Multilateral Environmental Agreements

[MEAs]

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History of Multilateral Environmental Agreements (MEAs)

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Introduction to Multilateral Environmental Agreements (MEAs)[1]

To understand international environmental law, it is of value to have a basic understanding of general international law. International law has been developing over a long period of time, with international environmental law as a sub-sector. International environmental law is generally incorporated in Multilateral Environmental Agreements (MEAs).

Sources of International Law

Treaties

Treaties are the major mechanism for international cooperation in international relations, and the main source of international law today. The Vienna Convention on the Law of Treaties (1969) defines a treaty as: "an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation."

The term 'treaty' is the generic name, and there are very many terms used to indicate the same. The term 'treaty' encompasses, among others, the terms convention, agreement, pact, protocol, charter, statute, covenant, engagement, accord, exchange of notes, modus vivendi, and memorandum of understanding. As long as they fall under the above definition, they refer to international instruments that are binding under international law.

The various terms may be employed to indicate differing degrees of political or practical significance. So, the nature of the labelling used to describe an international agreement may say something about its content, although this is not always the case.

Treaty

The term 'treaty' can be used as a common generic term or as a particular term which indicates an instrument with certain characteristics. There are no consistent rules to determine when State practice employs the terms 'treaty' as a title for an international instrument. Although in the practice of certain countries, the term treaty indicates an agreement of a more solemn nature. Usually the term 'treaty' is reserved for matters of some gravity. Typical examples of international instruments designated as 'treaties' are Peace Treaties, Border Treaties, Delimitation Treaties, Extradition Treaties and Treaties of Friendship, Commerce and Cooperation. The designation 'convention' and 'agreement' appear to be more widely used today in the case of multilateral environmental instruments.

Agreement

The term 'agreement' can also have a generic and a specific meaning. The term 'international agreement' in its generic sense consequently embraces the widest range of international instruments. In the practice of certain countries, the term 'agreement' invariably signifies a treaty. 'Agreement' as a particular term usually signifies an instrument less formal than a 'treaty' and deals with a narrower range of subject-matter. There is a general tendency to apply the term 'agreement' to bilateral or restricted multilateral treaties. It is employed especially for instruments of a technical or administrative character, which are signed by the representatives of government departments, and are not subject to ratification. Typical agreements deal with matters of economic, cultural, scientific and technical cooperation, and financial matters, such as avoidance of double taxation. Especially in international economic law, the term 'agreement' is also used to describe broad multilateral agreements (e.g. the commodity agreements). Nowadays the majority of international instruments, and international environmental instruments, are designated as agreements.

1 This section relies on information set out in "An Overview of International Law Working Draft" (United Nations Forum on Forests, 2004), available at https://www.un.org/esa/forests/wp-content/uploads/2014/12/background-3.pdf.

Convention

The term 'convention' can also have both a generic and a specific meaning. The generic term 'convention' is synonymous with the generic term 'treaty'. With regard to 'convention' as a specific term, in the last century it was regularly employed for bilateral agreements, but now it is generally used for formal multilateral treaties with a wide range of parties. Conventions are normally open for participation by the international community as a whole, or by a large number of States. Usually the instruments negotiated under the auspices of the United Nations are entitled conventions (e.g. the 1992 Convention on Biological Diversity, the 1982 United Nations Convention on the Law of the Sea). The same holds true for instruments adopted by an organ of an international organization (e.g. the 1989 Convention on the Rights of the Child, adopted by the General Assembly of the UN). Because so many international instruments in the field of environment and sustainable development are negotiated under the auspices of the United Nations, many instruments in those areas are called 'conventions' such as the Desertification Convention, Convention on Biological Diversity, the Convention on Persistent Organic Pollutants, among others.

Charter

The term 'charter' is used for particularly formal and solemn instruments, such as the constituent treaty of an international organisation. Well-known recent examples are the 1945 Charter of the United Nations, the 1963 Charter of the Organization of African Unity and the 1981 Banjul Charter on Human and Peoples' Rights. The 1982 World Charter for Nature is a resolution adopted by the General Assembly of the United Nations and not a treaty.

Protocol

The term 'protocol' is used for agreements less formal than those entitled 'treaty' or 'convention'. A protocol signifies an instrument that creates legally-binding obligations at international law. In most cases this term encompasses an instrument which is subsidiary to a treaty. The term is used to cover, among others, the following kinds of instruments:

a. A Protocol of Signature is an instrument subsidiary to a treaty, and drawn up by the same Parties. Such a protocol deals with additional matters such as the interpretation of particular clauses of the treaty. Ratification of the treaty will normally also involve ratification of such a protocol.

b. An Optional Protocol to a treaty is an instrument that establishes additional rights and obligations with regard to a treaty. It is sometimes adopted on the same day but is of independent character and subject to independent ratification. Such protocols enable certain Parties to the treaty to establish among themselves a framework of obligations which reach further than the general treaty and to which not all Parties of the general treaty consent, creating a 'two-tier system'. An example is formed by the Optional Protocols to the 1966 International Covenant on Civil and Political Rights, which first Optional Protocol deals with direct access for individuals to international courts and tribunals.

c. A Protocol can be a supplementary treaty, it is in this case an instrument which contains supplementary provisions to a previous treaty, e.g. the 1967 Protocol relating to the Status of Refugees to the 1951 Convention relating to the Status of Refugees.

d. A Protocol can be based on and further elaborate a framework convention. This framework 'umbrella convention', which sets general objectives, contains the most fundamental rules of a more general character, both procedural as well as substantive. These objectives are subsequently elaborated and incorporated by a Protocol, with specific substantive obligations, according to rules agreed upon in the basic treaty. This structure is known as the so-called 'framework-protocol approach'.

Examples are the 1985 Vienna Convention on the Ozone Layer and its 1987 Montreal Protocol with its subsequent amendments; the 1992 United Nations Framework Convention on Climate Change with its 1997 Kyoto Protocol (and Paris Agreement); and the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes with its 1999 Protocol on Water and Health and its 2003 Protocol on Civil Liability and Compensation for Damage Caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters.

Declaration

The term ‘declaration’ is used to describe various international instruments. However, in most cases declarations are not legally binding. The term is often deliberately chosen to indicate that the Parties do not intend to create binding obligations but merely want to declare certain aspirations. Examples are the 1992 Rio Declaration on Environment and Development, the 2000 United Nations Millennium Declaration and the 2002 Johannesburg Declaration on Sustainable Development. Declarations can sometimes also be treaties in the generic sense intended to be binding at international law. An example is the 1984 Joint Declaration between the United Kingdom and China on the Question of Hong Kong, which was registered as a treaty by both parties with the UN Secretariat. It is therefore necessary to establish in each individual case whether the Parties intended to create binding obligations, which can often be a difficult task. Some instruments entitled ‘declarations’ were not originally intended to have binding force, but their provisions may have reflected customary international law or may have gained binding character as customary law at a later stage, as is the case with the 1948 Universal Declaration of Human Rights.

Signature

Once the text of a treaty is agreed upon, States indicate their intention to undertake measures to express their consent to be bound by the treaty. Signing the treaty usually achieves this purpose, and a State that signs a treaty is a signatory to the treaty. Signature is a voluntary act. Often major treaties are opened for signature amidst much pomp and ceremony. Once a treaty is signed, customary law, as well as the 1969 Vienna Convention, state that a State must not act contrary to the object and purpose of the particular treaty, even if it has not entered into force yet.

Ratification

The next step is the ratification of the treaty. The signatory State will have to comply with its constitutional and other domestic legal requirements in order to ratify the treaty. This act of ratification, depending on domestic legal provisions, may have to be approved by the legislature, parliament, the head of State, or similar entity. It is important to distinguish between the act of domestic ratification and the act of international ratification. Once the domestic requirements are satisfied, in order to undertake the international act of ratification the State concerned must formally inform the other Parties to the treaty of its commitment to undertake the obligations under the treaty. In the case of a multilateral treaty, this constitutes submitting a formal instrument signed by the Head of State or Government or the Foreign Minister to the depositary who then informs the other Parties. With ratification a signatory State expresses its consent to be bound by the treaty. Instead of ratification, it can also use the mechanism of acceptance or approval, depending on its national preference. A non-signatory State, which wishes to join the treaty at a later stage, usually does so by lodging an instrument of accession.

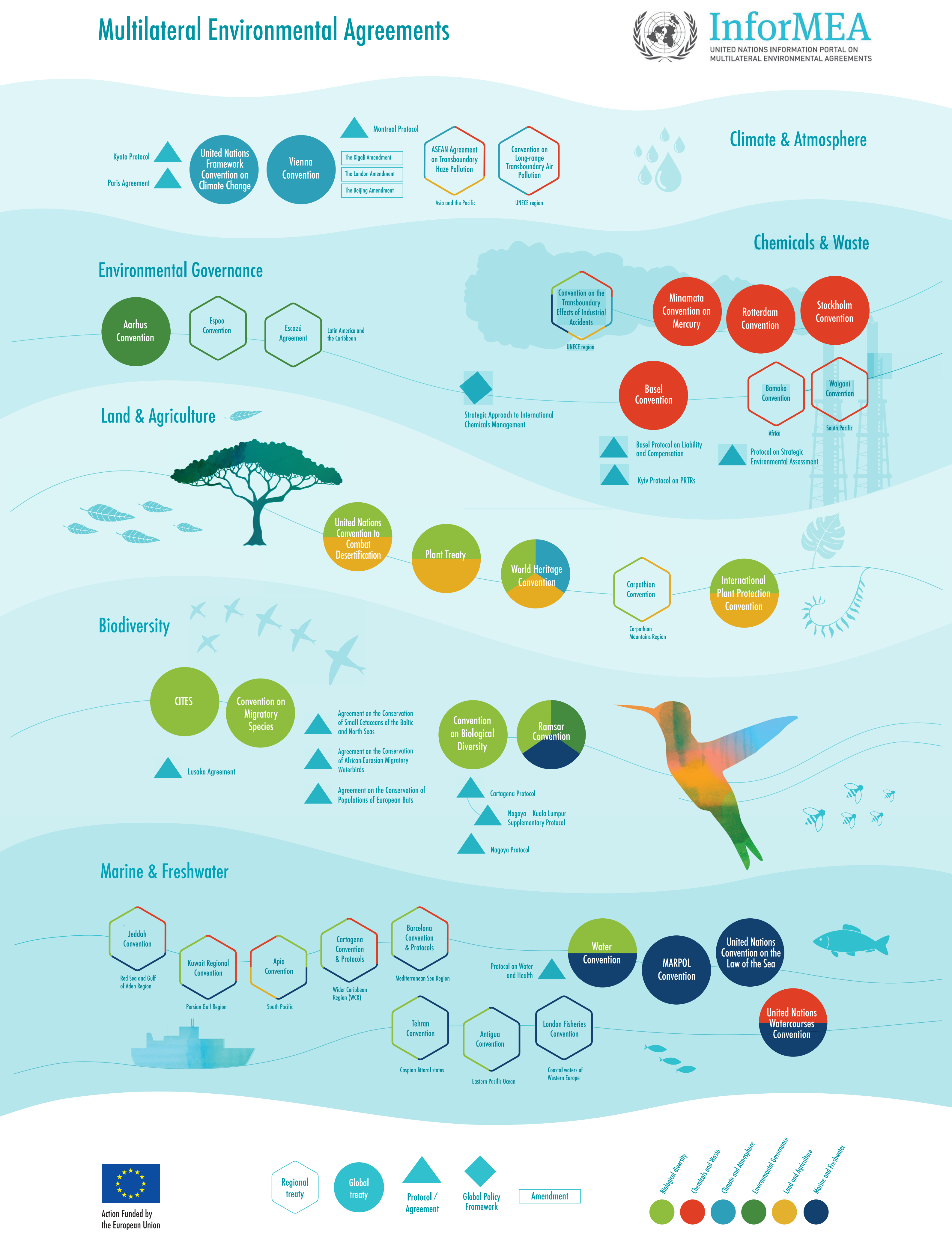
Accordingly, the adoption of the treaty text does not, by itself, create any international obligations. A State usually signs a treaty stipulating that it is subject to ratification, acceptance or approval. A treaty does not enter into force and create binding rights and obligations until the required number of States, as indicated by the treaty, express their consent to be bound by the treaty. The expression of such consent to be bound usually occurs with ratification, approval, acceptance or accession. Sometimes, depending on the treaty provisions, it is possible for treaty Parties to agree to apply a treaty provisionally until its entry into force.

Reservations

One of the mechanisms used in treaty law to facilitate agreement on the text is to leave the possibility open for a State to make a reservation on becoming party. A reservation modifies or excludes the application of a treaty provision. A reservation must be lodged at the time of signature or ratification (or acceptance, or approval, or accession). In general, reservations are permissible except when (a) they are prohibited by the treaty, (b) they are not included among expressly authorized reservations, and (c) they are otherwise incompatible with the object and purpose of the treaty.

Recently, it has become more common for treaties, including most of the recently concluded environmental treaties, to include a provision that prohibits reservations to the treaty.

Multilateral Environmental Agreements



Convention on Biological Diversity

United Nations Convention on Biological Diversity (CBD)

Background

Mid- to late 1980s

IUCN's Commissions on Environmental Law and the IUCN Environmental Law Centre make policy and scientific recommendations on biological diversity

1987

UNEP Governing Council Decisions 14/26 (and 15/34 in 1989)

November 1988–Summer 1990

UNEP convenes a series of expert group meetings referred to as meetings of the Ad Hoc Working Group of Experts on Biological Diversity. Topics covered included in situ and ex situ conservation of wild and domesticated species; access to genetic resources and to technology, including biotechnology; new and additional financial support; and safety of release or experimentation on genetically modified organisms

Mid-1990–Feb 1991

UNEP's Ad Hoc Working Group of Legal and Technical Experts mandated to draft a legal instrument under the guidance of the Director

Feb 1991–May 1992

Intergovernmental Negotiating Committee (INC) meets four times and adopts final text of the Convention on Biological Diversity (CBD)

Jun 1992–Dec 1993

CBD opened for signature in Rio de Janeiro (WCED) and enters into force in the following year

Nov 1994

First Conference of the Parties (COP 1) meets in the Bahamas

Principles in the Rio Declaration covered by this CBD include:

- Conservation of biological diversity is a common concern of humankind (Principles 1, 7)
- States have sovereign rights over their own biological resources (Principle 2)
- Where there is a threat to significant reduction or loss of biological diversity, lack of full scientific certainty should not be sued as a reason for postponing measures to avoid or minimize such a threat (Principle 15) Recognises the close and traditional dependence of many indigenous and local communities on biological resources (Principle 22)
- Recognises the vital role of women in the conservation and sustainable use of biological diversity and affirming the need for the full participation of women at all levels (Principle 20)
- Economic and social development and poverty eradication are the first and overriding priorities of developing countries (Principles 3 and 5)

Key Biodiversity Treaties

1992: United Nations Convention on Biological Diversity (UNCBD)
196 Parties to the Convention = Conference of the Parties (COP); entered into force in 1993; T&T ratified in 1996

2000: Cartagena Protocol on Biosafety
173 Parties to the Protocol = Conference of the Parties serving as the Meeting of the Parties to the Cartagena Protocol (COP-MOP); entered into force in 2003; T&T acceded in 2003

2010: Nagoya Protocol on Access and Benefit Sharing (ABS)
131 Parties to the Protocol = Conference of the Parties serving as the Meeting of the Parties to the Protocol (COP-MOP); entered into force in 2014; T&T is not a Party

2010: Nagoya – Kuala Lumpur Supplementary Protocol to the Cartagena Protocol (on liability and redress)
49 Parties to the Supplementary Protocol = Conference of the Parties serving as the Meeting of the Parties to the Protocol (COP-MOP); entered into force in 2018; T&T is not a Party

CBD – 1992

The UNCBD has 3 main objectives:

1. The conservation of biological diversity
2. The sustainable use of the components of biological diversity
3. The fair and equitable sharing of the benefits arising out of the utilization of genetic resources

Key principle:

Recognises the sovereign right of States to exploit their own resources pursuant to their own laws BUT recognises the responsibility States have to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or areas beyond the limits of national jurisdiction

Party obligations, include:

- Cooperation with other Parties
- Develop national strategies, plans or programmes for the conservation and sustainable use of biodiversity, and conduct impact assessments
- Engage in *in-situ* (protected areas) and complementary ex-situ conservation measures
- Endeavour to facilitate access to genetic resources, subject to prior and informed consent
- Ensure the safe transfer, handling and use of living modified organisms
- Developed countries to support developing countries with implementation

Cartagena Protocol – 2000

Objective and scope

In accordance with the precautionary approach (Rio Principle 15), the objective of the Protocol is to contribute to ensuring an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms (LMOs) resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biodiversity, in particular as applied to the transboundary movement of LMOs, but pharmaceuticals are excluded.

Key provisions, include:

- Five-yearly assessment and review
- Procedures for LMOs intended for use as food, feed or for processing
- Risk assessment and management procedures
- The establishment of a Biosafety Clearing-house as a means of providing access to information relevant to the implementation of the Protocol
- The elaboration of international rules and procedures on liability and redress for associated damages (Supplementary Nagoya-Kuala Lumpur Protocol 2010)

Nagoya Protocol – 2010

Objective and scope

The objective of the Protocol is the fair and equitable sharing of the benefits arising from the use of genetic resources, including by their appropriate access and by appropriate the transfer of relevant technologies, taking into account all rights over those resources and technologies, and by appropriate funding.

The Protocol applies to the genetic resources within the scope of Article 15 of the CBD and to the benefits arising from their use. It also applies to traditional knowledge associated with genetic resources and to the benefits arising from the use of this knowledge

Key obligations and provisions include:

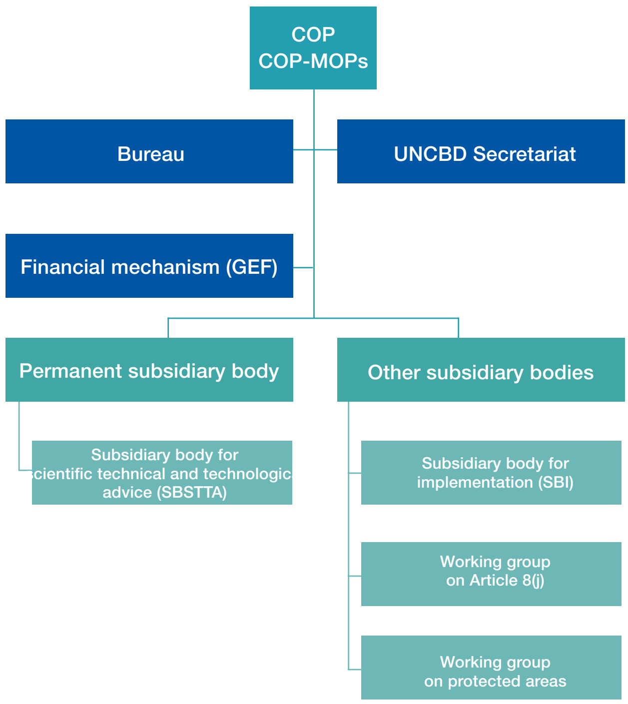
- Access and Benefit-sharing Clearing-House established to serve as a means for sharing of information related to ABS
- A regular assessment and review process
- Regular monitoring and review by Parties
- Legislation to be put in place domestically to comply with the obligations under the Protocol on both the ABS and traditional knowledge

Ratifying the CBD and its Protocols: reservations and declarations

Reservations upon ratification or accession to the CBD and its Protocols are not provided for – however, under international law, a country ratifying or acceding to a treaty may make a declaration where they express their understanding of some matter or the interpretation of a particular provision.

Unlike reservations, declarations merely clarify the country's position and do not modify the legal effect of a treaty. Usually, declarations are made at the time of ratification or signature.

Institutional structure(s) upporting the agreement



Parties to the agreement and stakeholder interests

- **Group of 77 and China (G77)** – 134 members, mainly developing countries
- **Least Developed Countries (LDCs)** – 46 countries categorized as 'least developed' according to UN criteria
- **Small Island Developing States (SIDS)** – 39 members from developing country island and low-lying coastal States
- **Africa Group of Negotiators (AGN)** – 54 countries
- **Like-Minded Megadiverse Countries (LMMCs)** ~19 country members collectively accounting for more than 70% of the world's biodiversity
- **European Union (EU)** – 27 members who generally speak as a group
- **JUSSCANZ** – a group of developed countries not members of the EU, generally includes Japan, the US (not a Party), Switzerland, Canada, Australia, Norway, New Zealand and others

Rules of procedure

The rules of procedure for the CBD apply to any meeting of the Conference of the Parties (COP) convened in accordance with article 23 of the Convention – which establishes and sets out the duties of the Conference of the Parties to the CBD.

Topics covered in the Rules of Procedure include:

- Place, date and quorum of meetings; (Rules 3–5)
- Governmental and non-governmental observers; (Rules 6–7)
- Preparation and timing of the dissemination of the agenda (Rules 8–15)
- Meeting officers; (Rules 21–25)
- Subsidiary bodies and the secretariat; (Rules 26–28)
- Conduct of business; (Rules 29–38)
- Voting; (Rules 39–51)
- Parties shall make every effort to reach agreement by consensus (Rule 40)
- As a last resort, decisions may be made by a two-thirds vote of Parties present and voting, with the proviso that on issues of process, only a majority vote is required (Rule 40)

NB: It should be noted that CBD Article 23, para 3 requires that the rules of procedure must be adopted by consensus, as well as financial rules governing the funding of the secretariat.

Key External Partnerships

Since its inception, Parties to the CBD have recognised the role that outside organisations and stakeholders play in helping to implement the provisions of the CBD.

Goal 4 of the Strategic Plan seeks broader engagement across society in the implementation of the CBD and is supported by Objective 4.4: “key actors and stakeholders, including the private sector, are engaged in partnership to implement the Convention and are integrating biodiversity concerns into their relevant sectoral and cross-sectoral plans, programmes, and policies.”

The list of relevant organisations and stakeholder groups partners is organised by:

- UN and other Intergovernmental organisations
- NGOs and civil society
- Indigenous organisations
- Scientific and technical assessment bodies
- Industry and the private sector
- Children and youth organisations

Thematic Programmes

The CBD COP established seven thematic programmes of work (listed below) which correspond to some of the major biomes on the planet. Each programme establishes a vision for, and basic principles to guide future work. They also set out key issues for consideration, identify potential outputs, and suggest a timetable and means for achieving these. Implementation of the work programmes depends on contributions from Parties, the secretariat, relevant intergovernmental and other organisations. Periodically, the COP and the SBSTTA review the state of implementation of the work programmes:

- Agricultural Biodiversity
- Dry and Sub-humid Lands Biodiversity
- Forest Biodiversity
- Inland Waters Biodiversity
- Island Biodiversity
- Marine and Coastal Biodiversity
- Mountain Biodiversity

Cross-cutting Issues

The COP also initiated work on key matters of relevance to all thematic areas. These cross-cutting issues correspond to the issues addressed in the Convention's substantive provisions in Articles 6-20 and provide bridges and links between the thematic programmes.

Some cross cutting initiatives directly support work under thematic programmes, for example, the work on indicators provides information on the status and trends of biodiversity for all biomes.

Others develop discrete products quite separate from the thematic programmes. The work done for these cross-cutting issues has led to a number of principles, guidelines, and other tools to facilitate the implementation of the Convention and the achievement of biodiversity targets:

- Biodiversity for Development
- Capacity Building
- Climate Change and Biodiversity
- Communication, Education and Public Awareness
- Digital sequence information on genetic resources
- Economics, Trade and Incentive Measures
- Ecosystem Approach
- Ecosystem Restoration
- Gender and Biodiversity
- Aichi Biodiversity Targets
- Access to Genetic Resources and Benefit-sharing
- Biological and Cultural Diversity
- Impact Assessment
- Identification, Monitoring, Indicators and Assessments
- Invasive Alien Species
- Liability and Redress – Art. 14(2)
- New & Emerging Issues
- Peace and Biodiversity Dialogue Initiative
- Protected Areas
- Sustainable Use of Biodiversity
- Sustainable Wildlife Management
- Global Strategy for Plant Conservation
- Global Taxonomy Initiative
- Health and Biodiversity
- Traditional Knowledge, Innovations and Practices – Article 8(j)

Strategic Plans

Roughly every ten years Parties to the CBD agree to a Strategic Plan which contains a set of specific goals and sets a ten-year framework of action for Parties, stakeholders and other organisations.

First Strategic Plan (2002 – 2010)

- Parties commit to a more effective and coherent implementation of the three objectives of the CBD
- Achieve by 2010 a significant reduction in the rate of biodiversity loss at all levels

Second Strategic Plan (2011–2020)

Vision: Living in harmony with nature by 2050

Mission:
- Take urgent action to halt the loss of biodiversity
- Secure the planet's variety of life
- Reduce pressures on biodiversity

- Embeds the five strategic goals of the Aichi biodiversity targets to set an overarching global plan with a flexible framework for national implementation
- Implementation: primarily at the national and subnational levels with regional and global support
- Monitoring and review
  - Reports: Parties report on how they are implementing national commitments to implement the Strategic Plan
  - Review: COP and CBD bodies, especially the SBI, to review progress

Post-2020 Global Biodiversity Framework

A steppingstone toward the 2050 Vision of Living in harmony with nature

Aichi Targets

Five strategic goals with underlying targets:

- **Strategic Goal A**: Address the underlying causes of biodiversity loss by mainstreaming biodiversity across government and society
  - Four targets for 2020 focusing on raising awareness of the value of biodiversity, eliminating perverse incentives, and ensuring that resource use is within ecological limits
- **Strategic Goal B**: Reduce the direct pressures on biodiversity and promote sustainable use
  - Six targets for 2015 / 2020 focusing on habitat loss, sustainable food systems, controlling invasive species, and safeguarding habitats from ocean acidification
- **Strategic Goal C**: To improve the status of biodiversity by safeguarding ecosystems, species and genetic diversity
  - Three targets for 2020 focusing on effective management of inland and coastal water habitats, preventing species extinction, strategies for safeguarding genetic diversity
- **Strategic Goal D**: Enhance the benefits to all from biodiversity and ecosystem services
  - Three targets for 2015 / 2020 focusing on restoring vital ecosystems, enhancing the contribution of biodiversity to carbon reduction, and implementation of the Nagoya Protocol
- **Strategic Goal E**: Enhance implementation through participatory planning, knowledge management and capacity building
  - Four targets for 2015 / 2020 focusing on participatory planning, the integration of traditional knowledge, including the best available science and technologies in national implementation and ensuring that sufficient financial resources are made available to implement the Strategic Plan (2011–2020)

The Clearinghouse Mechanisms

CBD's clearing-house mechanism (CHM)

- Established by Article 18.3 of the Convention and consists of a global site and national-level clearing-houses
- Three major goals:
  - Provide effective global information services to facilitate the implementation of the Strategic Plan for Biodiversity 2011-2020.
  - Provide effective information services to facilitate the implementation of the national biodiversity strategies and action plans.
  - Partners significantly expand the clearing-house mechanism network and services

Biosafety clearing-house (BCH)

- A mechanism set up by the Cartagena Protocol on Biosafety to facilitate the exchange of information on LMOs and assist the Parties to better comply with their obligations under the Protocol
- Global access to a variety of scientific, technical, environmental, legal and capacity building information is provided in the six official UN languages

ABS clearing-house (ABSCH)

- Tool for facilitating the implementation of the Nagoya Protocol, by enhancing legal certainty and transparency on procedures for ABS and for monitoring the utilization of genetic resources along the value chain, including through the internationally recognised certificate of compliance
- Makes relevant information available regarding ABS to facilitate and increase opportunities for users and providers of genetic resources and associated traditional knowledge to connect and create fair and equitable ABS agreements

Party Reporting Obligations

National biodiversity strategies and action plans (NBSAPs)

- CBD Article 6(a) requires all Parties to develop or adapt national strategies, plans or programmes for the conservation and sustainable use of biodiversity
- NBSAPs are the key national-level instrument for implementing the CBD, and the 2011–2020 Strategic Plan to revise and update their NBSAPs to incorporate its goals and set out national plans for implementing them
- 192 of the 196 Parties have submitted NBSAPs; however, only 175 Parties have revised them to be consistent with the 2011–2020 Strategic Plan

Biodiversity mainstreaming

- CBD Article 6(b) to integrate, where possible and appropriate, the conservation and sustainable use of biodiversity into relevant sectoral or cross-sectoral plans, programmes and policies

National reports

- CBD Article 26 requires all Parties to submit reports on measures taken for the implementation of the provisions of the Convention and their effectiveness in meeting its objectives
- The COP has determined the requirements around the frequency of submissions and has Parties to time submissions to coincide with the relevant strategic plan, one toward the mid-term and one toward the end of the strategic plan period, to facilitate a review of implementation of the plans themselves
- These reports also serve as a basis for the periodically published Global Biodiversity Outlook (GBO)
- The sixth national report (6NR) was due at the end of 2018 with an online reporting tool available on the CHM along with reporting guidelines and guidance ~100 6NR reports have been submitted

The Financial Mechanism

- CBD Articles 20 (Financial Resources) and 21 (Financial Mechanism) address the need for financial resources to implement the Convention
  - Article 20.1 asks each Party to provide financial support for national activities pursuant to achieving the objectives of the Convention BUT
  - Article 20.2 requires developed country Parties to provide new and additional financial resources to enable developing country Parties to meet the agreed full incremental costs of implementing measures to meet their obligations under the Convention
  - The implementation of developed country Parties commitments must consider the need for adequacy, predictability and timely flow of funds and the extent to which developing country Parties will effectively implement their obligations is dependent upon receipt of these financial resources
  - Article 20.6 requires Parties to take into consideration the special conditions resulting from the dependence on, distribution and location of, biodiversity, in particular in small island States
  - Article 21.1 establishes a mechanism for the provision of financial resources under the authority and guidance of and to be accountable to the COP. The Convention leaves the choice of entity, policy, strategy, programme priorities and eligibility criteria up to the COP
- At COP 1, the Global Environment Facility (GEF) was appointed interim operating entity for the financial mechanism, an arrangement that was later made permanent at COP 3

The New Subsidiary Body on Implementation

- At CBD COP 12 (2014), the SBI to replace the Ad Hoc Open-ended Working Group on Review of Implementation of the Convention, with the terms of reference contained in the annex to decision XII/26
- The SBI drafted its own modus operandi, which was agreed at CBD COP 13 (2016), and lists the following four functions and core areas of work:
  - review of progress in implementation;
  - strategic actions to enhance implementation; and
  - strengthening means of implementation;
  - operations of the convention and the Protocols.
- To date, the SBI has met three times, the last time being virtually in May–June 2021. The agenda for this meeting, included the following topics:
  - Review of progress in the implementation of the Convention and the Strategic Plan (2011–2020)
  - Assessment and review of the effectiveness of the Cartagena Protocol
  - Post-2020 Global Biodiversity Framework
  - Resource mobilisation and financial mechanism
  - Mainstreaming of biodiversity within and across sectors and other strategic actions to enhance implementation

Post-2020 Global Biodiversity Framework

- This is the new framework for biodiversity to pick up where the Strategic Plan 2011–2020 left off and achieve the vision of living in harmony with nature by 2050
- The Framework was meant to be completed and agreed at COP 15, originally scheduled for October 2020, but postponed due to the global pandemic and now scheduled for October 2021 in Kunming, China
- Preparation of the Framework was manded by the COP to an open-ended intersessional working group
- The open-ended working group has met three times, twice in person in 2019 and early 2020 and a virtual meeting is planned for August 2021
- The SBI was requested to contribute to its development and to complement it with elements related to support and review implementation of matters related to the Cartagena Protocol, the Nagoya Protocol and the Working Group on Article 8(j) (indigenous peoples and local communities)
- Regional consultations have been held (including GRULAC) and Party and observer submissions on specific relevant issues are available
- The first draft of the Framework was issued in mid-July 2021 and will undergo further refinement at the virtual meeting in August, in preparation for adoption at Cop 15 in October 2021

The Framework includes 21 targets for 2030 that call for, among other things:

- At least 30% of land and sea areas global (especially areas of particular importance for biodiversity and its contributions to people) conserved through effective, equitably managed, ecologically representative and well-connected systems of protected areas (and other effective area-based conservation measures)
- A 50% or greater reduction in the rate of introduction of invasive alien species, and controls or eradication of such species to eliminate or reduce their impacts
- Reducing nutrients lost to the environment by at least half, and pesticides by at least two thirds, and eliminating the discharge of plastic waste
- Nature-based contributions to global climate change mitigation efforts of least 10 $GtCO_2e$ per year, and that all mitigation and adaptation efforts avoid negative impacts on biodiversity
- Redirecting, repurposing, reforming or eliminating incentives harmful for biodiversity, in a just and equitable way, reducing them by at least USD 500 billion per year
- A USD 200 billion increase in international financial flows from all sources to developing countries
- There are overarching milestones set to be reached 2030; and the Framework is meant to contribute to the implementation of the 2030 Agenda for Sustainable Development. At the same time, progress towards the Sustainable Development Goals will help to provide the conditions necessary to implement the framework.

Convention on Migratory Species (CMS or Bonn Convention)

Background

- Adopted in 1979 and entered into force on 1 November 1983, and currently has 133 Parties.
- Framework for conserving migratory species and their habitats through two Appendices (and joint research and monitoring activities):
  - Appendix I: migratory species in danger of extinction throughout all or a significant
  - Appendix II: migratory species that have an unfavorable conservation status or would benefit significantly from international cooperation, providing for the development of specialized regional agreements (7 agreements and 19 MOUs have been concluded, including and MOU on cetaceans in the Pacific islands region
- The COP is the principal decision-making body of the Convention and meets every three years. COP1 was held in 1985.

Key provisions of the Agreement

Article I: Interpretations

Includes definitions of:

- Migratory species: the entire population or any geographically separate part of the population of any species or lower taxon of wild animals, a significant proportion of whose members cyclically and predictably cross one or more national jurisdictional boundaries;
- Conservation Status: the sum of the influences acting on the migratory species that may affect its long-term distribution and abundance;
- Range State: any State or other Party that exercises jurisdiction over any part of the range of that migratory species, or a State, flag vessels of which are engaged outside national jurisdictional limits in taking that migratory species;
- Agreement: an international agreement relating to the conservation of one or more migratory species as provided for in Articles IV and V of this Convention;
- Party: a State or any regional economic integration organization constituted by sovereign States which has competence in respect of the negotiation, conclusion and application of international Agreements in matters covered by this Convention

Article III: Endangered Migratory Species: Appendix I

- Lists migratory species which are endangered
- A migratory species may be removed from Appendix I if the best scientific evidences shows that it is no longer endangered
- COP may recommend to Range States that they take further measures

Article IV: Migratory Species to be the Subject of Agreements: Appendix II

- A migratory species may be listed both in Appendix I and Appendix II
- Parties are encouraged to take action with a view to concluding agreements for any population or any geographically separate part of the population of any species

Article V: Guidelines for Agreements

- The object of each Agreement shall be to restore the migratory species concerned to a favourable conservation status or to maintain it in such a status
- An Agreement should, wherever possible, deal with more than one migratory species

Article VI: Range States

- A list of the Range States of migratory species listed in Appendices I and II shall be kept up to date by the Secretariat using information it has received from the Parties

Article XI: Amendment of the Appendices

- Appendices I and II may be amended at any ordinary or extraordinary meeting of the COP, and proposed amendments will be adopted by two-thirds majority of Parties present and voting
- The text of a proposed amendment must be communicated to the Secretariat at least 150 days before the meeting

Milestones in the implementation of the agreement

1972 Stockholm Conference on the Human Environment: Among the Conference's main outcomes was the recognition that an international instrument was needed to protect migratory species

1974: Germany was mandated by UNEP to draft an appropriate text for such an instrument

1979: the CMS was adopted in Bonn, Germany

1983: the CMS entered into force on 1 November 1983

2019: the CMS celebrated its 40th anniversary

Principles in the Rio Declaration covered by this CMS include:

- Wild animals in their innumerable forms are an irreplaceable part of the Earth's natural system which must be conserved for the good of mankind; (Principle 1)
- Each generation of man holds the resources of the earth for future generations and has an obligation to ensure that this legacy is conserved and, where utilized, is used wisely; (Principle 3 and 21)
- States are and must be the protectors of the migratory species of wild animals that live within or pass through their national jurisdictional boundaries; (Principle 2)

Ratifying the CMS: reservations and declarations

Reservations upon ratification or accession to the CMS are not provided for – however, under international law, a country ratifying or acceding to a treaty may make a declaration where they express their understanding of some matter or the interpretation of a particular provision.

Unlike reservations, declarations merely clarify the country's position and do not modify the legal effect of a treaty. Usually, declarations are made at the time of ratification or signature.

Parties to the Agreement and stakeholder interests

- There are currently 133 Parties to the CMS
- Of these, 14 are SIDS and 4 are PSIDS (Cook Islands, Fiji, Palau, Samoa)
- Many more non-Party countries, including PSIDS (Kiribati, FSM, Nauru, Niue, PNG, RMI, Solomon Islands, Tonga, Tuvalu Vanuatu) have entered into MOUs on or are considered Range States for specific migratory species
- Parties are allocated to regional groups, including Africa; Asia; Central, South America and the Caribbean; the EU; non-EU countries such as the Norway, Switzerland; and Oceania

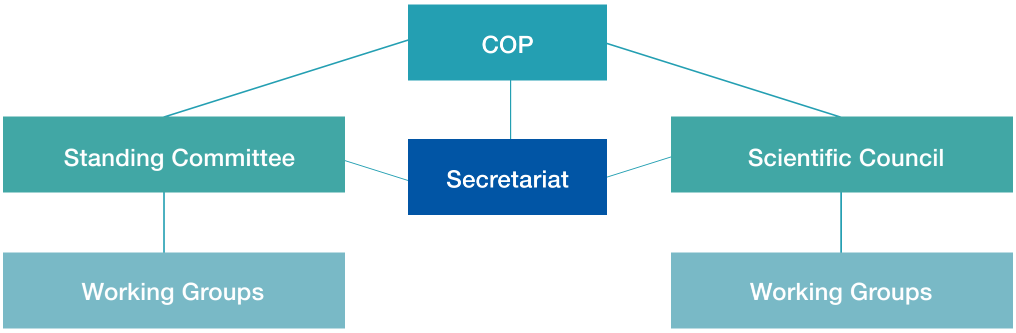
Rules of procedure

The rules of procedure for the CMS apply to any meeting of the Conference of the Parties (COP) and sets out the duties of the COP in conducting meetings.

Topics covered in the rules of procedure include:

- Representatives, observers, secretariat (Rules 1 – 4)
- Arrangements of the meeting (Rules 5 – 11)
- Officers (Rules 12 – 13)
- Rules of order and debate (Rules 14 – 17)
- Submission of documents (Rules 18 – 19)
- Voting (Rules 20 – 23)
- Parties must make every effort to reach agreement on all matters by consensus
- Votes shall be taken by a two-thirds majority of votes cast.
- Amendments

Institutional structure supporting the agreement

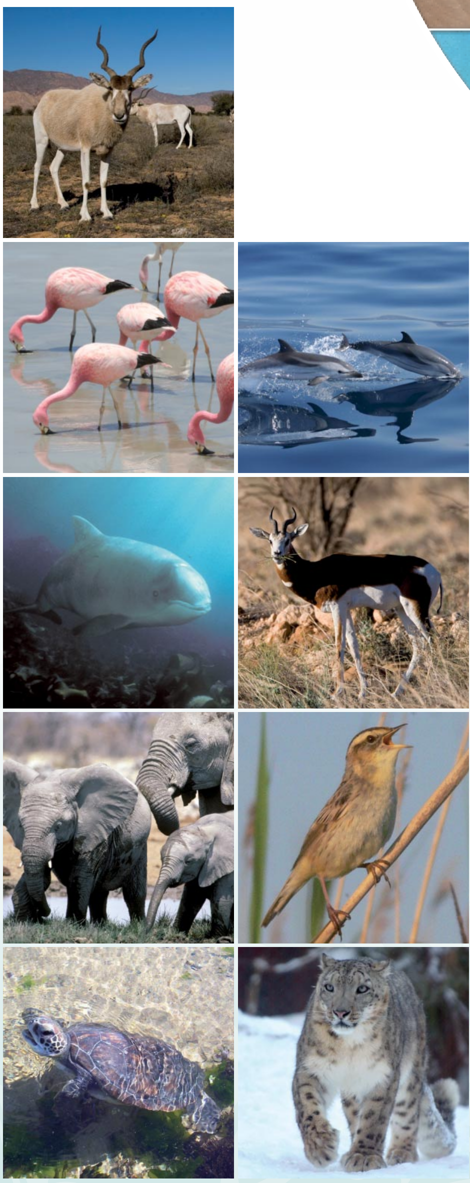


Conference of the Parties (COP):
The decision-making body of the Convention. It meets at three-yearly intervals.

Standing Committee (StC):
Gives policy and administrative guidance between meetings.

Scientific Council (ScC):
Meets between COP sessions to offer scientific advice and identify research and conservation priorities.

Secretariat:
Develops and promotes Agreements, services meetings, supports and supervises research and conservation projects and co-operates with governments and partner organizations. The Secretariat is provided by the United Nations Environment Programme (UNEP) and is based in Bonn, Germany and has an out-posted office in Abu Dhabi, United Arab Emirates.



UNEP CMS

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

Background

- The aim of CITES is to ensure that international trade of wild animal and plant species does not threaten their survival.
- CITES three appendices that list internationally-traded wild animal and plant species:
  - **Appendix I**: species endangered due to international trade, permitting such trade only in exceptional circumstances
  - **Appendix II**: species that may become endangered if their trade is not regulated, thus they require controls aimed at preventing unsustainable use, maintaining ecosystems, and preventing species from entering Appendix I
  - **Appendix III**: species subject to domestic regulation by a Party requesting the cooperation of other Parties to control international trade in these species.
- Over 40,900 species—including roughly 6,610 species of animals and 34,310 species of plants—are listed under CITES
- Parties regulate international trade of CITES listed species through a system of permits and certificates that are required before specimens of these species are imported, exported, or introduced from the sea
- Each Party is required to adopt national legislation and to designate two national authorities, namely, a Management Authority responsible for issuing permits and certificates based on the advice of a Scientific Authority
- These two national authorities also assist with CITES enforcement through cooperation with customs, police, and other appropriate agencies
- Parties maintain trade records that are forwarded annually to the CITES Secretariat, thus enabling the compilation of statistical information on the global volume of international trade in an appendix-listed species.

Principles in the Rio Declaration covered by CITES include:

- All species threatened with extinction which are or may be affected by trade must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances (Principle 2)

Key provisions of the agreement

Article 1: Definitions

- Definitions, including:
  - Species – and species, subspecies, or geographically separate population;
  - Specimen – any animal or plant, whether alive or dead;
  - Trade – export, re-export, import and introduction from the sea;
  - Introduction from the sea – transportation into a State of specimens of any species which were taken in the marine environment not under the jurisdiction of any State.

Article III: Regulation of trade in specimens of species included in Appendix I

- The export of any specimen of a species included in Appendix I shall require the prior grant and presentation of an export permit;
- The import of any specimen of a species included in Appendix I shall require the prior grant and presentation of an import permit and either an export permit or a re-export certificate;
- The introduction from the sea of any specimen of a species included in Appendix I shall require the prior grant of a certificate from a Management Authority of the State of introduction.

Article IV: Regulation of trade in specimens of species included in Appendix II

- The export of any specimen of a species included in Appendix II shall require the prior grant and presentation of an export permit;
- A Scientific Authority in each Party shall monitor both the export permits granted by that State for specimens of species included in Appendix II and the actual exports of such specimens;
- The import of any specimen of a species included in Appendix II shall require the prior presentation of either an export permit or a re-export certificate;
- The introduction from the sea of any specimen of a species included in Appendix II shall require the prior grant of a certificate from a Management Authority of the State of introduction.

Article V: Regulation of trade in specimens of species included in Appendix III

- The export of any specimen of a species included in Appendix III from any State which has included that species in Appendix III shall require the prior grant and presentation of an export permit;
- The import of any specimen of a species included in Appendix III shall require, except in the case of re-export, the prior presentation of a certificate of origin and, where the import is from a State which has included that species in Appendix III, an export permit.

Article X: Trade with States not party to the Convention

- Where export or re-export is to, or import is from, a country that is not a Party to CITES, comparable documentation issued by the competent authorities in that country which substantially conforms with the CITES requirements may be accepted in lieu.

Article XV: Amendments to Appendices I and II

- Any Party may propose an amendment to Appendix I or II for consideration at the next meeting. The text of the proposed amendment shall be communicated to the Secretariat at least 150 days before the meeting;
- Amendments shall be adopted by a two-thirds majority of Parties present and voting.

Ratifying CITES: reservations and declarations

CITES is not subject to general reservations; however, specific reservations may be entered in accordance with the provisions of amendments to the Appendices to the Convention, which means that any State may, on depositing its instrument of ratification, acceptance, approval or accession, enter a specific reservation with regard to:

- any species included in Appendix I, II or III; or
- any parts or derivatives specified in relation to a species included in Appendix III.

Until a Party withdraws its reservation, it will be treated as a not a Party to the Convention with respect to trade in the particular species or parts or derivatives specified in such reservation.

Milestones in the implementation of the agreement

1973: CITES was adopted

1975: CITES entered into force (there are currently 184 Parties to the Convention)

2010: the International Consortium on Combating Wildlife Crime (ICCWC) was created to further enhance the international cooperation needed to support national efforts to strengthen the enforcement response

2015: the United Nations Group of Friends on Poaching and Illicit Wildlife Trafficking, co-chaired by Gabon and Germany, promoted the first UN General Assembly resolution on tackling illicit trafficking in wildlife

2019: the General Assembly further underscored the importance of national-level action and commitment to effectively address illegal wildlife trade

2023: CITES celebrates its 50th anniversary

Parties to the agreement and stakeholder interests

- 184 Parties
- 29 SIDS, 7 PSIDS (Fiji, Palau, PNG, Samoa, Solomon Islands, Tonga, Vanuatu)
- Parties are allocated to each of the six major geographical regions (Africa, Asia, Europe, North America, Central and South America and the Caribbean, and Oceania)

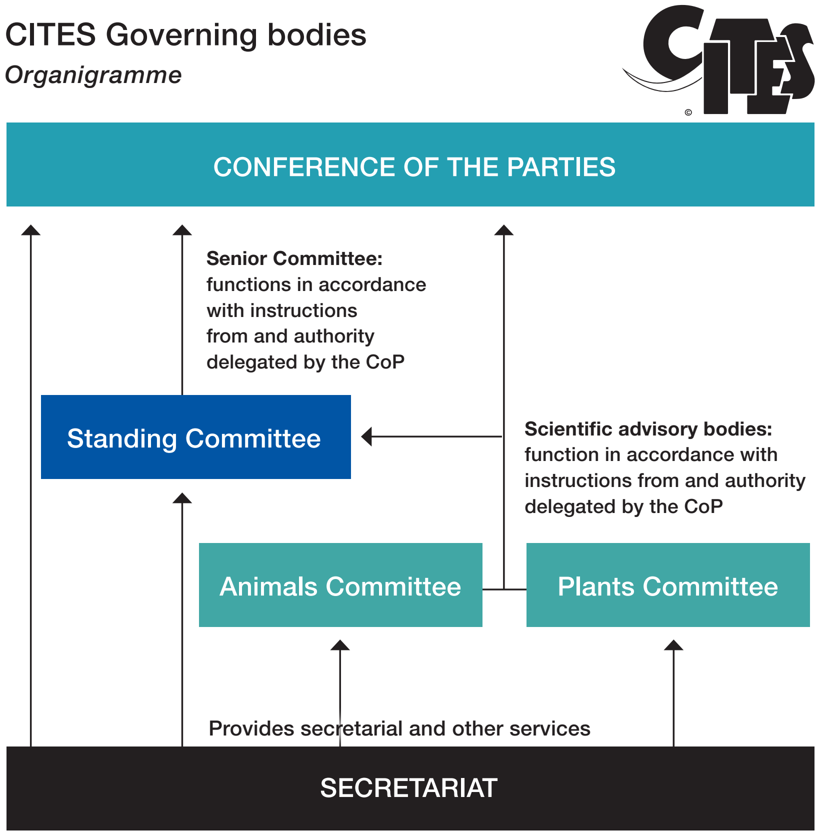
Rules of procedure

The rules of procedure for CITES apply to any meeting of the Conference of the Parties to the Convention convened in accordance with Articles XI and XVII of the Convention.

Topics covered in the rules of procedure include:

- Arrangements of the meeting (Rules 7 – 15)
- Officers (Rules 16 – 17)
- Rules of order and debate (18 – 21)
- Voting (Rules 26 – 29)
- The Conference shall as far as possible decide on draft resolutions, draft decisions and other documents by consensus
- All votes on procedural matters relating to the conduct of the business of the meeting shall be decided by a simple majority of the Representatives present and voting
- All other decisions shall be taken by a two-thirds majority of Representatives present and voting

Institutional structure(s) supporting the agreement



The Parties to CITES are collectively referred to as the Conference of the Parties. Every two to three years, the Conference of the Parties meets to review the implementation of the Convention. These meetings last for about two weeks and are usually hosted by one of the Parties. The meetings are often referred to as 'CoPs'.

The Standing Committee provides policy guidance to the Secretariat concerning the implementation of the Convention and oversees the management of the Secretariat's budget. Beyond these key roles, it coordinates and oversees, where required, the work of other committees and working groups; carries out tasks given to it by the Conference of the Parties; and drafts resolutions for consideration by the Conference of the Parties.

The Animal and Plants Committees of experts were established at COP 6 (Ottawa, 1987) to fill gaps in biological and other specialized knowledge regarding species of animals and plants that are (or might become) subject to CITES trade controls. Their role is to provide technical support to decision-making about these species. These two Committees have similar terms of reference, which include:

- providing scientific advice and guidance to the Conference of the Parties, the other committees, working groups and the Secretariat;
- dealing with nomenclatural issues;
- undertaking periodic reviews of species, in order to ensure appropriate categorization in the CITES Appendices;
- advising when certain species are subject to unsustainable trade and recommending remedial action (through a process known as the 'Review of Significant Trade'); and
- drafting resolutions on animal and plant matters for consideration by the Conference of the Parties.

Synergies amongst the BRS Conventions

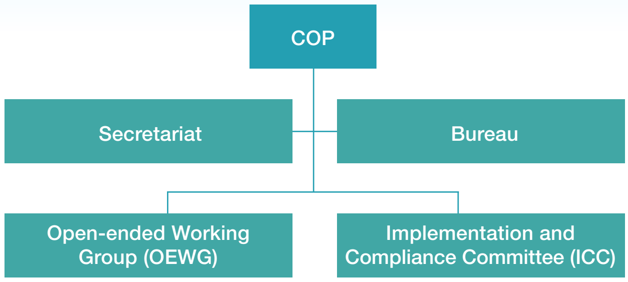
- Simultaneous extraordinary meetings of the Basel, Rotterdam and Stockholm (BRS) COPs (ExCOPs) have been held twice
- The first ExCOPs (Bali 2010)
- Considered recommendations of the Ad Hoc Joint Working Group on Enhancing Cooperation and Coordination among the BRS Conventions
- Parties adopt an omnibus synergies decision on joint services, joint activities, synchronization of the budget cycles, joint audits, joint managerial functions, and review arrangements
- Decided to review in 2013 how the synergies arrangements had contributed to achieving a set of objectives, such as strengthening the implementation of the three Conventions and maximizing the effective and efficient use of resources at all levels.
- The second ExCOPs (Geneva 2013, in conjunction with the back-to-back meetings of the COPs)
- Parties adopted an omnibus decision on enhancing cooperation and coordination among the BRS Conventions, including
- A review of the synergies process and the organization of the Secretariats, and to continue to present joint activities as an integral part of the proposed programmes of work and budgets of the three Conventions.
- Alignment of the working arrangements of the Rotterdam Convention CRC with those of the Stockholm Convention POPRC to support effective participation of experts and observers, and encourages the POPRC to involve experts from the Basel Convention when discussing waste issues.
- Secretariat to enhance cooperation with the Strategic Approach to International Chemicals Management (SAICM) and consider coordinating with the Minamata Convention on Mercury
- Welcome an integrated approach that includes mainstreaming, industry involvement and dedicated external finance.

Parties to the Agreements

- Basel (Hazardous Waste)
- There are 188 Parties to the Basel Convention (including the EU)
- Trinidad and Tobago acceded to the Convention in 1994
- Of note, while the United States signed the Basel Convention, it has yet to ratify it
- Rotterdam (Trade in Hazardous Chemicals)
- There are 164 Parties to the Rotterdam Convention (including the EU)
- Trinidad and Tobago acceded to the Convention in 2009 (with effect from 2010)
- Again, the US is a signatory but has yet to ratify it
- Stockholm (Persistent Organic Pollutants)
- There are 184 Parties to the Stockholm Convention (including the EU)
- Trinidad and Tobago acceded to the Convention in 2002 (with effect from 2004)
- While both the US and Italy signed the Convention, they have not ratified it

Basel Convention

Institutional structure



Background

- The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal was adopted in 1989 and entered into force on 5 May 1992.
- The Convention addresses concerns over the management, disposal, and transboundary movements of hazardous wastes produced worldwide.
- The guiding principles of the Convention are that: the generation and transboundary movements of hazardous wastes should be reduced to a minimum; and hazardous wastes should be managed in an environmentally sound manner, treated, disposed of as close as possible to the source of generation, and minimized at the source.
- The Basel Protocol on Liability and Compensation was adopted at the fifth Conference of Parties (COP 5) in 1999. The Protocol talks began in 1993 in response to the concerns of developing countries about their lack of funds and technologies for coping with illegal dumping or accidental spills.
- The objective of the Protocol is to provide for a comprehensive regime for liability as well as adequate and prompt compensation for damage resulting from the transboundary movement of hazardous wastes and other wastes, including incidents occurring because of illegal traffic in those wastes.
- At the sixth meeting of the Conference of the Parties (COP 6) in 2002, Parties created the Open-ended Working Group (OEWG) as a subsidiary body to the COP.
- The OEWG assists the COP in developing and continuously reviewing the implementation of the Convention's workplan and specific operational policies and decisions for the implementation of the Convention.
- At COP 9 in 2008, Parties to the Basel Convention agreed to enhance cooperation under the Basel, Rotterdam and Stockholm Conventions.
- This was agreed amongst the COPs of the three Conventions at a simultaneous extraordinary meeting held in 2010 in Bali. Subsequent decisions amongst the three COPs have led to the provision of a matrix structure amongst the three secretariats serving the three Conventions, where a number of functions are carried out jointly and joint services are delivered.

Principles in the Rio Declaration covered by the Basel Convention include:

- Aware of the risk of damage to human health and the environment caused by hazardous wastes and other wastes and the transboundary movement thereof (Principle 1)
- Mindful of the growing threat to human health and the environment posed by the increased generation and complexity, and transboundary movement of hazardous wastes and other wastes (Principle 1)
- Mindful also that the most effective way of protecting human health and the environment from the dangers posed by such wastes is the reduction of their generation to a minimum in terms of quantity and/or hazard potential (Principle 1)
- Convinced that States should take necessary measures to ensure that the management of hazardous wastes and other wastes including their transboundary movement and disposal is consistent with the protection of human health and the environment whatever the place of disposal (Principle 15)

Key provisions of the Basel Convention

Objective

The overarching objective of the Basel Convention is to protect human health and the environment against the adverse effects of hazardous wastes. Its scope of application covers a wide range of wastes defined as "hazardous wastes" based on their origin and/or composition and their characteristics, as well as two types of wastes defined as "other wastes" - household waste and incinerator ash.

Principle Aims

- the reduction of hazardous waste generation and the promotion of environmentally sound management of hazardous wastes, wherever the place of disposal;
- the restriction of transboundary movements of hazardous wastes except where it is perceived to be in accordance with the principles of environmentally sound management; and
- a regulatory system applying to cases where transboundary movements are permissible.

Article 4: The first aim is addressed through a number of general provisions requiring States to observe the fundamental principles of environmentally sound waste management (article 4). A number of prohibitions are designed to attain the second aim: hazardous wastes may not be exported to Antarctica, to a State not party to the Basel Convention, or to a party having banned the import of hazardous wastes (article 4).

Article 11: Parties may, however, enter into bilateral or multilateral agreements on hazardous waste management with other parties or with non-parties, provided that such agreements are "no less environmentally sound" than the Basel Convention (article 11). In all cases where transboundary movement is not, in principle, prohibited, it may take place only if it represents an environmentally sound solution, if the principles of environmentally sound management and non-discrimination are observed and if it is carried out in accordance with the Convention's regulatory system.

Articles 6 and 7: The regulatory system is the cornerstone of the Basel Convention as originally adopted. Based on the concept of prior informed consent, it requires that, before an export may take place, the authorities of the State of export notify the authorities of the prospective States of import and transit, providing them with detailed information on the intended movement. The movement may only proceed if and when all States concerned have given their written consent.

Articles 10 and 13: The Basel Convention also provides for cooperation between Parties, ranging from the exchange of information on issues relevant to the implementation of the Convention to technical assistance, particularly to developing countries.

Article 16: The Secretariat is required to facilitate and support this cooperation, acting as a clearing-house.

Articles 8 and 9: In the event of a transboundary movement of hazardous wastes having been carried out illegally, i.e., in contravention of the provisions of Articles 6 and 7, or cannot be completed as foreseen, the Convention attributes responsibility to one or more of the States involved, and imposes the duty to ensure safe disposal, either by re-import into the State of generation or otherwise.

Article 14: The Convention also provides for the establishment of regional or sub-regional centres for training and technology transfer regarding the management of hazardous wastes and other wastes and the minimization of their generation to cater to the specific needs of different regions and subregions. Fourteen such centres have been established. They carry out training and capacity building activities in the regions.

Ratifying the Basel Convention: reservations and declarations

Reservations upon ratification or accession to the Basel Convent are not provided for – however, under international law, a country ratifying or acceding to a treaty may make a declaration where they express their understanding of some matter or the interpretation of a particular provision.

Unlike reservations, declarations merely clarify the country's position and do not modify the legal effect of a treaty. Usually, declarations are made at the time of ratification or signature.

Rules of procedure

The rules of procedure of the Basel Convention apply to any meeting of the Conference of the Parties convened in accordance with article 15 of the Convention.

Topics covered in the rules of procedure include:

- Date, place of and observers to meetings (Rules 3–7)
- Agenda (Rules 8–15)
- Officers (Rules 21–25)
- Conduct of business (Rules 29–38)
- Voting (Rules 39–51)
- Parties shall make every effort to reach agreement on all matters of substance by consensus
- If all efforts to reach consensus have been exhausted and no agreement reached, the decision shall, as a last resort, be taken by a two-thirds majority vote of the Parties present and voting, unless as provided by the Convention, on the financial rules referred to in paragraph 3 of article 15 of the Convention
- Decisions of a meeting on matters of procedure shall be taken by a simple majority vote of the Parties present and voting

Milestones in the implementation of the Basel Convention

COP 1 (1992): adopted a decision requesting industrialized countries to prohibit transboundary movements of hazardous wastes for final disposal to developing countries and noting that transboundary movements of wastes for recovery or recycling should be handled in an environmentally sound manner.

The Ban Amendment: COP 3 (1995), parties amended the Convention to ban the export of hazardous wastes for final disposal and recycling from Annex VII countries (EU, the Organization for Economic Cooperation and Development, and Liechtenstein) to non-Annex VII countries. The Ban Amendment entered into force in 2019.

Basel Protocol: COP 5 (1999) adopted the Basel Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal, which currently has 12 of the 20 ratifications required for it to enter into force.

COP 10 (2011): Parties adopted decisions on the new Strategic Framework and the Indonesian-Swiss country led initiative (CLI) to improve the effectiveness of the Basel Convention. The Cartagena Declaration on the Prevention, Minimization and Recovery of Hazardous Wastes was also adopted.

COP 11 (2013): first COP to be held in conjunction with the COPs of the Rotterdam and Stockholm Conventions. Negotiations focused on key elements of the synergies process between the three conventions. COP 11 also created the Environmental Network for Optimizing Regulatory Compliance on Illegal Traffic (ENFORCE) to tackle the illegal waste trade.

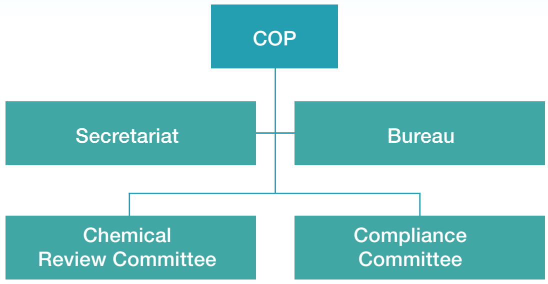
COP 13 (2017): Parties adopted decisions on, *inter alia*: establishment of the Partnership on Household Waste; the final evaluation of the Strategic Framework in 2021; adoption of a set of practical manuals on environmentally sound management (ESM) of wastes; adoption of the glossary of terms; creation of an expert working group on Review of Annexes I, III and IV and related aspects of Annex IX; authorization of work to finalize the technical guidelines on e-waste; updating technical guidelines on incineration on land and on specially engineered landfills; and a request to the Secretariat to develop an electronic reporting system.

COP 14 (2019): adopted decisions on, inter alia, a Convention amendment on plastic waste, technical guidelines on e-waste, and an update of the technical guidelines on wastes containing mercury.

Rotterdam Convention

ROTTERDAM CONVENTION

Institutional structure



Background

The dramatic growth in chemicals production and trade has raised public and official concern about the potential risks posed by hazardous chemicals and pesticides. Countries lacking adequate infrastructure to monitor the import and use of these chemicals are particularly vulnerable.

In response to these concerns, the United Nations Environment Programme (UNEP) and the Food and Agriculture Organization of the United Nations (FAO) developed and promoted voluntary information-exchange programmes in the mid-1980s. FAO launched its International Code of Conduct on the Distribution and Use of Pesticides in 1985 and UNEP set up the London Guidelines for the Exchange of Information on Chemicals in International Trade in 1987.

The two organizations then introduced the 1989 Prior Informed Consent (PIC) procedure. Jointly implemented by FAO and UNEP, it helped to ensure that governments had the information needed about hazardous chemicals for assessing risks and taking informed decisions on chemical imports.

Chapter 19 of Agenda 21, adopted at the 1992 Rio Summit, called for the adoption of a legally binding instrument on the PIC procedure by the year 2000. Consequently, the FAO UNEP launched negotiations which led to the finalization of the text of the Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals in International Trade. The Rotterdam Convention was adopted at a Conference of Plenipotentiaries on 10 September 1998 and entered into force on 24 February 2004.

The Convention covers the import and export of pesticides and industrial chemicals, listed in Annex III, that have been banned or severely restricted for health or environmental reasons by Parties and which have been notified by Parties for inclusion in an obligatory prior-informed consent (PIC) procedure.

Since the adoption of the Convention, the Conference of the Parties (COP) has adopted a series of decisions to amend Annex III to the Convention to list additional chemicals and make them subject to the Prior Informed Consent Procedure. The Convention process also facilitates information exchange amongst Parties on a wide range of potentially hazardous chemicals, and Parties to the Convention are required to notify the secretariat when domestic regulatory measures are taken to restrict potentially hazardous chemicals.

While the FAO and UNEP jointly perform secretariat functions for the Convention, they collaborate with the secretariats of the Basel and Stockholm Conventions to provide joint services where relevant.

Principles in the Rio Declaration covered by the Rotterdam Convention include:

- Recalling the pertinent provisions of the Rio Declaration on Environment and Development and chapter 19 of Agenda 21 on “Environmentally sound management of toxic chemicals, including prevention of illegal international traffic in toxic and dangerous products” (Rio Declaration and Agenda 21)
- Taking into account the circumstances and particular requirements of developing countries and countries with economies in transition, in particular the need to strengthen national capabilities and capacities for the management of chemicals, including transfer of technology, providing financial and technical assistance and promoting cooperation among the Parties (Principle 6)
- Desiring to ensure that hazardous chemicals that are exported from their territory are packaged and labelled in a manner that is adequately protective of human health and the environment, consistent with the principles of the Amended London Guidelines and the International Code of Conduct (Principle 1)
- Recognizing that trade and environmental policies should be mutually supportive with a view to achieving sustainable development (Principle 8)
- Determined to protect human health, including the health of consumers and workers, and the environment against potentially harmful impacts from certain hazardous chemicals and pesticides in international trade (Principle 1)

Key provisions of the Rotterdam Convention

Objective (Article 1)

- To promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm; and
- To contribute to the environmentally sound use of those hazardous chemicals, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to Parties.

Scope of the Convention (Article 3)

- Banned or severely restricted chemicals; and
- Severely hazardous pesticide formulations.

Designated National Authorities (DNA, Article 4)

- Each Party to designate one or more national authorities authorized to act in the performance of the administrative functions required by this Convention.
- Parties to ensure that DNA(s) have sufficient resources to perform their tasks effectively.

Procedures for banned or severely restricted chemicals (Article 5)

- Each Party, at the date of entry into force of the Convention (for it) to notify the Secretariat of its final regulatory actions in effect at that time.

Procedures for severely hazardous pesticide formulations (Article 6)

- Any Party that is a developing country or a country with an economy in transition and that is experiencing problems caused by a severely hazardous pesticide formulation under conditions of use in its territory, may propose to the Secretariat the listing of the severely hazardous pesticide formulation in Annex III (Chemicals Subject to the Prior Informed Consent (PIC) Procedure).
- The Chemical Review Committee shall review the information provided in the proposal and the additional information collected and recommend whether the severely hazardous pesticide should be made subject to the Prior Informed Consent procedure.

Listing of Chemicals (Articles 7, 8 and 9)

- For each chemical that the Chemical Review Committee has decided to recommend for listing in Annex III, it shall prepare a draft decision guidance document (Article 7).
- For chemicals not listed in Annex III, that has been included in a voluntary PIC, the COP will decide whether to list the chemical in Annex III (Article 8).
- A Party may submit information that an Annex III listing is no longer justified, which spurs a Chemical Review Committee review with recommendation for decision of the COP. Based on the information, the COP will decide whether to remove the chemical from Annex III (Article 9).

Procedural provisions

- **Technical assistance (Article 16)**: puts the onus on Parties to work together to manage implementation
- **Non-compliance (Article 17)**: requires the development of procedures for determining non-compliance
- **Conference of the Parties (COP, Article 18)**: requires establishing the Chemical Review Committee at first meeting
- **Secretariat (Article 19)**: secretarial duties performed jointly by UNEP and FAO

Mechanisms

To achieve its objectives the Convention includes a Prior Informed Consent (PIC) Procedure and Information Exchange.

The PIC procedure is a mechanism for formally obtaining and disseminating the decisions of importing Parties as to whether they wish to receive future shipments of those chemicals listed in Annex III of the Convention and for ensuring compliance with these decisions by exporting Parties.

The Convention facilitates information exchange among Parties for a very broad range of potentially hazardous chemicals. The Convention requires each Party to notify the secretariat when taking a domestic regulatory action to ban or severely restrict a chemical.

Players

Parties and their Designated National Authorities (DNAs) are countries or regional economic integration organizations that have ratified, accepted, approved or acceded to the Convention. Each Party must designate one or more national authorities, which are the primary contact points for matters related to the operation of the Convention and are authorized to perform the administrative functions required by the Convention. DNAs are also the key contact points for matters related to the Convention.

Conference of the Parties (COP) oversees the operation of the Convention and makes decisions regarding amendments to the Convention, including the addition of chemicals to Annex III.

Chemical Review Committee (CRC) is a subsidiary body of the COP. Its members are government designated experts in chemicals management. Its responsibilities include reviewing notifications and proposals from Parties and making recommendations to the COP on the addition of chemicals to Annex III.

Secretariat provides functions, including making administrative arrangements for meetings of the COP and its subsidiary bodies, verifying information accompanying notifications and proposals, disseminating import responses provided by the Parties, facilitating assistance to developing country Parties, facilitating information exchange between Parties and fostering collaboration and cooperation with other international organizations.

Ratifying the Rotterdam Convention: reservations and declarations

Reservations upon ratification or accession to the Basel Convent are not provided for – however, under international law, a country ratifying or acceding to a treaty may make a declaration where they express their understanding of some matter or the interpretation of a particular provision.

Unlike reservations, declarations merely clarify the country's position and do not modify the legal effect of a treaty. Usually, declarations are made at the time of ratification or signature.

Rules of procedure

The rules of procedure of the Rotterdam Convention apply to any meeting of the Conference of the Parties to the Convention convened in accordance with article 18 of the Convention.

Topics covered in the rules of procedure include:

- Places, dates and notifications of meetings (Rules 3–5)
- Observers (Rules 6–8)
- Agenda (Rules 9–16)
- Officers (Rules 22–25)
- Conduct of business (Rules 34–43)
- Voting (Rules 44–51)
- The Parties shall make every effort to reach agreement on all matters of substance by consensus
- Voting rules on substantive issues not agreed, i.e., no voting on substance provided for under this Convention
- Decisions on matters of procedure to taken by a majority vote of the Parties present and voting

Milestones in the implementation of the Rotterdam Convention

COP 1 (2004): At its first meeting, the COP established the Chemical Review Committee (CRC) and, among other things, set regions for prior informed consent (PIC) and began considering the arrangements for a financial mechanism.

COP 3 (2006): Parties move closer to working with the GEF and the MLF as financial mechanisms for the Convention.

COP 4 (2008): Parties agreed to include tributyltin compounds to Annex III but there was no decision on a financial mechanism.

COP 5 (2011): Parties agreed to include alachlor, aldicarb and endosulfan to Annex III, to look for synergies amongst the BRS Conventions on sustainable financing, as well as on joint activities, managerial functions and services amongst the BRS secretariats.

COP 6 (2013): Held in conjunction with the COPs of the Basel Convention and their Disposal and the Stockholm Convention and a simultaneous extraordinary meeting of the three COPs. Parties decided to amend Annex III to list: azinphos-methyl; commercial pentaBDE, including industrial tetraBDE and industrial pentaBDE; commercial octaBDE, including hexaBDE and heptaBDE; and PFOS, perfluorooctanesulfonates, perfluorooctanesulfonamides and perfluorooctanesulfonyls. However, COP 6 decided that while paraquat met the listing criteria for an SHPF, it would postpone a decision until COP 7 as those opposed to listing had concerns about the science, alternatives, and implications for trade. A decision on listing chrysotile asbestos was also deferred to COP 7, due to similar concerns.

COP 7 (2015): Parties were unable to agree on the listing of paraquat, fenthion, trichlorfon, and chrysotile asbestos in Annex III, and deferred consideration to COP 8. COP 7 also established an intersessional working group to: review cases where the COP was unable to reach consensus on the listing of a chemical by identifying the reasons for and against listing and, based on that and other information, to develop options for improving the effectiveness of the process; and to develop proposals for enabling information flows to support the PIC Procedure for those chemicals.

COP 8 (2017): In 2017, COP 8 agreed to list four chemicals in Annex III: carbofuran, SCCPs, TBT compounds, and trichlorfon, but deferred decisions on listing carbosulfan, chrysotile asbestos, paraquat, and fenthion until COP 9.

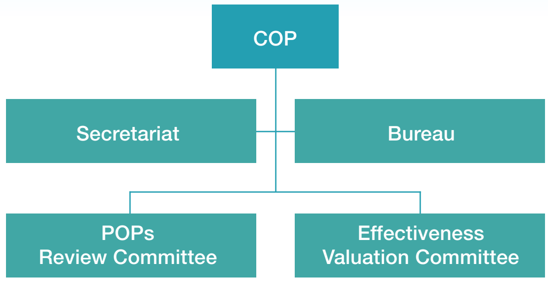
COP 9 (2019): Parties adopted a compliance mechanism through a vote that established a new annex to the Convention, concluding 15 years of negotiations on the issue. The COP agreed to include HBCD and phorate in Annex III, but could not agree to list carbosulfan, acetochlor, paraquat, fenthion, and chrysotile asbestos.

Stockholm Convention

Background

- The Stockholm Convention on Persistent Organic Pollutants is a global treaty to protect human health and the environment from chemicals that remain intact in the environment for long periods, become widely distributed geographically, accumulate in the fatty tissue of humans and wildlife, and have harmful impacts on human health or on the environment.

Institutional structure



- Exposure to Persistent Organic Pollutants (POPs) can lead to serious health effects including certain cancers, birth defects, dysfunctional immune and reproductive systems, greater susceptibility to disease and damages to the central and peripheral nervous systems.
- Given their long-range transport, no one government acting alone can protect its citizens or its environment from POPs.
- In response to this global problem, the Stockholm Convention, which was adopted in 2001 and entered into force in 2004, requires its Parties to take measures to eliminate or reduce the release of POPs into the environment.
- The Persistent Organic Pollutants Review Committee (POPRC) is a subsidiary body to the Stockholm Convention established for reviewing chemicals proposed for listing in Annexes A, Annex B, and / or C. The Convention entails the reviewing process of new chemicals and Annex D, Annex E and Annex F specify the information required for the review.
- While the mandate for the secretariat is set out in Article 19 of the Convention, in 2012, the Secretariats of the Basel and Stockholm conventions, as well as the UNEP-part of the Rotterdam Convention Secretariat, moved from three separate secretariats with a programmatic structure to a single Secretariat with a matrix structure serving the three conventions.

Principles in the Rio Declaration covered by the Stockholm Convention include:

- Recalling also the pertinent provisions of the Rio Declaration on Environment and Development and Agenda 21
- Acknowledging that precaution underlies the concerns of all the Parties and is embedded within this Convention (Principle 15)
- Reaffirming that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction (Principle 2)
- Noting the respective capabilities of developed and developing countries, as well as the common but differentiated responsibilities of States as set forth in Principle 7 of the Rio Declaration on Environment and Development (Principle 7)
- Reaffirming Principle 16 of the Rio Declaration on Environment and Development which states that national authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment (Principle 16)

Key provisions of the Stockholm Convention

Objective

Article 1: the objective of the Stockholm Convention is to protect human health and the environment from persistent organic pollutants (POPs).

The main provisions setting out Party Obligations include:

Article 3: Prohibit and / or eliminate the production and use, as well as the import and export, of the intentionally produced POPs that are listed in Annex A to the Convention. The import and export of chemicals listed in Annexes A and B can take place under specific restrictive conditions, as set out in paragraph 2 of Article 3. Article 3 also restricts the production and use, as well as the import and export of intentionally produced POPs listed in Annex B

Annex A (and Article 4): allows for the registration of specific exemptions for the production or use of listed POPs, in accordance with that Annex and Article 4, bearing in mind that special rules apply to PCBs.

Annex B (and Article 4): allows for the registration of acceptable purposes for the production and use of the listed POPs, in accordance with that Annex, and for the registration of specific exemptions for the production and use of the listed POPs, in accordance with that Annex and Article 4.

Article 5: Reduce or eliminate releases from unintentionally produced POPs that are listed in Annex C to the Convention, promoting the use of best available techniques and best environmental practices for preventing releases of POPs into the environment.

Article 6: Ensure that stockpiles and wastes consisting of, containing or contaminated with POPs are managed safely and in an environmentally sound manner. The Convention requires that such stockpiles and wastes be identified and managed to reduce or eliminate POPs releases from these sources. The Convention also requires that wastes containing POPs are transported across international boundaries taking into account relevant international rules, standards and guidelines.

Article 8: Target additional POPs. The Convention provides for detailed procedures for the listing of new POPs in Annexes A, B and / or C. A Committee composed of experts in chemical assessment or management - the Persistent Organic Pollutants review Committee, is established to examine proposals for the listing of chemicals, in accordance with the process set out in Article 8 and the information requirements specified in Annexes D, E and F of the Convention.

A summary of other articles, includes

- **Article 7**: Relating to the development of implementation plans.
- **Article 9**: Relating to information exchange
- **Article 10**: Relating to public information, awareness and education
- **Article 11**: On research, development and monitoring
- **Article 12**: On technical assistance
- **Article 13**: On financial resources and mechanisms
- **Article 15**: On reporting
- **Article 16**: On effectiveness evaluation
- **Article 17**: On non-compliance

Ratifying the Stockholm Convention: reservations and declarations

Reservations upon ratification or accession to the Basel Convent are not provided for – however, under international law, a country ratifying or acceding to a treaty may make a declaration where they express their understanding of some matter or the interpretation of a particular provision.

Unlike reservations, declarations merely clarify the country's position and do not modify the legal effect of a treaty. Usually, declarations are made at the time of ratification or signature.

Rules of procedure

The rules of procedure of the Stockholm Convention apply to any meeting of the Conference of the Parties to the Convention convened in accordance with article 18 of the Convention.

Topics covered in the rules of procedure include:

- Meetings (Rules 3–5)
- Observers (Rules 6–8)
- Agenda (Rules 9–16)
- Officers (Rules 22–25)
- Conduct of business (Rules 34–43)
- Voting (Rules 44–51)
- The Parties shall make every effort to reach agreement on all matters of substance by consensus
- Voting rules on substantive issues not agreed, i.e., no voting on substance provided for under this Convention
- Decisions on matters of procedure to taken by a majority vote of the Parties present and voting

Milestones in the implementation of the Stockholm Convention

COP 1 (2005): Parties agreed on the need to evaluate the continued need for DDT use; adopting guidance for the financial mechanism; establishing a schedule for reporting; establishing arrangements for monitoring data on POPs; and establishing the POPs Review Committee.

COP 3 (2007): Parties considered guidelines on best available techniques (BAT) and draft guidance on best environmental practices (BEP).

COP 4 (2009): Parties agreed to list nine new chemicals under the Convention.

COP 5 (2011): Endosulfan was added to Annex A and took further steps in the synergies process.

COP 6 (2013): hexabromocyclododecane (HBCD) was added to Annex A and Parties adopted a framework for the evaluation of the effectiveness of the Convention.

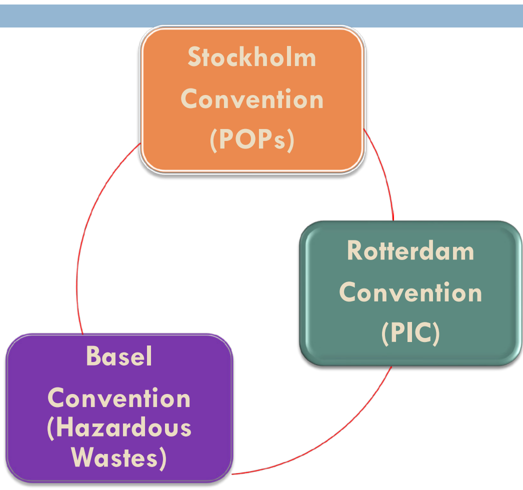
COP 7 (2015): This meeting was held in conjunction with the Basel and Rotterdam Convention COPs and hexachlorobutadiene, pentachlorophenol and its salts and esters, and polychlorinated naphthalenes were added to the Convention.

COP 8 (2017): DecaBDE and short-chain chlorinated paraffins (SCCPs) in Annex A and hexachlorobutadiene (HCBD) in Annex C were added, the evaluation of the effectiveness of the Convention triggered actions in numerous areas of the Convention towards its enhanced implementation, guidance was provided to the financial mechanism, and new guidance on BAT and BEP was adopted. The COP was held at the same time of the Basel and Rotterdam COPs.

COP 9 (2019): Dicofol and perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds were added to Annex A terms of reference for the fifth review of the financial mechanism and for the assessment of the funding needs for the implementation of the Convention over the period 2022–2026 were agreed and the revised framework for effectiveness evaluation was adopted.

THE CONVENTIONS

- **Basel Convention** on the Control of Transboundary Movements of hazardous wastes and their Disposal
  - 1989 / 191 Parties
- **Rotterdam Convention** on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International
- Trade
  - 1998 / 165 Parties
- **Stockholm Convention** on Persistent Organic Pollutants
  - 2001 / 186 Parties



BASEL CONVENTION

ROTTERDAM CONVENTION

STOCKHOLM CONVENTION

Title: **Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal**
Entry into force: 5 May1992
Number of parties: 191
Objective: To protect human health and the environment against the adverse effects of hazardous wastes
Scope: **Hazardous wastes and other wastes**
Key provisions:
(i) **Minimization** of the generation of hazardous and other wastes
(ii) **Control system for transboundary movements** of hazardous and other wastes based on notification and Prior Informed Consent
(iii) **Environmentally sound management** of hazardous and other wastes in relation to transboundary movements

Title: **Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade**
Entry into force: 24 February 2004
Number of parties: 165
Objective: To promote shared responsibility and cooperative efforts in international trade of certain chemicals
Scope: **54 pesticides, SHPFs and industrial chemicals** that have been banned or severely restricted for inclusion in the Prior Informed Consent procedure and met the criteria set out in the Convention
Key provisions:
(i) Prior Informed Consent procedure based on **import responses and export notifications** for other banned / severely restricted chemicals
(ii) **Exchange of information** on a broad range of potentially hazardous chemicals

Title: **Convention on Persistent Organic Pollutants (POPs)**
Entry into force: 17 May 2004
Number of parties: 186
Objective: To protect human health and the environment from persistent organic pollutants
Scope: **34 POPs**
Key provisions:
(i) **Elimination** (POPs in annex A)
(ii) **Restriction** (POPs in annex B)
(iii) **Specific exemptions and acceptable purposes** for certain POPs
(iv) **Reduction or elimination** (unintentionally produced POPs in annex C)

Synergies

Enhancing **cooperation and coordination** among the three Conventions
Strengthening the implementation of the three conventions at the national, regional and global levels
Providing **coherent policy guidance**
Enhancing **efficiency** in the provision of support to Parties, reducing their administrative burden and maximizing the effective and efficient **use of resources** at all levels
Combating **illegal traffic and trade**

Why are these three Conventions working together ?

Rotterdam Convention	Information exchange on risks of chemicals	Export/Import Controls
Stockholm Convention	Elimination / Reduction of POPs	Trade restrictions on POPs
Basel Convention	ESM of wastes, includes chemicals when become wastes	Trade controls/ban of wastes

www.brsmeas.org @brsmeas

Source: UNEP

United Nations Framework Convention on Climate Change (UNFCCC)

Background

1979 "World Climate Conference" organized by WMO

- expressed concern that continued expansion of man's activities on earth may cause "significant extended regional and even global changes of climate".

1988 Intergovernmental Panel on Climate Change (IPCC) established by UNEP, WMO

- tasked to assess scientific information on the subject

1988 UN General Assembly Resolution 43/53

- urged protection of global climate for present and future generations of mankind.

1990 – IPCC First Assessment Report

1990 – Second World Climate Conference

- called for the creation of a global treaty.

UN General Assembly Resolution 45/212

- formally launched negotiations on a convention on climate change, to be conducted by an Intergovernmental Negotiating Committee (INC)

1991 – INC meets

1992 – INC adopts text of UN Framework Convention on Climate Change at Rio Convention

1994 – UNFCCC enters into force

Principles in the Rio Declaration covered by the UNFCCC include:

- The change in the Earth's climate and its adverse effects are a common concern of humankind (Principle 1)
- States have the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction (Principle 2)
- Responses to climate change should be coordinated with social and economic development in an integrated manner with a view to avoiding adverse impacts on the latter, taking into full account the legitimate priority needs of developing countries for the achievement of sustained economic growth and the eradication of poverty (Principles 3, 4 and 5)
- Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects (Principle 15)
- Common but differentiated responsibilities (Principle 7)

United Nations
Framework Convention on
Climate Change

Greenhouse Gases (GHGs)

UNFCCC regulates all GHGs not addressed by Montreal Protocol (except HFCs – see Kigali Amendment further along)

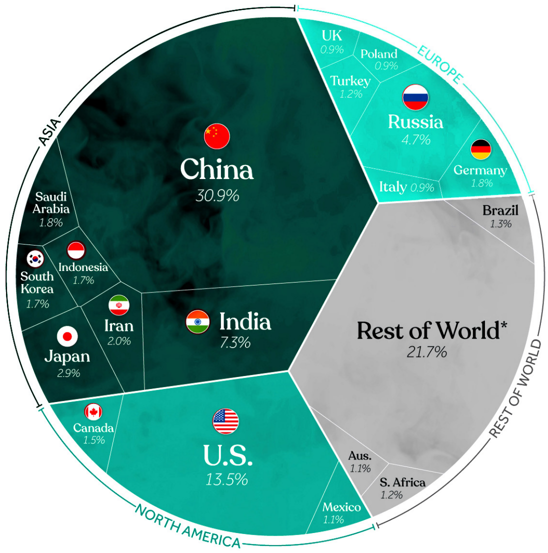
Kyoto Protocol regulates 7 major groups of GHGs:

- CO_2 – e.g. from combustion of fossil fuels (coal, oil, natural gas), agriculture land use, deforestation
- CH_4 – methane
- N2O – nitrous oxide
- PFCs – perfluorocarbons
- HFCs – hydrofluorocarbons
- SF6 – sulphur hexafluoride
- NF3 – nitrogen trifluoride

Paris Agreement – follows the UNFCCC

Global CO_2 emissions (2021)

% of total global emissions 2021. Source: Global Carbon Atlas



*175 countries

Intergovernmental Panel on Climate Change

- Established by WMO and UNEP in 1988
- Assesses scientific, technical and socio-economic information relevant for the understanding of climate change, its potential impacts and options for adaptation and mitigation - provides an assessment of the state of knowledge on climate change
- Prepares Special Reports and Technical Papers on topics where independent scientific information and advice is needed
- Supports the UN Framework Convention on Climate Change through work on methodologies for National Greenhouse Gas Inventories
- Does not conduct new research, monitor climate-related data or recommend policies; instead synthesizes new and existing information and gives 'policy relevant' information.

IPCC Working Groups

Working Group I: assesses the scientific aspects of the climate system and climate change.

Working Group II: assesses the vulnerability of socio-economic and natural systems to climate change, negative and positive consequences of climate change, and options for adapting to it.

Working Group III: assesses options for limiting greenhouse gas emissions and otherwise mitigating climate change.

IPCC Assessment Reports

First Assessment Report – 1990

- played a role in formation of the International Negotiating Committee by UNGA that led to UN Framework Convention on Climate Change (UNFCCC)

Second Assessment Report – 1995

- stabilisation of the concentration of carbon dioxide at its present level could only be achieved through an immediate reduction in its emissions of 50-70% and further reductions thereafter'
- report led to the negotiation of the Kyoto Protocol

Third Assessment Report – 2001

- most of the warming over the last 50 years attributable to human activities.
- predicted a rise of 1.4 – 5.8 °C over next 100 years, in global mean surface temperature
- GHGs need to be reduced 'to a very small fraction of current emissions'

Fourth Assessment Report – 2007

- 90% chance global warming linked to human activity
- mitigation targets (25-40% by 2020 and 80-90% by 2050)

Fifth Assessment Report – 2014

- identifies a GHG emissions budget of 840Gt of CO_2, and we've used up over half of that (531Gt of CO2)
- four emissions scenarios – with projections of 4C+ by 2100 in some
- greater rates and magnitude of climate change increase the likelihood of exceeding adaptation limits

Sixth Assessment Report – 2022

- global GHG emissions must peak before 2025 in 1.5 degrees C-aligned pathways
- GHGs in all sectors must be halved by 2030 to remain 1.5 degrees C-aligned
- adaptation measures can effectively build resilience, but more finance is needed to scale solutions
- some climate impacts are already so severe they cannot be adapted to, leading to losses and damages

IPCC Special Reports

- The Regional Impacts of Climate Change: An Assessment of Vulnerability, March 1997
- Aviation and the Global Atmosphere, March 1999
- Land Use, Land-Use Change, and Forestry, March 2000
- Carbon Dioxide Capture and Storage, March 2005
- Renewable Energy Sources and Climate Change Mitigation, April 2011
- Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation, March 2012
- Global Warming of 1.5°C, October 2018
- Climate Change and Land, August 2019
- The Ocean and Cryosphere in a Changing Climate, September 2019

Key Climate Change Treaties

1992: United Nations Framework Convention on Climate Change (UNFCCC)

197 Parties to the Convention = Conference of the Parties (COP); entered into force in 1994

1997: Kyoto Protocol

192 Parties to the Kyoto Protocol = Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (CMP); entered into force in 2005

2015: Paris Agreement

191 Parties to the Paris Agreement = Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement (CMA); entered into force in 2016

UNFCCC – 1992

Convention's ultimate objective:

Stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.

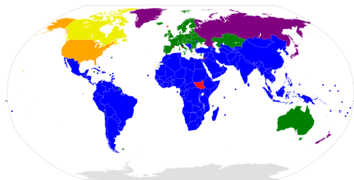
Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.

Key principles:

- Common but differentiated responsibilities and respective capabilities (CBDR-RC)
- Equity – Specific needs and special circumstances of developing countries
- Precaution and prevention – Timely action on climate change under conditions of scientific uncertainty
- Sustainable development

Kyoto Protocol – 1997

Kyoto Protocol to the UNFCCC



Annex B parties with binding targets in the second period
Annex B parties with binding targets in the first period but not the second
Non-Annex B parties without binding targets
Annex B parties with binding targets in the first period but which withdrew from the Protocol
Signatories to the Protocol that have not ratified
Other UN member states and observers that are not party to the Protocol

Objective:

- Commit developed country Parties to reduce greenhouse gas emissions
- Set binding emission reduction targets at the international level
- Developed countries defined as those listed in UNFCCC Annexes I and II

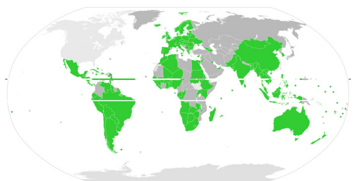
First commitment period (2008–2012):

- Greenhouse gas emissions reductions by an average of 5% below 1990 levels
- USA did not ratify

Second commitment period (2013-2020):

- Doha Amendment – negotiated in 2012, entered into force in 2020
- Japan, New Zealand, Russia, Canada did not take new targets

Doha Amendment 2012–2020



States that ratified
Kyoto protocol parties that did not ratify
Non-parties to the Kyoto Protocol

Paris Agreement – 2015

Goals:

- Holding global average temperature increase to <2°C, aiming for 1.5°C
- Increasing the ability to adapt and foster low-carbon, climate-resilient development
- Making finance flows consistent with low-carbon and climate-resilient development pathways

Key principles:

- Universal – all Parties to undertake ambitious efforts
- Implementation to reflect equity and CBDR-RC
- Bottom-up action – Nationally determined contributions (NDCs)
- Built-in ambition mechanism – all Parties efforts to progress over time
- Comprehensive, balanced
- Legally binding

PARIS2015
UN CLIMATE CHANGE CONFERENCE
COP21·CMP11

Ratifying the UNFCCC and its Protocol and Agreement: reservations and declarations

Reservations upon ratification or accession to the UNFCCC, the Kyoto Protocol and the Paris Agreement are not provided for – however, under international law, a country ratifying or acceding to a treaty may make a declaration where they express their understanding of some matter or the interpretation of a particular provision.

Unlike reservations, declarations merely clarify the country's position and do not modify the legal effect of a treaty. Usually, declarations are made at the time of ratification or signature.

Review: from the UNFCCC to Paris in a nutshell

1992 – UNFCCC adopted (entered into force in 1994)

1995 – First meeting of the UNFCCC COP and agreement to negotiate the Kyoto Protocol

1997 – the Kyoto Protocol adopted, establishing an international legal framework for emissions reduction targets for developed countries during the period 2008–2012 for developed countries (with a second period agreed in 2012 ending in 2020)

2005 – the Kyoto Protocol enters into force, eight years after adoption

2007 – Bali Action Plan set out a two-year process for arriving at an outcome that addressed political concerns around the Kyoto Protocol

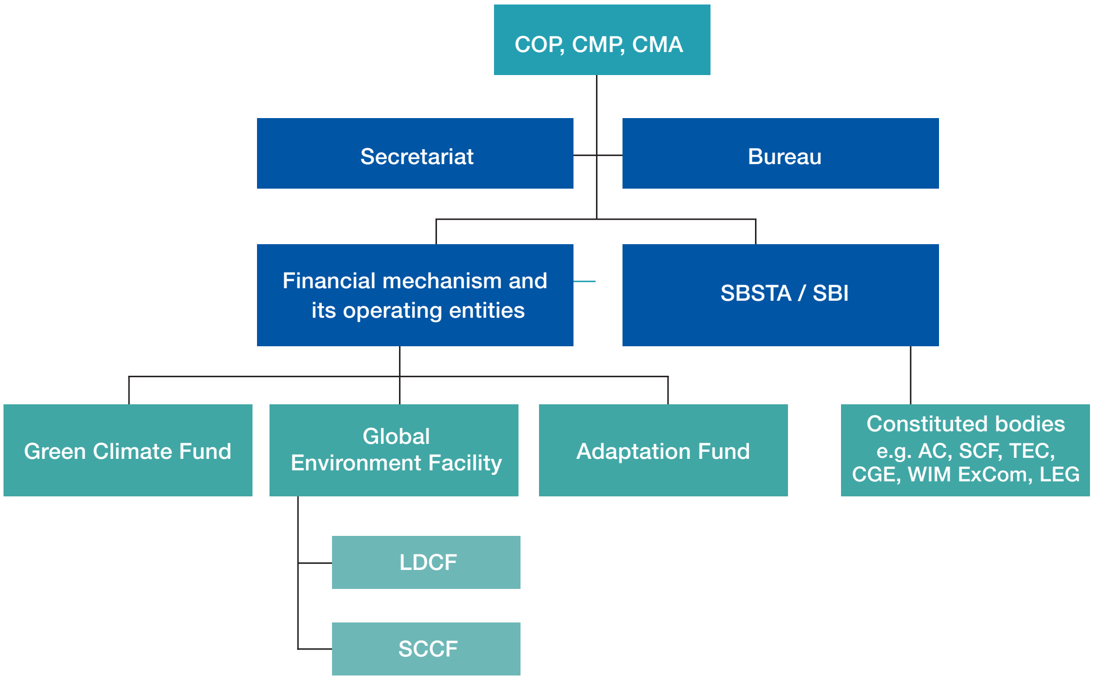
2009 – the Copenhagen Accord, called for voluntary emissions reduction targets for all Parties and endorsed a cap of 2°C on the average global temperature increase. The UNFCCC COP officially "took note" of the Accord

2010 – the Cancun Agreements acknowledged within the UNFCCC framework the objective of keeping the average global temperature rise below 2°C

2011 – the Durban Platform for Enhanced Action mandated the creation of a new agreement (post-Kyoto Protocol) that would be "applicable to all" with a four-year negotiation window

2015 – the Paris Agreement mandates "all Parties" to hold the increase in global average temperature to well below 2°C while pursuing efforts to limit the increase to 1.5°C

Institutional arrangements of the UNFCCC



UNFCCC Negotiating Groups

- **Group of 77 and China (G77)** – 134 members, mainly developing countries
- **Least Developed Countries (LDCs)** – 46 countries categorized as ‘least developed’ according to UN criteria
- **Small Island Developing States (SIDS) negotiate as the Alliance of Small Island States (AOSIS)** – 39 members
- **Africa Group of Negotiators (AGN)** – 54 countries
- **The Independent Alliance of Latin America and the Caribbean (AILAC)** – Chile, Colombia, Costa Rica, Guatemala, Panama, Paraguay, Peru
- **Like-Minded Developing Countries (LMDCs)** – ~25 members
- **European Union (EU)** – 27 members
- **Umbrella Group** – Australia, Canada, Japan, New Zealand, Norway, USA
- **Environmental Integrity Group (EIG)** – Mexico, Liechtenstein, Monaco, Republic of Korea, Switzerland

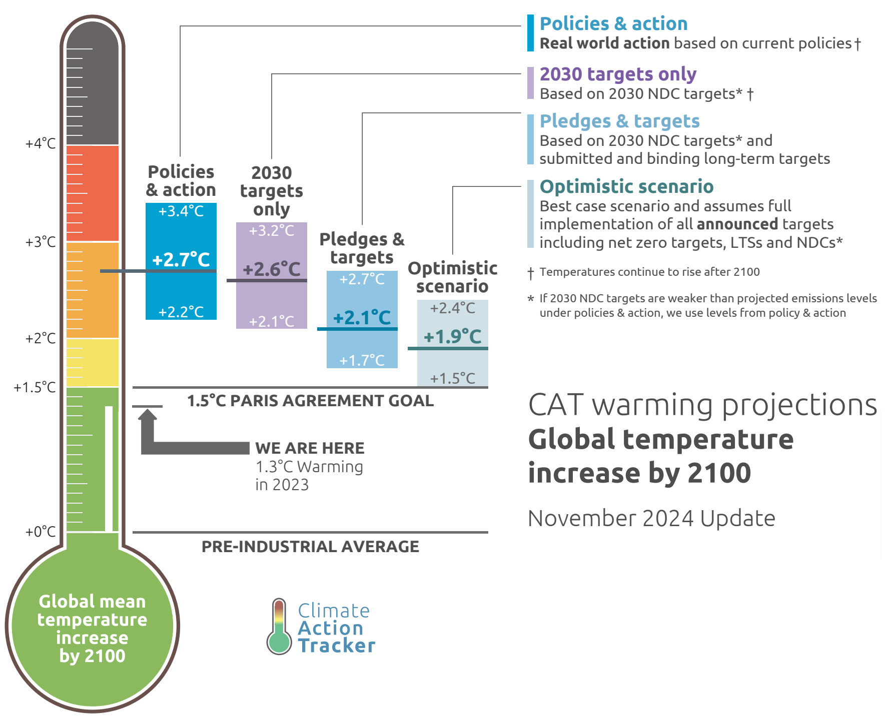
Rules of procedure

The rules of procedure of the UNFCCC apply to any session of the Conference of the Parties (COP) to the Convention convened in accordance with Article 7 of the Convention (these rules also apply to the subsidiary bodies, the Kyoto Protocol and the Paris Agreement).

Topics covered in the rules of procedure include:

- Place and dates of sessions (Rules 3–5)
- Observers (Rules 6–8)
- Agenda (Rules 9–16)
- Officers (Rules 22–26)
- Conduct of business (Rules 30–40)
- Voting (Rules 41–53)
  - Voting provisions could not be agreed; therefore, all decisions are to be made by consensus

Progress made against the Paris Agreement 1.5°C temperature goal



MINAMATA CONVENTION ON MERCURY

Background

- The 2013 Minamata Convention on Mercury (Minimata Convention or Convention) is an international treaty with the objective of protecting human health and the environment from mercury and mercury compounds.
- In support of this objective, the provisions of the Convention relate to the entire life cycle of mercury, including controls and reductions across a range of products, processes and industries where mercury is used, released or emitted. The treaty also addresses the direct mining of mercury, its export and import, its safe storage and its disposal once it is deemed waste.
- The Minimata Convention was adopted in 2013 and entered into force in 2017, see below for key provisions of the Convention and milestones in its implementation.

Principles in the Rio Declaration covered by the UNFCCC include:

- Recalls the United Nations Conference on Sustainable Development's reaffirmation of the principles of the Rio Declaration on Environment and Development, including, inter alia, common but differentiated responsibilities, and acknowledging States' respective circumstances and capabilities and the need for global action

Key provisions of the Convention

The Convention consists of 35 Articles and 5 Annexes, which can be divided into four main categories:

- **Operational provisions** – describing obligations for Parties to reduce anthropogenic emissions and releases of mercury and mercury compounds to the environment, with controls at each of their lifecycle stages:
  - **Article 3**: Controls on mercury supply sources and trade
  - **Articles 4–6, Annexes A, B**: Phase-out and phase-down of mercury use in products and processes;
  - **Article 7, Annex C**: Controls on artisanal and small-scale gold mining where mercury is used;
  - **Articles 8–9, Annex D**: Controls on air emissions and releases to land and water;
  - **Articles 10,–12**: Storage, waste and contaminated sites
- **Support to Parties – with articles relating to**:
  - **Article 13**: A financial mechanism, which includes the Global Environment Facility Trust Fund and a specific international Programme to support capacity-building and technical assistance
  - **Article 14**: The provision of capacity building, technical assistance and technology transfer
  - **Article 15**: The establishment of an Implementation and Compliance Committee
- **Information and awareness raising articles, covering**:
  - **Article 16**: Health aspects
  - **Article 17**: Information exchange
  - **Article 18**: Public information, awareness and education
  - **Article 19**: Research, development and monitoring
  - **Article 20**: Implementation plans
- **Administrative matters:**
  - **Article 21**: Reporting
  - **Article 22**: Effectiveness evaluation
  - **Article 23**: Conference of the Parties
  - **Article 24**: Secretariat, hosted by UNEP
  - **Articles 25–35, Annex E**: Procedures such as the settlement of disputes, amendments to the Convention, the adoption and amendment of annexes, the right to vote, signature, ratification (or acceptance, approval or accession), entry into force, reservations, withdrawal, depositary, authentic texts

Ratifying the UNFCCC and its Protocol and Agreement: reservations and declarations

Reservations upon ratification or accession to the Minamata Convention are not provided for – however, under international law, a country ratifying or acceding to a treaty may make a declaration where they express their understanding of some matter or the interpretation of a particular provision.

Unlike reservations, declarations merely clarify the country's position and do not modify the legal effect of a treaty. Usually, declarations are made at the time of ratification or signature.

Milestones in the implementation of the Convention

2005: UNEP Global Mercury Partnership established

2009: UNEP Governing Council decides to develop an international mercury treaty

2010 – 2013: International negotiating committee (INC) meets five times to develop a draft agreement

2013: Minimata Convention adopted

2014 – 2016: INC has two more sessions to discuss a number of procedural matters, as well as to prepare guidance on best available techniques (BATs) and best environmental practices (BEPs) for controlling emissions

2017: Convention enters into force

COP 1: Following the Convention's entry into force, delegates met in Geneva in September 2017, and discussed institutional arrangements for operationalizing the Convention, including reporting and evaluation, its financial mechanism, and a permanent Secretariat. COP 1 agreed to locate the Secretariat in Geneva on an interim basis, and established its own trust fund, the SIP to support capacity building and technical assistance.

COP 2: COP 2 took place in November 2018. Delegates agreed on permanent arrangements for a stand-alone Secretariat, based in Geneva, and approved a memorandum of understanding with the GEF. Discussions also addressed the substantive issues of, inter alia, mercury waste thresholds, harmonized customs codes, contaminated sites, and interim storage.

COP 3: COP 3 met in Geneva in November 2019, and discussed, inter alia:

- guidance for completing the national reporting format;
- the financial mechanism, including the GEF and the SIP, enhancement of the SIP, and review of the financial mechanism;
- the review of the Convention's Annexes A (mercury-added products) and B (processes using mercury or mercury compounds), which is due by 2022; and
- guidance on the management of contaminated sites.
- COP-3 also requested the Secretariat to advance the work on the proposed framework for effectiveness evaluation and monitoring, and invited parties to submit their views on the indicators.

COP 4: Due to the COVID-19 pandemic, COP 4 convened in two segments: a virtual segment (COP 4.1) to address the most urgent issues and an in-person segment (COP 4.2, Bali 2022) where Parties considered the remaining items on the agenda. Among other things, Parties agreed to consult with Indigenous Peoples and local communities when developing their national action plans (NAPs) in relation to artisanal and small-scale gold mining (ASGM). The COP adopted the Bali Declaration as a non-binding political declaration on illegal trade in mercury.

COP 5: COP 5 was held in Geneva in 2023. In addition to commemorating the 10^{th} anniversary of the Convention, Parties agreed to update Annexes A and B of the Convention to list phaseout dates for certain types of batteries, switches and relays, fluorescent lamps, and cosmetics, and mandate the phaseout of mercury as a catalyst in polyurethane production by 2025. Parties also agreed on the composition of an Open-Ended Scientific Group for the first effectiveness evaluation of the Convention to be completed by COP 7 in 2027, which will also mark 10 years after the Convention entered into force.

Parties to the agreement and stakeholder interests

- The Minimata Convention currently has 148 Parties
- 22 SIDS have ratified the Convention with 7 of them PSIDS (Kiribati, Palau, RMI, Samoa, Tonga, Tuvalu and Vanuatu)
- Parties across the major geographical regions (African Group, Asia-Pacific, Eastern Europe, Group of Latin America and the Caribbean, Western Europe and Others Group)

Rules of procedure

The rules of procedure of the Minamata Convention apply to any meeting of the Conference of the Parties convened in accordance with article 23 of the Convention.

Topics covered in the rules of procedure include:

- Meetings (Rules 3 – 5)
- Observers (Rules 6 – 8)
- Agenda (Rules 9 – 16)
- Officers (Rules 22 – 25)
- Conduct of business (Rules 34 – 43)
- Voting (Rules 44 – 50)
- Voting provisions could not be agreed; therefore, all decisions are to be made by consensus

Institutional structure(s) supporting the agreement

- Implementation and Compliance Committee
- COP
- Secretariat
- Bureau
- Financial mechanism

The Conference of the Parties (COP) is the governing body of the Minamata Convention. Through the decisions taken at its meetings, the COP advances the implementation of the Convention, which it is to keep under continuous review and evaluation. The COP is supported in its work by a Bureau, consisting of a President and nine Vice-Presidents, one of whom acts as Rapporteur. The Bureau is comprised of two members each from Africa, Asia-Pacific, Eastern European States, Latin America and the Caribbean, Western European and Others Group. New Bureau members are elected for each COP meeting.

The functions of the Secretariat are to:

- To make arrangements for meetings of the COP and its subsidiary bodies and to provide them with services as required;
- To facilitate assistance to Parties, particularly developing country Parties and Parties with economies in transition, on request, in the implementation of this Convention;
- To coordinate, as appropriate, with the secretariats of relevant international bodies, particularly other chemicals and waste conventions;
- To assist Parties in the exchange of information related to the implementation of this Convention;
- To prepare and make available to the Parties periodic reports based on information received pursuant to Articles 15 and 21 and other available information;
- To enter, under the overall guidance of the COP, into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and
- To perform the other secretariat functions specified in this Convention and such other functions as may be determined by the Conference of the Parties.

Article 13 of the Convention established a financial mechanism to support developing country Parties and Parties with economies in transition in implementing their obligations under the Convention. The Mechanism is composed of the:

- Global Environment Facility Trust Fund (GEF); and
- Specific International Programme (SIP) to support capacity-building and technical assistance.

Article 15 of the Convention established an Implementation and Compliance Committee as a subsidiary body of the COP. The objective of the Committee is to promote the implementation of, and review compliance with, all the provisions of the Convention.

Reporting obligations

Article 21 of the Convention requires each Party to report to the COP, through the Secretariat, on the measures the Party has taken to implement the provisions of the Convention, on the effectiveness of such measures and on possible challenges in meeting the objective of the Convention.

Every four years a Party must report using the full reporting format and every two years using a shortened format. These reporting formats are available electronically through an online reporting tool (ORT). Access to the online system is facilitated through the Convention's National Focal Point. National reporting guidance was adopted at COP 5 in 2023.

Use of Marine Biological Diversity of Areas beyond National Jurisdiction (BBNJ Agreement or Treaty)

Background

Following more than a decade of discussions convened under the United Nations General Assembly, in 2017 the Assembly decided to convene an Intergovernmental Conference (IGC) to elaborate the text of an internationally legally binding instrument under the United Nations Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of biodiversity beyond national jurisdiction (BBNJ), with a view to developing the instrument as soon as possible.

From 2018, an IGC on an international legally binding instrument under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) worked on a new agreement to address these threats. The IGC's negotiations focused on four elements of a package agreed to in 2011, namely:

- marine genetic resources, including benefit sharing considerations;
- area-based management tools, including marine protected areas;
- environmental impact assessments; and
- capacity building and the transfer of marine technology (CB&TT).

The IGC also addressed cross-cutting issues, including the principles and approaches governing the new instrument, financial and technical considerations, institutional arrangements, and dispute-settlement measures. Negotiations on the Agreement concluded successfully in early March 2023 and was adopted in June 2023 after a technical edit. The BBNJ Agreement is the third implementing agreement under UNCLOS, after the 1994 Agreement establishing the International Seabed Authority, and the 1995 Fish Stocks Agreement.

Principles in the Rio Declaration covered by the UNFCCC include:

- The polluter pays principle (Principle 16)
- The principle of the common heritage of humankind (Principle 1)
- The precautionary principle or approach (Principle 15)
- The use of relevant traditional knowledge of Indigenous Peoples and local communities (Principle 12)

Key provisions of the agreement

The BBNJ Agreement is comprised of 64 Articles separated into 12 parts, which can be summarised as follows:

Part I: General provisions (Articles 1–8), including its general objective in Article 2:

The objective of this Agreement is to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term, through effective implementation of the relevant provisions of the Convention and further international cooperation and coordination.

Part II: Marine Genetic Resources, including the fair and equitable sharing of benefits (Articles 9–16)

The BBNJ Agreement aims to control the exploitation of marine genetic resources. It states that activities relating to marine genetic resources "are in the interest of all States and for the benefit of all humanity." Accordingly, under the BBNJ Agreement, benefits arising from activities involving marine genetic resources and their associated "digital sequence information" (for example, DNA data)–which could be significant–must be shared fairly and equitably among States. This includes not only the sharing of scientific data, but also the sharing of financial gains through a financial mechanism established under the Agreement.

The BBNJ Agreement also imposes robust notification requirements prior to the collection, use, and commercialisation of marine genetic resources. For example, States must adopt measures to ensure that detailed information about a planned activity involving marine genetic resources is provided to a “clearing-house mechanism” (a centralized information platform) at least six months prior to collection.

Part III: Measures such as area-based management tools, including marine protected areas (Articles 17–26)

The BBNJ Agreement gives States the means to establish “area-based management tools” in the high seas and deep seabed. These are measures to manage human activities in areas specifically delimited for conservation purposes. They prominently include “marine protected areas,” where certain types of human activities, such as mining and shipping, are restricted.

To account for existing activities on the high seas, the BBNJ Agreement requires States to collaborate and consult with “relevant stakeholders,” including the “scientific community,” “Indigenous Peoples and local communities,” and the “private sector,” when formulating and assessing plans for area-based management tools. Area-based management tools established under the BBNJ Agreement will also have to respect existing measures of other international bodies. These include regulations of fishing, shipping, and deep-sea mining by regional fishery management organisations, the International Maritime Organization, and the International Seabed Authority.

Part IV: Environmental impact assessments (Articles 27–39)

The environmental impact assessment (EIA) provisions under the BBNJ Agreement require pre-authorisation assessments of the potential impacts on the high seas or deep seabed activities planned in those areas, which could include the exploitation of marine genetic resources, laying of submarine cables, and oil and gas exploration.

The Agreement details a four-stage process for conducting EIAs: (1) screening; (2) scoping; (3) impact assessment and evaluation; and (4) prevention, mitigation, and management of potential adverse effects. A screening must be conducted when a planned activity may have “more than a minor or transitory effect on the marine environment” or “the effects of the activity are unknown or poorly understood.” A full EIA is required if the screening shows that the planned activity “may cause substantial pollution of or significant and harmful changes to the marine environment.” The EIA must include a public notification and consultation process.

The BBNJ Agreement requires the preparation of a detailed EIA report, which must be made publicly available and which States must consider when deciding whether to authorise a planned activity. It further imposes a continuous obligation on States to monitor and periodically report on the environmental and associated effects of an authorised activity. In certain circumstances EIAs can be conducted in accordance with national laws or other applicable international instruments.

Part V: Capacity-building and the transfer of marine technology (Articles 40–46)

Under the BBNJ Agreement imarine technology includes the equipment and expertise relevant to the conservation and sustainable use of marine biodiversity, including marine scientific research. The Agreement provides that States “shall cooperate” to assist each other, in particular developing States, in achieving the BBNJ Agreement’s objectives through capacity-building and the transfer of marine technology, including through partnerships with the private sector.

The Agreement establishes a special fund providing financial assistance to developing country Parties in implementing the treaty. The fund will be financed through annual contributions and financial gains made from the exploitation of marine genetic resources. Private entities may also make voluntary contributions to the fund.

Part VI: Institutional arrangements (Articles 47–51)

The BBNJ Agreement establishes a governing body called the Conference of the Parties (COP) with the obligation of keeping the implementation of Agreement under review and evaluation. A secretariat is established to provide administrative support to the COP and Parties.

A Scientific and Technical Body is established under the authority and guidance of the COP, to provide scientific and technical advice and report to the COP, perform the functions assigned to it under this Agreement and any other functions that may be decided by the COP.

The Agreement establishes a Clearing-house Mechanism (CHM) to serve as a centralised platform to enable Parties to access, provide and disseminate information with respect to activities taking place pursuant to the provisions of this Agreement. The secretariat has been assigned management responsibilities for the CHM.

Part VII: Financial resources and mechanism (Article 52)

The BBNJ Agreement establishes a financial mechanism for the provision of adequate, accessible, new and additional and predictable financial resources to assist developing country Parties to implement the Agreement, including through funding in support of capacity-building and the transfer of marine technology, as well as to perform other functions for the conservation and sustainable use of marine biological diversity.

The financial mechanism consists of: 1) a voluntary trust fund to facilitate the participation of vulnerable developing countries, including SIDS; 2) a special fund; and 3) the GEF trust fund. The special fund and the GEF trust fund have the purpose of supporting developing country Parties implement the Agreement.

Part VIII: Implementation and compliance (Articles 53–55)

The BBNJ Agreement establishes an Implementation and Compliance Committee to facilitate and consider the implementation of and promote compliance with the provisions of the Agreement.

The Implementation and Compliance Committee will be comprised of members possessing appropriate qualifications and experience nominated by Parties and elected by the COP.

Part IX: Settlement of disputes (Articles 56–61)

Part X: Non-Parties to this Agreement (Article 62)

Part XI: Good faith and abuse of rights (Article 63)

Part XII: Final provisions (Article 64)

Ratifying the BBNJ: reservations and declarations

Reservations are not explicitly prohibited in this agreement. However, under international law, a country ratifying or acceding to a treaty may make a declaration where they express their understanding of some matter or the interpretation of a particular provision. Unlike reservations, declarations merely clarify the country's position and do not modify the legal effect of a treaty. Usually, declarations are made at the time of ratification or signature.

Milestones in the negotiation of the agreement

Working Group: Established by General Assembly in 2004, the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of BBNJ exchanged views on institutional coordination, the need for short-term measures to address illegal, unregulated, and unreported (IUU) fishing and destructive fishing practices, marine genetic resources (MGRs), marine scientific research on marine biodiversity, marine protected areas (MPAs), and environmental impact assessments (EIAs). It met three times between 2006 and 2010.

The "Package": The fourth meeting of the Working Group (31 May–3 June 2011) adopted, by consensus, a set of recommendations to initiate a process on the legal framework for the conservation and sustainable use of BBNJ, by identifying gaps and ways forward, including through the implementation of existing instruments and the possible development of a multilateral agreement under UNCLOS. The recommendations included a "package" of issues to be addressed in this process, namely:

- MGRs, including questions on benefit-sharing;
- area-based management tools (ABMTs), including MPAs;
- EIAs; and
- CB&TT.

A Legally Binding Instrument: Between 2014 and 2015, the Working Group engaged in interactive substantive debates on the scope, parameters, and feasibility of an international instrument under UNCLOS. At its ninth meeting, the Working Group reached consensus on recommendations for a decision to be taken at the 69th session of the UN General Assembly to develop a new legally binding instrument on BBNJ under UNCLOS, and to start a negotiating process to that end.

IGC-1: At the first meeting of the IGC, held 4–17 September 2018, delegates clarified positions on the package.

IGC-2: Delegates convened 25 March–5 April 2019 for the second session of the IGC. They deliberated based on the IGC President's Aid to Negotiations, which contained options structured along the lines of the 2011 package.

IGC-3: Delegates at the third session of the IGC convened 19–30 August 2019 and delved, for the first time, into textual negotiations based on a zero draft containing treaty text, developed by IGC President Lee. The document's structure addressed general provisions and cross-cutting issues, as well as the four elements of the 2011 package.

IGC-4: Delegates reconvened 7–18 March 2022 in an in-person informal-informal setting governed by Chatham-house rules. With COVID-19 restrictions only permitting two representatives per delegation in the room at one time and extremely limited observer participation, delegates addressed a revised draft text of the agreement. For the first time, delegations prepared and submitted textual proposals, many times jointly, to make progress.

IGC-5.1: The first part of IGC-5, which convened 15–26 August 2022, made notable progress in reaching agreement on some key issues. However, consensus could not be reached, and the session was suspended. Outstanding issues included: the establishment of an ABS mechanism; monetary benefit-sharing; intellectual property rights; decision-making; thresholds related to EIAs; and area- versus impact-based approaches.

IGC-5.2: The second part of IGC-5 convened 20 February–4 March 2023. After more than 36 hours in closed-door consultations to hammer out the final articles, lasting well into the weekend, IGC President Lee emerged with the text of an agreement. Delegates agreed to establish an open-ended informal working group to undertake technical edits to ensure uniformity of the text and harmonize the wording in all six UN official languages, requesting the working group to report to a further resumed session of IGC-5.

Parties to the agreement

The BBNJ will enter into force 120 days after its 60th ratification. Currently, two countries have ratified the BBNJ – Chile and Palau.

Nevertheless, the BBNJ has 88 signatories, which indicates the intent of countries to ratify it. Of these signatories, 22 of them are SIDS with 11 of them PSIDS (Cook Islands, Fiji, FSM, Nauru, Palau, RMI, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu).

Rules of procedure

The first meeting of the COP of the BBNJ has yet to be convened; therefore, the rules of procedure have been agreed to yet.

Institutional structures(s) supporting the agreement (indicative)

- COP
- Secretariat
- Financial Mechanism
- Scientific and Technical body
- Implementation and Compliance Committee

SPREP

Secretariat of the Pacific Regional Environment Programme