PRESS RELEASE

THE INTERNATIONAL COURT OF JUSTICE RELEASES ITS ADVISORY OPINION ON THE OBLIGATIONS OF STATES IN RESPECT OF CLIMATE CHANGE

July 23, 2025. The International Court of Justice (ICJ) today released its much-anticipated advisory opinion on the *Obligations of States in Respect of Climate Change*. The opinion adopted unanimously by the 15 judges of the Court, was delivered publicly at the Peace Palace in The Hague, Netherlands, at 3 p.m. CEST.

This 140-page advisory opinion marks a turning point in the legal response to the climate crisis and significantly advances climate change jurisprudence and the developments of climate law. The Court lays the foundation for its analysis, presenting climate change as an established and undisputed fact and placing science as the objective standard that must serve as the basis for States to determine the measures they must take to fulfil their climate obligations under international law.

The opinion provides necessary clarifications on the obligations of States to protect the climate system and other parts of the environment from anthropogenic greenhouse gas (GHG) emissions under international law, namely customary law, climate change treaties (UNFCCC, Kyoto Protocol and Paris Agreement), international human rights law, and other treaties (Vienna Convention for the Protection of the Ozone Layer, Montreal Protocol on Substances that Deplete the Ozone Layer and its Kigali Amendment, Convention on Biological Diversity, United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa). The opinion also clarifies the obligations of States to protect and preserve the marine environment under the United Nations Convention on the Law of the Sea (UNCLOS), as the ocean is a major carbon sink that helps regulate the climate. It further clarifies that a State's breach of any of these obligations which causes significant environmental harm "constitutes an internationally wrongful act entailing the responsibility of that State" and specifies the remedial measures that States may be required to provide to injured States. The Court has therefore responded clearly and in detail to all the questions the UN General Assembly put to it.

Building on the advisory opinion issued in May 2024 by the International Tribunal for the Law of the Sea (ITLOS) at the request of COSIS, and on the opinion issued in May 2025 by the Inter-American Court of Human Rights (IACHR), the ICJ affirms that States must act with urgency, ambition, and responsibility in the face of the existential threat posed by climate change. Thus, the Court rejects narrow treaty interpretations, confirms the legal force of the 1.5°C target of the Paris Agreement and the obligation to submit adequate and reassessed Nationally Determined Contributions in order to meet the Agreement's objectives, reaffirms States' liability for their acts or omissions, recognizes the centrality of the common but differentiated responsibility of States in the climate crisis, that small island States including COSIS members have claimed, as well as the need for States to take commitments to reduce GHG emissions based on their individual and respective capabilities, and recognizes that island States facing permanent submersion due to sea-level rise retain their statehood and their maritime entitlements.

In the opinion, the Court concludes, *inter alia*, that States having adopted these climate change treaties must 'adopt measures' to mitigate GHG emissions and adapt to climate change. Among them, developed States must 'enhance' their greenhouse gas sinks and reservoirs. The Court further concludes that customary international law imposes duties on States to prevent significant harm to the environment, and to continuously co-operate, in good faith, to prevent such harm. These customary obligations are particularly far-reaching because they apply to *all* the States of the world. The Court further concludes that States have an obligation to adopt measures to protect and preserve the marine environment from the adverse effects of climate change, and to co-operate in good faith under UNCLOS. The Court finally clarifies that States that fail to fulfil their obligations may be required to cease their wrongful acts or

omissions, provide assurances and guarantees of non-repetition, and make full reparation for the injury caused to the injured State, including through restitution, compensation and satisfaction.

COSIS welcomes this historic and progressive opinion, which constitutes an essential contribution to the growing body of case law on environmental justice, and should guide all States in climate negotiations and in taking collective mitigation and adaptation measures appropriate for the protection of the climate system, in accordance with international law.

COSIS notes with enthusiasm that the Court repeatedly uses standards established in the ITLOS advisory opinion requested by COSIS. COSIS also welcomes the 13 references made by the Court to the ITLOS advisory opinion, in particular when determining the obligations of States under the UNCLOS. Thus, like ITLOS, the Court interprets the emission of greenhouse gases into the atmosphere as pollution of the marine environment within the meaning of UNCLOS. The Court confirms the requirement to apply a standard of "stringent due diligence" "when complying with the obligation to protect and preserve the marine environment" and prevent, reduce and control marine pollution. The Court "agrees [with the ITLOS] that [States must] take measures 'as far-reaching and efficacious as possible' to protect and preserve the marine environment and 'to prevent or reduce the deleterious effects of climate change and ocean acidification on the marine environment'". Finally, the Court recognizes and elaborates on States' obligation to cooperate in accordance with the conclusions of ITLOS, thereby responding to COSIS' written submissions to the Court.

COSIS extends its warmest congratulations to its member, Vanuatu, for successfully leading the efforts to seek a first advisory opinion on the issue of climate change from the UN's principal judicial organ. The leadership and vision of Vanuatu, supported by small island developing States who played a key role in this proceeding, have thus contributed to obtaining a historic and crucial opinion for the preservation of the climate system and the future of life on Earth.

The full text of the ICJ advisory opinion is available at https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf. The six separate opinions and six declarations of the judges are available at https://www.icj-cij.org/case/187.

The request for an advisory opinion from the ICJ was initiated by the Republic of Vanuatu, a member of COSIS, in collaboration with the Pacific Islands Students Fighting Climate Change (PISFCC), and subsequently supported by a core group of countries at the United Nations (UN), including members of COSIS. The UN General Assembly resolution referring the request to the ICJ was adopted by States consensus without a vote on March 29, 2023. The request asked the Court to clarify the obligations of States under international law to protect the climate system from anthropogenic GHG emissions for States, present and future generations, as well as the legal consequences of the breach of these obligations having caused significant harm to the climate system.

COSIS participated in the advisory proceedings as an interested organization. In 2023, after requesting an advisory opinion on climate change from ITLOS, COSIS announced its intention to participate in the ICJ advisory proceedings, in accordance with its mandate to contribute to the interpretation and progressive development of international law as it relates to climate change. COSIS participated in the written and oral phases of the proceedings through the submission of written statements, written comments on the statements of other parties, and participation in the hearings.

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About COSIS: COSIS is an intergovernmental organization established by small island developing States particularly affected by climate change, through the Edinburgh Agreement concluded at COP26 in 2021. Its members are Antigua and Barbuda, Tuvalu, Palau, Niue, Vanuatu, Saint Lucia, Saint Vincent and the Grenadines, Saint Kitts and Nevis and The Bahamas.

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