obligations of cooperation, including in the International Law Commission, and this recognition of the customary international law duty of cooperative obligation as it applies in relation to climate change is a breakthrough moment. Equally, so far as the treaty dimension is concerned the climate change treaties address a global challenge, and States’ cooperation is a “paramount principle” in solving global problems:¹ “[I]t is by cooperating that the States concerned can jointly manage the risks of damage to the environment”, just as in a bilateral setting.² This includes cooperation in relation to reducing greenhouse gas submissions and mitigating the risk of climate change, adaptation and also through financial assistance, technology transfer and capacity building. This is reflected in the structure of the Advisory Opinion, addressing in turn mitigation, adaptation and “cooperation”. There are also specific findings in the *dispositif* on cooperation, where the Court holds that “States have a duty to co-operate with each other in good faith to prevent significant harm to the climate system and other parts of the environment, which requires sustained and continuous forms of co-operation by States when taking measures to prevent such harm”.³

There are a wide range of obligations relating to cooperation under the United Nations Framework Convention on Climate Change (UNFCCC)⁴ as well as in the Paris Agreement, and the climate change treaties and customary international law are mutually informing when it comes to the duty to cooperate.⁵ Meaningful cooperation includes the sharing of information, notification and consultation.⁶ Cooperative duties feature also in the Convention on Biological Diversity⁷ and the Convention on Desertification,⁸ as well as in the United Nations Convention on the Law of the Sea.⁹ Further, when it comes to sea level rise the Advisory Opinion places a central emphasis on cooperation with a view to achieving equitable solutions.¹⁰ Ultimately, as the Court says in relation to the customary international law duty to cooperate: “Climate change is a common concern. Co-operation is not a matter of choice for States but a pressing need and a legal obligation.”¹¹

¹ *Obligations of States in respect of Climate Change*, Advisory Opinion of 23 July 2025 [2025] ICJ Reports [261].

² [261] citing *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment, I.C.J. Reports 2010 (I).

³ [457 (3) (B) (b)]; see also [457 (3) (A) (c)] finding that the parties to the UNFCCC are obliged to cooperate to achieve its objective and [457 (3) (A) (h)] holding that States parties to the Paris Agreement have obligations of adaptation and co-operation, including through technology and financial transfers.

⁴ [214-216].

⁵ [260].

⁶ [299].

⁷ [327] citing Art 5.

⁸ [333] citing Art 4(2)(d).

⁹ [350, 351] citing Articles 197, 202 101.

¹⁰ [364, 365].

¹¹ [308].