

15th COMMISSION

Status and Functions of the Conference of the Parties to a Treaty

Rapporteurs: Ms Geneviève Bastid-Burdeau and Ms Malgosia Fitzmaurice

RESOLUTION

**STATUS AND FUNCTIONS OF THE CONFERENCES OR MEETINGS OF PARTIES
TO MULTILATERAL ENVIRONMENTAL AGREEMENTS**

The Institute of International Law,

Recalling that at its Naples Session in 2009 it decided to create a commission to study the developing role of a category of multilateral agreements, mainly but not exclusively in the field of environmental law, characterized by the establishment of Conferences or Meetings of Parties (COPs/MOPs) aimed at ensuring, through a multilateral process, the implementation of agreements, their effectiveness and responsiveness to new developments,

Conscious of the increasing use of COPs/MOPs in various areas of international law, which reflects the common interest of all Parties in ensuring the effective implementation and realization of the object and purpose of multilateral agreements,

Observing that the establishment of COPs/MOPs has become a prominent characteristic of multilateral environmental agreements, due to the nature of the issues addressed by these agreements,

Considering that COPs/MOPs perform an important function in the implementation of multilateral environmental agreements, in particular in response to continuing advances in science and technology, as well as social and economic developments,

Conscious of the strong interest of civil society in multilateral environmental agreements,

Noting that the importance of COPs/MOPs in multilateral environmental agreements has been recognized in several international judicial opinions, including the Advisory Opinion of 21 May 2024 by the International Tribunal for the Law of the Sea on *Climate Change and International Law*, the Advisory Opinion of 3 July 2025 of the Inter-American Court of Human Rights on *Climate Emergency and Human Rights*, and the Advisory Opinion of 23 July 2025 by the International Court of Justice on *Obligations of States in respect of Climate Change*.

Adopts the following Resolution:

Scope of the Resolution

1. For the purposes of the present Resolution, a COP/MOP is an intergovernmental body established by a multilateral environmental agreement comprising all Parties to the agreement. The present Resolution does not address the status and functions of the plenary organs of international organizations established by multilateral agreements or exercising the functions relating to the implementation of such agreements, nor of diplomatic conferences convened to negotiate or revise such agreements.

The role of COPs/MOPs

2. Multilateral environmental agreements establishing COPs/MOPs are instruments the implementation of which is constantly evolving.

3. Pursuant to the relevant multilateral environmental agreement, COPs/MOPs may discharge a variety of functions relating to the implementation of that agreement, such as: adopting administrative and procedural measures; interpreting the provisions of the agreement; supplementing such provisions or contributing to their progressive development through various forms of decisions; discussing and adopting amendments to the agreement; monitoring the implementation of the agreement; providing multilateral means for the implementation of the agreement, including financial support and technical assistance, with a view to enhancing cooperation between the Parties based on the principle of common but differentiated responsibilities and respective capabilities.

4. Decisions of COPs/MOPs may constitute evidence of a subsequent agreement or a subsequent practice between the Parties regarding the interpretation of a multilateral environmental agreement, pursuant to the rules reflected in Article 31, paragraph 3 (a) and (b), of the Vienna Convention on the Law of Treaties. They may also be relevant for the determination of the existence and content of rules of international law. The legal effects of such decisions can be identified only on a case-by-case basis.

5. In drafting new multilateral environmental agreements, States should consider the establishment of COPs/MOPs as a potential tool to ensure the effective implementation and realization of the object and purpose of each agreement. States should also consider which functions and powers attributed to COPs/MOPs are best suited to the attainment of the objectives of each agreement and the implementation of its legal regime.

Legal status and functioning of COPs/MOPs

6. The legal status and functions of COPs/MOPs differ from one multilateral environmental agreement to another and should be assessed based on the terms of each agreement.

7. Multilateral environmental agreements establishing COPs/MOPs may use various procedural techniques for the adoption of their decisions, which include consensus, majority voting, and opting-out procedures, with varying legal effects.

8. In discharging their functions pursuant to multilateral environmental agreements, COPs/MOPs may adopt non-legally binding instruments, with a view to their voluntary and widespread implementation by the Parties.

Implementation and compliance procedures

9. Pursuant to the relevant multilateral environmental agreements, COPs/MOPs may establish procedures and processes whose primary objective it is to encourage and facilitate implementation and compliance with such agreements in a non-confrontational and transparent manner. In order to enhance compliance with such agreements, those procedures and processes should engage not only the Parties, but also, other stakeholders as appropriate.

10. Implementation and compliance procedures do not preclude any mechanism for the settlement of disputes. Any possible interaction between them depends on the terms of each multilateral environmental agreement or the jurisdictional instrument. Implementation and compliance procedures are without prejudice to the responsibility of the Parties under international law.

11. The present Resolution should be interpreted in a manner consistent with the relevant rules of international law regarding the creation and performance of obligations under conventional and customary law.

12. The present Resolution is without prejudice to the possible application of its provisions to multilateral agreements in other fields of international law.
