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MULTILATERAL ENVIRONMENTAL AGREEMENTS



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- Multilateral Environmental Agreements -

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Foreword

Vietnam's measures to prevent environmental deterioration and to respond to climate change are increasingly driven by commitments under multilateral environmental agreements on the one hand and domestic needs on the other hand. This requires government officials to not only understand how to implement existing international commitments, but also how to contribute to the negotiation of new international commitments. As a prerequisite, a sound understanding of the development, features, functioning and implementation of multilateral environmental agreements is necessary. The purpose of this handbook is to give a general introduction to international environmental law as well as the most important and well-known multilateral environmental agreements that Vietnam is a Party to.

To aid in a basic understanding of international commitments, this handbook has been divided into two parts. In *Part I*, information about the development, entry into force, functioning and implementation of multilateral environmental agreements is provided that gives the context for understanding the individual conventions, protocols and agreements. Building on this information, *Part II* provides a concise summary of nineteen different multilateral environmental agreements by addressing two questions: *What is the agreement about?* and *What does Vietnam have to comply with?* The nineteen multilateral environmental agreements are divided into the following eight areas:

- Area 1: Biodiversity conservation and sustainable use
- Area 2: Land management
- Area 3: Management of international watercourses
- Area 4: Marine environment protection
- Area 5: Ozone layer protection
- Area 6: Climate change response
- Area 7: Waste management
- Area 8: Chemical management

The intended audience for this handbook are the officials working for the various ministries of the Government of the Socialist Republic of Vietnam, especially the Ministry of Natural Resources and Environment (MONRE). However, the handbook also seeks to reach stakeholders from all backgrounds that seek to understand the commitments under multilateral environmental agreements for developing countries like Vietnam. It has been produced in both Vietnamese and English, and will also be available on the MONRE website.

Writing this handbook was a collaborative effort of many people. The idea first came from our Deputy Minister Nguyen Thi Phuong Hoa who I want to thank for the initiative. Then I would like to thank the team of our Department of Legal Affairs, especially Deputy Director General Mr Phan Tuan Hung, Dr Heidi Stockhaus – placed by the Centre for International Migration and Development (CIM), a joint operation of GIZ and the German Federal Employment Agency – and Ms Clare Cory – supported by Australian Volunteers for International Development (AVID) program, an Australian Government initiative.

The handbook would not be what it is today without the help of experts outside this ministry. Therefore, I would like to express my deep appreciation for the valuable input and the collaboration to Jiri Hlavacek and Maria Manguiat of UNEP's Law Division in Nairobi and Andy Raine of UNEP's Asia and Pacific Office. Also, I would like to thank Professor Don Anton of the Law School of Griffith University in Queensland, Australia for his valuable insights.

For her translation I would like to thank Ly Van Anh, LL.M, Vice Dean of the International Law Faculty of the Diplomatic Academy of Vietnam. For her editorial assistance I would like to thank Helen Cory.

Finally my thanks are extended to everyone who participated in the publication of this handbook. I am especially grateful for the publication assistance by UNDP under the project: *Enhancing Capacity for Implementing Rio Conventions*.

I hope this handbook will improve the understanding of multilateral environmental agreements in Vietnam and will therefore provide the basis for our efforts to prevent environmental deterioration and respond to climate change in an interconnected world.

signed by

Minister Tran Hong Ha

Ministry of Natural Resources and Environment

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Abbreviations

CBD	Convention on Biological Diversity
CDM	Clean Development Mechanism
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
COP	Conference of the Parties
DNA	Designated National Authority
GEF	Global Environment Facility
ICJ	International Court of Justice
MARD	Ministry of Agriculture and Rural Development
MEA	Multilateral Environmental Agreement
MOFA	Ministry of Foreign Affairs
MOIT	Ministry of Industry and Trade
MONRE	Ministry of Natural Resources and Environment
MOP	Meeting of the Parties
NGO	Non-governmental Organisation
PIC	Prior Informed Consent
POPs	Persistent Organic Pollutants
REDD	Reducing Emissions from Deforestation and forest Degradation
SBI	Subsidiary Body for Implementation
SBSTA	Subsidiary Body for Scientific and Technological Advice
UNCCD	United Nations Convention to Combat Desertification
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNESCO	United Nations Education, Scientific and Cultural Organisation
UNFCCC	United Nations Framework Convention on Climate Change
UNLOS	United Nations Convention on the Law of the Sea
UNWC	United Nations Watercourse Convention



Part I: Introduction

The importance of protecting the global and local environment has increased in Vietnam in recent years. Multilateral environmental agreements (MEAs) deal with environmental issues at a global level, and have impact on Vietnam through implementation at regional and national levels. For instance, they provide the basis for Vietnam's *Law on Biodiversity* of 2008 and Vietnam's *Law on Environmental Protection* of 2014. They formulate objectives, principles and standards for biodiversity conservation and sustainable use, ozone layer protection, climate change response, marine environmental protection, use of watercourses, control of hazardous wastes, and sound chemical management.

The purpose of the introductory part is to provide the background for the presentation of the different multilateral environmental agreements to which Vietnam is a Party. While all of the agreements address different topics, they still share some common features.

As national borders are increasingly overridden by human interface, so too are national legal borders. This in turn has given rise to the need for new laws to regulate both changing environmental relationships and the resulting disputes. The result has been a multitude of treaties including treaties that regulate cross-border environmental conduct and facilitate investment.

1. Context and understanding of multilateral environmental agreements

1.1 What is international environmental law?

International environmental law is a branch of public international law - a body of law created by States for States to govern problems that arise between States. It is concerned with the attempt to control pollution and the depletion of natural resources within a framework of sustainable development. Multilateral environmental agreements are a subset of the international conventions acknowledged by Article 38 (1) of the *Statute of the International Court of Justice* as a source of international law with specific focus on environmental matters (see table below). Note that judicial decision and juristic writings are not source of binding law in and of themselves, but are subsidiary means of determining the law.

International Convention	International Customary Law	General Principles	Judicial Decisions	Juristic Writings
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International environmental law covers topics such as biodiversity, climate change, ozone depletion, toxic and hazardous substances, desertification, marine resources, and the quality of air, land and water. It also has synergies with related areas of international law like international trade, human rights, international finance, and so on.

1.2 What is a multilateral environmental agreement?

The term multilateral environmental agreement relates to a number of legally binding international instruments that are used by States to commit to the achievement of specific environmental goals. These agreements can have different names, such as *convention*, *treaty*, *agreement* and *protocol*. However, the difference in names does not change the legally binding nature of the agreement.

So long as the agreement is intended to be governed by international law and creates binding international obligations, it is an international treaty. The 1969 *Vienna Convention on the Law of Treaties* makes this clear. It 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.

As a principle of international treaty law, multilateral environmental agreements, like any treaty, bind only those States that have agreed to be bound by it. However, multilateral environmental agreements can affect non-Parties, for example by prohibiting or restricting trade by Parties with non-Parties.

Multilateral environmental agreements might be stand-alone documents that name all the relevant requirements or they can provide a framework for further more specific agreements. Some multilateral environmental agreements heavily rely on appendices that are updated from time to time by the Conference of the Parties established to supervise the agreement.

Stand-alone agreement	Framework agreement	Appendix-driven agreement
<p>Agreement includes all the relevant requirements</p> <p><i>Examples:</i></p> <ul style="list-style-type: none"> - <i>Ramsar Convention on Wetlands of International Importance</i> - <i>Stockholm Convention on Persistent Organic Pollutants</i> 	<p>Further agreements are necessary to provide standards, procedures, and other requirements for implementation</p> <p><i>Examples:</i></p> <ul style="list-style-type: none"> - <i>United Nations Framework Convention on Climate Change</i> - <i>Vienna Convention for the Protection of the Ozone Layer</i> 	<p>Agreement heavily relies on appendices</p> <p><i>Examples:</i></p> <ul style="list-style-type: none"> - <i>Convention on International Trade in Endangered Species</i>

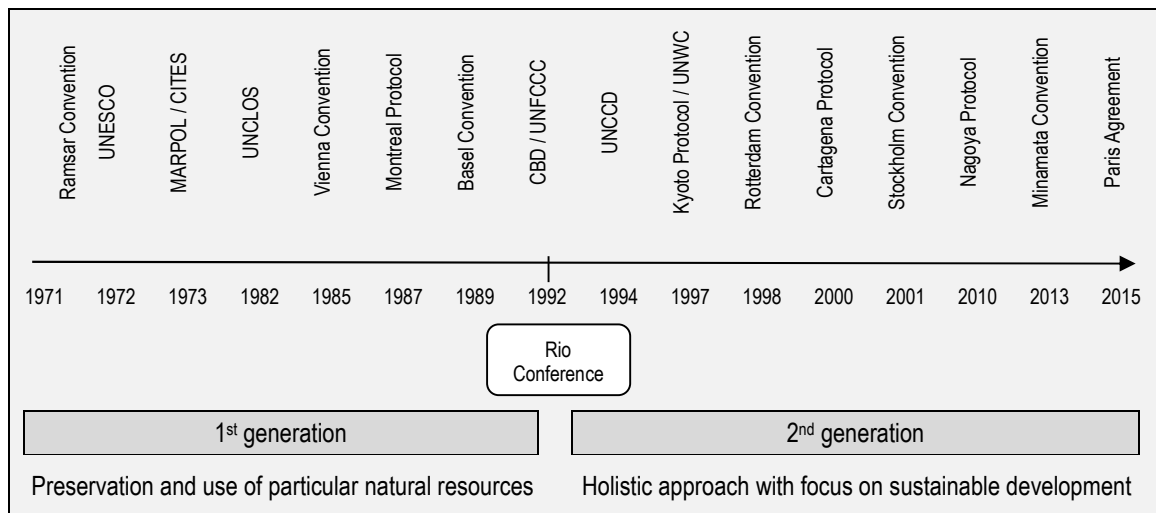
Being legally binding, multilateral environmental agreements are a powerful tool for the implementation of policies related to sustainable development goals.

1.3 How have multilateral environmental agreements evolved and changed over time?

Multilateral environmental agreements of some sort have been in place for about a hundred years, but these instruments have flourished in the last decades, especially after the 1972 *International Stockholm Conference on Human Environment*. Some studies conservatively estimate that approximately 700 multilateral environmental agreements are currently in place. Reasons for the increase include the response to the gravity of environmental problems and a growing understanding that environmental issues are often global. Therefore, solutions and tools to deal with them should also be global.

Over the years, many multilateral environmental agreements have been negotiated and agreed at the international and regional levels. While some have a few Parties, others have almost global participation. The first multilateral environmental agreements were quite different from the ones that have been signed and come into force in recent years. They were usually aimed at protecting a particular species, e.g. fauna, or tended to deal with one particular media, e.g. oceans. However, over time and as appreciation of the interlinked nature of ecological processes has developed, such sectoral approaches were gradually abandoned in the quest for more integrated considerations and, as a consequence, more integrated mechanisms and solutions.

However, multilateral environmental agreements remained sectoral until the early 1990s in the sense that they did not incorporate specific sustainability approaches and only dealt with environmental protection or conservation. While the first generation of multilateral environmental agreements were use-oriented, the more recent second generation agreements took a more holistic approach, focusing on sustainable development and sustainable use of natural resources. The later multilateral environmental agreements were born out of the United Nations Conference on Environment and Development in June 1992 – also known as the *Earth Summit* or *Rio Conference*. Here, governments across the globe acknowledged the interaction between society and ecological problems, and began to recognise links between development and the environment. Recent multilateral environmental agreements fully concede these aspects as crucial.



First generation agreements primarily address the preservation and use of particular natural resources. Examples include the 1971 *Ramsar Convention on Wetlands of International Importance* (see Part II.5), the 1973 *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (see Part II.4), and the 1973 *International Convention for the Prevention of Pollution from Ships* (see Part II.10). These multilateral environmental agreements set out principles for dealing with threats to ecosystems like wetlands, to species like wildlife and to marine ecosystems.

Many of the second-generation multilateral environmental agreements evolved following the *Rio Conference* held in 1992 with government representatives from approximately 180 States present. Two new conventions were opened for signature: the *UN Framework Convention on Climate Change* (see Part II.13), which is sectoral in that it deals with climate and the atmosphere, but recognises the broader impacts of climate change on ecosystems, food production and sustainable development; and the *Convention on Biological Diversity* (see Part II.1) which seeks to bring together agriculture, forestry, fishery, land use and nature conservation in new ways. The *UN Convention to Combat Desertification* (see Part II.7) was adopted after the Conference in 1994 and aims to combat desertification, mitigate the effects of drought as well as promote sustainable land management. These three conventions are together often referred to as the 'Rio Conventions'.

More recent multilateral environmental agreements have been developed under the umbrella of existing conventions. This applies to the 1997 *Kyoto Protocol* (see Part II.14) and its successor, the 2015 *Paris Agreement* (see Part II.15) that have been negotiated to enhance and extend the climate change response under the *UN Framework Convention on Climate Change*. It is also applicable to the 2000 *Cartagena Protocol* (see Part II.2) and the 2010 *Nagoya Protocol* (see Part II.3) that specify commitments under the *Convention on Biological Diversity*.

1.4 What is the current context for multilateral environmental agreements?

In September 2015, all States adopted a set of goals – called the *Sustainable Development Goals (SDGs)* – to end poverty, protect the planet, and ensure prosperity for all as part of a new sustainable development agenda. Each of the 17 goals has specific targets to be achieved over the next 15 years. New multilateral environmental agreements and decisions taken under those that already exist should support the achievement of the SDGs.



As such, multilateral environmental agreements have been recognised as one important tool to achieve the Sustainable Development Goals. They provide a framework for implementation activities on the national level. However, further guidelines will be developed in the coming years to use synergies and improve effectiveness and efficiency.

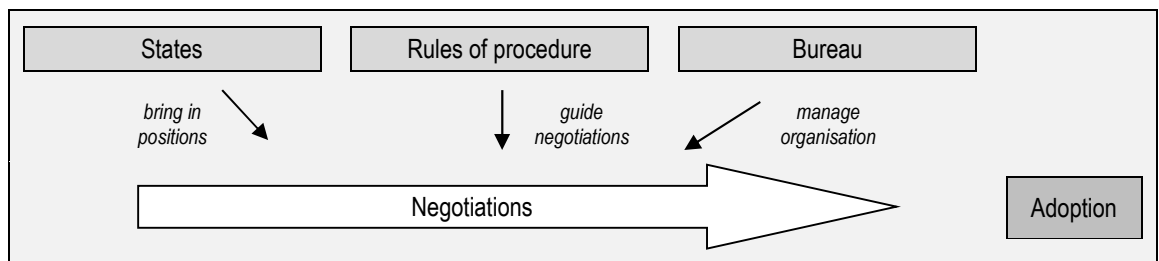
Further information

UNEP, 2016, Role of Multilateral Environmental Agreements in achieving the Sustainable Development Goals
<https://wedocs.unep.org/rest/bitstreams/35153/retrieve>

2. Development and functioning of multilateral environmental agreements

2.1 What is the process for negotiating a multilateral environmental agreement?

Negotiations on a **new** multilateral environmental agreement usually take place under the auspices of an intergovernmental negotiating committee while the main body for negotiations relating to **existing** multilateral environmental agreements is usually the Conference of the Parties. There are different factors that form the negotiation process and are responsible for its success.



Negotiating positions

Once there has been a decision to negotiate a multilateral environmental agreement, States have to assess their needs and capacity. Potential national implications of implementing and enforcing a new multilateral environmental agreement at the domestic level need to be identified and assessed. The potential economic impact of a new agreement is often a crucial consideration.

Based on the assessment that States make about their interests, negotiating position will be adopted and transmitted to the individuals designated as part of national delegation.

Rules of procedure

To ensure the efficient negotiations of an agreement, rules of procedure are adopted that dictate the place and date of the meetings, the agenda, the establishment of a bureau, and the language of the meetings. In addition to these rules of procedure, there are a number of other widely used negotiating mechanisms.

Bureau establishment

The rules of procedure establish a Bureau that is designated to manage the necessary administrative and logistical matters. It usually drafts the first version of an agreement which will serve as a basis for discussion and negotiation. In practice, the Bureau plays a large role in the success of the negotiations as it can keep negotiations moving and provide impetus where negotiations have stalled.

Further information

UNEP, 2007, Negotiator's Handbook

https://unfccc.int/resource/docs/publications/negotiators_handbook.pdf

UNEP, 2007, Guide for Negotiators

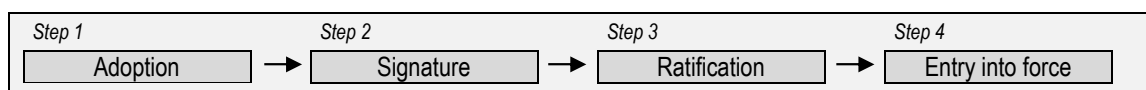
[http://www.unep.org/delc/Portals/119/Guide for Negotiators of MEAs.pdf](http://www.unep.org/delc/Portals/119/Guide%20for%20Negotiators%20of%20MEAs.pdf)

UNEP, 2007, Glossary of terms for negotiators of MEAs

[http://www.unep.org/delc/Portals/119/Glossary terms for Negotiators MEAs.pdf](http://www.unep.org/delc/Portals/119/Glossary%20terms%20for%20Negotiators%20MEAs.pdf)

2.2 How do States commit to a multilateral environmental agreement?

Where a State wants to commit to a multilateral environmental agreement, there are several steps to be taken before it becomes a Party. These steps are guided by the Vienna Convention on the Law of Treaties of 1969.



Adoption

In practice, diplomatic conferences usually take place during the final stage of the negotiations: the final text of the agreement is formulated, agreed and adopted by the participants.

Signature

An authorised State representative has to render the signature. The signature may happen after the diplomatic conference that closes negotiations or within a designated period after the agreement is open for signature. Multilateral environmental agreements usually have one article that states the period the agreement is open for signature. The signature authenticates the text of the agreement as being the one finally agreed upon. While signature generally does not bind a State to the terms of the agreement, it however declares an intention of the State to become a Party to the agreement.

Ratification

A State becomes Party to the agreement and bound by it through ratification or accession. The ratification or accession process is the international act whereby a State establishes on the international plane its consent to be bound by the agreement.

Ratification	Accession
<p>Act by which the authority empowered by constitution to conclude treaties (be it the legislature or the executive) confirms the treaty signed by the representative and consents for the State to be bound by it</p> <p><i>Example:</i></p> <ul style="list-style-type: none"> - Vietnam signed the Convention Biological Diversity of 1992 on 28/05/1993 and ratified it on 16/11/1994 	<p>Means by which a State can become a Party to an agreement when it did not sign the treaty within the established period (→ an accession usually occurs after the agreement enters into force)</p> <p><i>Example:</i></p> <ul style="list-style-type: none"> - Vietnam acceded to the Vienna Convention for the Protection of the Ozone Layer of 1985 and the Montreal Protocol of 1987 on 16/04/1994 without prior signature

The ratification process can be divided into an internal part that is determined by a State's constitution and an external part that is determined by the Vienna Convention of the Law of Treaties of 1969 and the agreement at hand.

Internal process	External process
<p>Dependent on the relevant provisions of a State's constitution and related laws</p> <p>→ National constitution or law</p>	<p>Deposit of the instrument of ratification or accession with the institution serving as depository</p> <p>→ Vienna Convention of the Law of Treaties</p>

When a State becomes Party to an agreement, it may (if the agreement allows) submit reservations or understandings that limit or interpret the terms of the agreement in a particular way.

Entry into force

A multilateral environmental agreement enters into force once the requirements usually specified in one article of the agreement text are met. This typically happens within a specified time (for example 30, 60, or 90 days) after a specified number of States have ratified the agreement.

Number of States	Percentage of States	Percentage of e.g. Emissions
arithmetic number like 50 or 60	proportional number like 20%	proportional number like 55%

Further information

UN, 2012, Treaty Handbook

<https://treaties.un.org/doc/source/publications/THB/English.pdf>

UN Treaty Collection: Glossary of terms relating to Treaty actions

https://treaties.un.org/pages/overview.aspx?path=overview/glossary/page1_en.xml

2.3 What does it mean to be a Party to a multilateral environmental agreement?

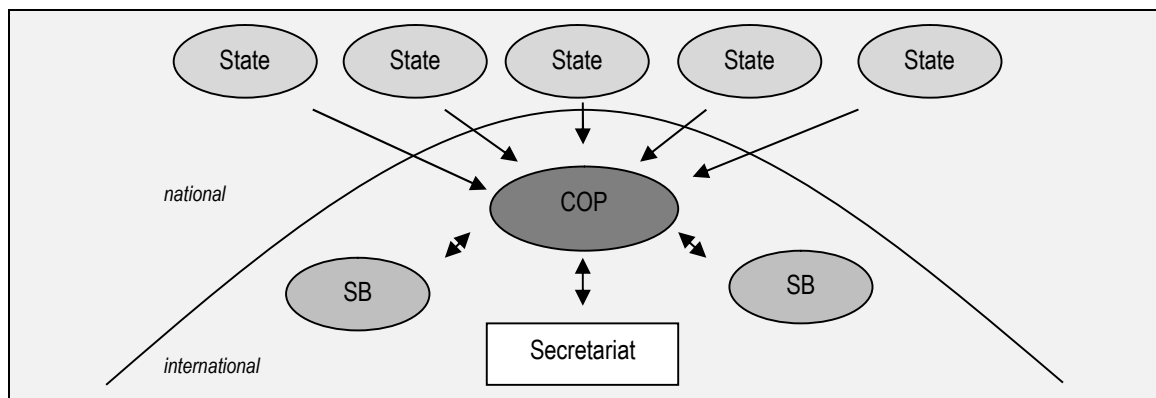
The fundamental principle of international law is *pacta sunt servanda* which means that agreements must be observed. Once a State becomes a Party to a multilateral environmental agreement, it is bound by its terms and needs to focus on the implementation. To implement the requirements of multilateral environmental agreements, States often have to adopt or amend

policies and **legislation**. Other tasks might include the setup or reorganisation of **institutions** and the preparation for regular reporting on implementation.

Multilateral environmental agreements can establish mechanisms for **compliance** and procedures for **dispute settlement**. In case Parties do not implement their mandatory commitments, the compliance mechanism can be used to assist with implementation and the dispute settlement procedures can be used to resolve issues arising between Parties.

2.4 How does a multilateral environmental agreement function?

Once an agreement enters into force, the **Conference of the Parties ('COP')** becomes the body that is responsible for making the decisions regarding implementation and operation of the agreement. The Conference of the Parties consists of the States who are Party to the multilateral environmental agreement meeting on a regular basis, as specified in the agreement. The **Secretariat** of an agreement may administer the agreement by organising the meetings of the Conference of the Parties and by providing assistance to the Parties, but the Conference of the Parties makes the main decisions. In addition to the Secretariat, a multilateral environmental agreement may provide for other bodies to assist in the administration and implementation of the agreement in the intervening periods between COP meetings. Such **subsidiary bodies** might also be established by the Conference of the Parties after the adoption of the multilateral environmental agreement.



To assess and track the effectiveness of a multilateral environmental agreement, periodic reviews may be conducted regarding the operation of the agreement in general or the implementation of specific mechanisms. Because multilateral environmental agreements often need to evolve over time, the existing international legal regime may need to be modified for example through the development of new or more specific regulations in the form of protocols.

2.5 How do States withdraw from multilateral environmental agreements?

Occasionally, a State may decide that it is no longer in its best interest to be a Party to a multilateral environmental agreement. Where specific provisions in the agreement so provide, the State can withdraw from the agreement. Withdrawal is an extreme step and it rarely happens. When it does, it frequently brings international condemnation. However, in terms of state sovereignty, each Party can consider this option. Withdrawal is not necessarily permanent. States may rejoin the multilateral agreement again later.

3. Framework and common features in multilateral environmental agreements

3.1 What are the key elements of multilateral environmental agreements?

Most multilateral environmental agreements are structured in a similar way with the same key elements. These can be classified according to the following groups: context, commitments, institutions and compliance (see table below). Other provisions may relate to entry into force of the agreement or to procedures for amendments.

Context	Commitments	Institutions	Compliance
Preamble	Substantive commitments	Conference of the Parties	Communication
Definitions	Financing support	Subsidiary bodies	Compliance
Objectives	Technological assistance	Secretariats	Dispute settlement
Principles	Education + training		
General provisions	Research and monitoring		

Preamble

The preamble of a multilateral environmental agreement sets out the history of issues and related documents. It can reflect differences of views that remain unresolved and provide clues about areas that some Parties may promote for further negotiation. When the text is ambiguous about rights and obligations of the Parties, the preamble serves as part of the interpretive context by helping to indicate the objects and purpose of the treaty. It often also mentions the principles that have guided the negotiations of the agreement or shape its implementation.

Definitions or use of terms

One of the first articles in most multilateral environmental agreements provides some key definitions for terms that are of cross-cutting importance throughout the agreement. However, in many cases it is clearer and more efficient to define specific terms in the context of the article where the term is used.

Objective and principles

Multilateral environmental agreements usually have provisions that set out the broad policy objectives of the agreement and lay down the principles that the Parties agree will guide their actions (see Part I.3). These provisions can have an important interpretive value as an agreement is implemented. Sometimes when Parties are unsuccessful in negotiating operative provisions, the objectives and principles of the agreement will form the basis of ongoing negotiations in these areas.

General provisions

In some multilateral environmental agreements there are provisions that set out general parameters of the scope and operation of the agreement. These provisions contain key rules of broad application and generally govern the rest of the agreement. However, they cannot always be taken at face value, and should be read in conjunction with other provisions, which may contain exceptions or limitations.

Substantive commitments

Most multilateral environmental agreements are essentially focused on the consent to act or not act in a certain way in order to protect, conserve or enhance the environment. These commitments may focus on results, and take the form of control measures, standards or limitations, including specific bans or quantifiable targets. They may also include processes or mechanisms to govern decision-making and management of certain activities (see Part I.3).

Financing support and technical assistance

A multilateral environmental agreement often contains provisions for mechanisms to support developing countries and countries with economies in transition with financial support and/or technical assistance. These include multilateral funding mechanisms, funds dedicated to certain purposes, and arrangements to organise technology transfers.

Education, training and public awareness

Some agreements provide for efforts to share information, support training and promote public awareness, discussion and action. These provisions often take a cooperative approach and require the Parties to work together.

Research and monitoring

There is often a provision for the gathering and sharing of information about a Party's activities or environmental science related to the agreement. In fact, this is generally a key function performed by framework conventions, linked to communication, review and reporting provisions. Many multilateral environmental agreements rely largely on reporting and transparency as a tool to encourage compliance with substantive control provisions.

Conference of the Parties

There is usually a provision that sets up a governing body for the Parties, and sets out its decision-making authority as the supreme body for the agreement. For most Conventions, this body is the **Conference of the Parties (COP)**, while a Protocol will have a **Meeting of the Parties (MOP)**. The relevant article usually regulates the participation of Parties and lists the tasks of the Conference of the Parties as well as the frequency of its meetings. Decisions adopted by the Conference of the Parties relate to the implementation of the multilateral environmental agreement.

Subsidiary bodies

In some cases, a multilateral environmental agreement may establish subsidiary bodies which report to the Conference of the Parties and have the authority to make recommendations on subjects within their mandate. These mandates often relate to technical and scientific matters, or to implementation issues. Such subsidiary bodies may also be established by the Conference of the Parties.

Secretariat

Generally multilateral environmental agreements establish a secretariat as a permanent body to the agreement and describe the scope of its functions. Some agreements assign functions to national focal points or national competent authorities. While some secretariats are independent institutions, others are provided by the United Nations Environment Programme (UNEP).

Compliance, communication and reporting

Some multilateral environmental agreements include provisions for the development of procedures and mechanisms to promote compliance, or determine and address non-compliance by the Parties. These procedures and mechanisms often involve some form of compliance committee or implementation committee. They are often facilitative, but may address the role of experts, the trigger for their application, and the consequences of non-compliance. Compliance, as well as reviews of effectiveness, is largely based on the obligation of Parties to submit national communications or reports, and to report on key indicators.

Review of effectiveness

Often there will be a provision for the Parties to periodically examine how effective a multilateral environmental agreement has been in accomplishing its objectives, and to consider whether further action is required, often with reference to information gathered under monitoring provisions. As opposed to the review of implementation by one Party, this review focuses on the effectiveness of the agreement in general.

Dispute settlement

Most multilateral environmental agreements include provision for the settlement of disputes among Parties, based on standard wording used in other treaties, with a process for compulsory, binding arbitration and conciliation. However, while the Parties are bound to follow the process, generally they are not bound to accept decision outcomes. Parties have seldom made use of these provisions.

Treaty mechanisms

Formalities, timelines and linkages with other agreements may be addressed in final provisions on signature, ratification, application, depositary, entry into force, voting, amendment, protocols, withdrawal, reservations, voting rules and the equal authority of text in different languages. While these provisions often appear to be pro forma, voting and entry into force can be critically important.

Annexes

Usually multilateral environmental agreements have annexes with lists or categories of specific items or kinds of items covered by substantive or other provisions. There may be separate provisions for adopting or amending Annexes.

3.2 What are the basic principles of international environmental law?

Most multilateral environmental agreements are based on and refer to certain principles of international environmental law. Many of those, such as the state sovereignty over own resources and the principle of common but differentiated responsibilities have been enshrined in the *Rio Declaration on Environment and Development* that was adopted at the *Rio Conference* in 1992 (see Part I.1.3). Principles of international environmental law can have several functions.

Framework for negotiation and implementation	Basis for interpretation and dispute settlement	Guidance for development and harmonisation of national law	Overarching framework for different MEAs
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In regard to their legal status, no general statements can be made. While some principles are established rules of customary international law, others are emerging rules. Yet other principles

have a lesser normative status and may be guiding interpretative standards or merely aspirational norms.

State sovereignty over natural resources

State sovereignty is a general principle of international law, including the concept of sovereign equality whereby all States are treated equally as legal persons in international law. States have the right to control the exploration, development and disposition of their natural resources, including biological resources. The Prior Informed Consent (PIC) procedure as laid down in the *Rotterdam Convention* for the transboundary movement of hazardous chemicals recognises the States' sovereignty to decide on potentially harmful activities within their territory (see Part II.17).

Right to development

The right to development is a human right by virtue of which every human person and all people are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised. According to Principle 3 of the *Rio Declaration*, the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

Sustainable development

This principle is concerned with the interdependence of all human activities. It requires that the environment is considered as part of all policies and activities, including those intended to promote economic and social development. The most widely-used definition of sustainable development is that of the *Brundtland Commission* of 1987: 'Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.' The principle is mentioned in several multilateral environmental agreements.

Common heritage of humankind

According to the principle, defined territorial areas and elements of cultural or natural significance should be held in trust for future generations and be protected from exploitation by individual, states and corporations. For example, areas beyond national jurisdiction are considered common heritage of humankind under the *UN Convention on the Law of the Sea* (see Part II.9).

Common concern of humankind

This principle is concerned with areas within national jurisdiction, recognising the interconnection of all ecosystems and drawing parallels with other areas of common concern such as human rights, humanitarian relief and international labour relations. It was first applied in the 1992 Conventions – the *UN Framework Convention on Climate Change* (see Part II.13) and *Convention on Biological Diversity* (see Part II.1) – and has since been applied in other environmental instruments.

Prohibition to cause transboundary harm

States are under a general obligation not to use or allow others to use their own territory in a way that can harm the interest of another State. This includes the environment of other States as well as areas beyond the limits of national jurisdiction. In the event States breach their obligations under international law, they can be held accountable. However, the extent of this responsibility is not well-established, particularly with respect to liability for harm caused.

Intergenerational equity

This principle highlights the need to consider, and minimise, the impact of activities on future generations. Sustainable use of resources and avoidance of irreversible environmental damage are thus required. Also, modifications to EIA procedures and expanding concepts of judicial standing to include future generations may be necessary. The principle is noted in for example the *UN Framework Convention on Climate Change* (see Part II.13).

Common but differentiated responsibilities

This principle provides that all States have common responsibilities to protect the environment and promote sustainable development, but the actions required from different States vary with their different social, economic and ecological situations. It weakens requirements for developing country Parties. Although the principle is stated in numerous multilateral environmental agreements it remains controversial. It is, for example, the foundation for different commitments under the *UN Framework Convention on Climate Change* (see Part II.13) and the *Paris Agreement* (see Part II.15).

Prevention

The principle of prevention states that protection of the environment is better achieved than trying to remedy or compensate for harm caused by pollution. It is closely linked to the duty not to cause transboundary harm and to the precautionary principle. It is most developed with respect to the prevention of pollution.

Precautionary principle

This principle provides that scientific uncertainty may not be used as a reason to postpone measures to prevent environmental harm, where those measures are cost-effective. It is set out in several multilateral environmental agreements, such as the *Montreal Protocol* (see Part II.12) and the *Nagoya Protocol* (Part II.2). This principle is controversial, with debates about its legal status and the level of science required for triggering its application.

Notification, consultation, cooperation and environmental impact assessment

To ensure a good coexistence of neighbouring States, there are certain procedural obligations that are well-established under international environmental law. They relate to the prior notification to all potentially affected States of planned potentially damaging activities, the duty to consult in good faith including the opportunity to review and discuss proposed harmful activities, the requirement to obtain the prior informed consent of host States regarding activities planned in its territory, and the duty to undertake environmental impact assessments (EIAs) in a transboundary context.

Right to transparency and public participation

Transparency, participation in decision-making, and access to justice provide opportunities for people to have a say in decisions affecting their living conditions. Together, these rights give a voice to the people and strengthen environmental democracy. As a consequence, environmental decisions are not only made at the state level but also involve individuals and communities. The right to transparency and participation in decision-making is enshrined in Principle 10 of the *Rio Declaration*.

Polluter pays principle

This principle seeks to ensure that the full environmental costs are reflected in the ultimate market price for goods and services. It has been incorporated in many multilateral environmental agreements, but remains controversial. It is reflected in Principle 16 of the *Rio Declaration*.

Further information

Stakeholder Forum for a Sustainable Future, 2011, Review of Implementation of the Rio Principles
<https://sustainabledevelopment.un.org/content/documents/1127rioprinciples.pdf>

3.3 What are common mechanisms used in multilateral environmental agreements?

Different types of agreements have different legal mechanisms to ensure environmental protection. They can be classified according to two groups:

Prohibitions / Restrictions / Standards → activity or product in general prohibited	Approval procedure → activity or product in general allowed
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Prohibition or restriction of polluting activities

If an activity, product or process presents a substantial risk of environmental harm, strict measures can be imposed in an effort to reduce or eliminate the harm. When the likelihood of risk is too great, a complete prohibition can be enacted. For example, under the 1987 *Montreal Protocol*, States have to phase out the production of numerous substances that are responsible for ozone depletion (see Part II.12).

Prohibition or restriction for the use of biological resources

If a certain use threatens biological resources, measures might be imposed that aim at conservation and protection. For example, the 1973 *Convention on International Trade in Endangered Species of Wild Fauna and Flora* uses trade restrictions and trade bans as a means of protecting threatened and endangered species (see Part II.4).

Product and process standards

Multilateral environmental agreements may establish standards for products and processes that impact the environment. Standards are prescriptive norms that govern products or processes or set limits on the amount of pollutants or emissions produced. For example, the 1987 *Montreal Protocol* bans trade in products containing ozone-depleting substances (see Part II.12).

Emission standards

Emission standards specify the quantity or concentration of pollutants that can be emitted in discharges from a specific source. As a general rule, emission standards apply to fixed installations, such as factories or homes; mobile sources of pollution are more often regulated by product standards. Emission standards establish obligations of result, typically leaving the polluter the free choice of means to conform to the norm. For example, the 1997 *Kyoto Protocol* formulates quantified emission limitation or reduction commitments (see Part II.14).

Prior licensing and permits

Multilateral environmental agreements may oblige States to license activities or establishments that are potentially harmful to the environment or that use natural resources. For example, the

1973 *Convention on International Trade in Endangered Species of Wild Fauna and Flora* requires States to set up a license system for the import and export of certain species (see Part II.4).

Prior informed consent

Prior informed consent (PIC) is a procedural mechanism utilised in advance of activities in order to avoid potential conflict and reduce the risks of environmental harm. Internationally, prior informed consent requires obtaining and disseminating the decisions of importing countries on whether they wish to receive shipments of restricted or banned products after they have been fully informed about the hazards posed by the products. Four global environmental agreements rely on a form of prior informed consent: the 1989 *Basel Convention on Transboundary Movements of Hazardous Wastes* (see Part II.16), the 1998 *Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade* (see Part II.17), the 2000 *Cartagena Protocol on Biosafety* (see Part II.2), and the 2010 *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits* (see Part II.3) rely on prior informed consent procedures.

4. Implementation of multilateral environmental agreements

4.1 What is necessary to comply with multilateral environmental agreements?

When signing and ratifying multilateral environmental agreements, the Parties agree to several commitments in regard to the pursued objectives. Once a State becomes a Party to a multilateral environmental agreement, it has to commence implementation and enforcement efforts.

<u>Tasks to ensure compliance on national level</u>	
Step 1:	
Implementation	Fulfilment of the agreement's obligations by <ul style="list-style-type: none"> - adoption or amendment of environmental laws and regulations - setup or reorganisation of national institutions
Step 2:	
Enforcement	Procedures and actions to ensure that organisations and persons comply with environmental laws and regulations (→ Inspections, sanctions)

Multilateral environmental agreements usually differentiate between substantive commitments that need implementation and enforcement, and procedural commitments that relate to the functioning of the agreement.

Substantive	Procedural
Moving toward the application of specific measures that improve the particular environmental issue committed to in a particular multilateral environmental agreement	Meeting with the procedures established by the multilateral environmental agreement, such as reporting on the status of national implementation
<i>Example</i> - <i>Measures to reduce greenhouse gas emissions to comply with the Paris Agreement (see Part II.15)</i>	<i>Example</i> - <i>National Communications and Biennial Update Reports under the UNFCCC (see Part II.13)</i>

4.2 What happens in case of non-compliance?

Some multilateral environmental agreements include provision for the development of procedures and mechanisms to promote compliance, as well as determining and addressing non-compliance.

Compliance mechanism	Reporting obligation	Dispute settlement
Compliance committee with facilitative role <i>Example: Article 15 Paris Agreement</i>	Submissions of communications and reports that are reviews <i>Example: Article 12 UNFCCC</i>	Procedures for dispute settlement with non-binding findings <i>Example: Article 14 UNFCCC</i>

There is generally no clear binding means of international enforcement in multilateral environmental agreements. However, some Parties may use trade relations or devices to influence compliance with instruments, such as the eligibility criteria for participating in the trading mechanisms of the Kyoto Protocol and the trade measures of the Montreal Protocol or CITES.

Compliance is often based on the obligations of Parties to submit national communications and report on key indicators. These reporting provisions are also applicable to the reviews of treaty effectiveness and environmental monitoring functions.

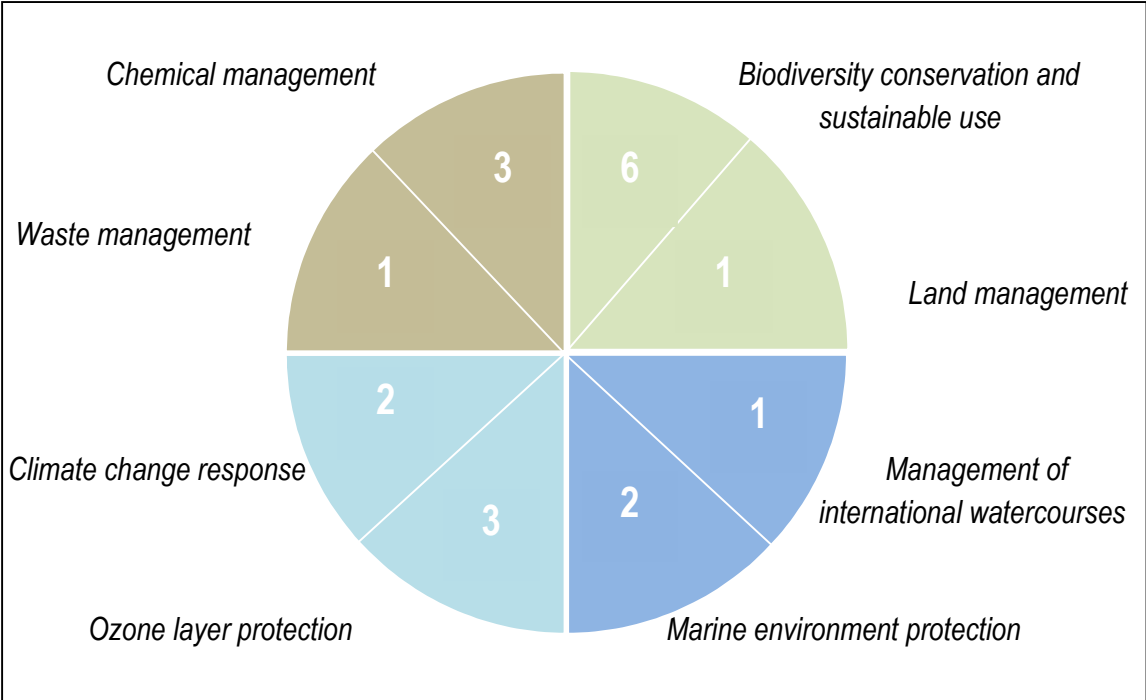
Further information

Publications:

UNEP, 2007, Compliance Mechanisms under selected Multilateral Environmental Agreements
http://www.unep.org/delc/portals/119/Compliance_mechanisms_under_selected_MEAs.pdf

Part II: Overview of Vietnam’s Multilateral Environmental Agreements

Vietnam has ratified and become Party to different multilateral environmental agreements over the last decades with the *Ramsar Convention on Wetlands of International Importance* being ratified in 1989 and the *Paris Agreement on Climate Change* being ratified in 2016. This *Part II* gives an overview of the most important multilateral environmental agreements in the following sectors:



The multilateral environmental agreements have been classified according to their focus in this handbook. Many of them, however, address more than one sector. For example, the *Convention on Biological Diversity* of 1992 not only addresses biodiversity conservation and sustainable use, but also land management and marine environment protection.

Although the different multilateral environmental agreements focus on different sectors, they are still based on the same principles and have common features. Each of the multilateral environmental agreements will be analysed according to the same questions to enable readers make comparisons, and to identify similarities and differences:

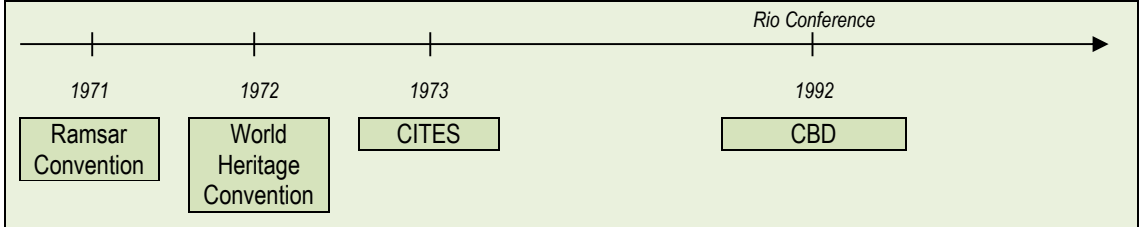
- What is the multilateral environmental agreement about?
- What does Vietnam need to do to comply with the multilateral environmental agreement?

Therefore, the focus of *Part II* is to allow a general understanding of the different multilateral environmental agreements and to outline the commitments for developing country Parties.

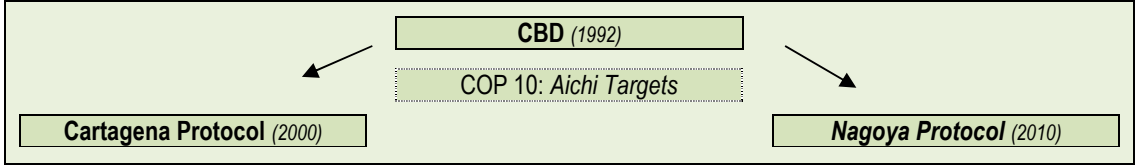


Biodiversity conservation and sustainable use

The global response to conservation initially started in the 1960s with concern for specific sectoral areas: protecting cultural heritage, falling tuna stocks, endangered species and wetlands. In the 1990s concern moved to interconnected ‘biological’ diversity across sectors: species, climate, ecosystems, water and land. The *Ramsar Convention on Wetlands*, the *World Heritage Convention* and the *Convention on International Trade in Endangered Species* were all adopted in the 1970s. They address the preservation and use of particular natural resources.



The *United Nations Convention on Biological Diversity (CBD)* is the overarching biodiversity agreement. It has been adopted during the *Rio Conference* of 1992 and follows a more holistic approach with focus on sustainable development. The *Cartagena Protocol on Biosafety* of 2000, developed under the CBD, deals with Living Modified Organisms (LMOs) resulting from biotechnology. The *Nagoya Protocol* of 2010 deals with access to genetic resources and the fair and equitable sharing of benefits arising from their utilisation. The 20 *Aichi Biodiversity Targets* adopted at the 10th Conference of the Parties in 2010 (COP 10), and part of the *Strategic Plan for Biodiversity 2011-2020*, seek to widen the Parties’ strategies and plans for more over-arching, cross-sectoral themes and so synthesise interconnecting agreements such as climate change, marine ecosystems, land desertification and endangered species. The *Strategic Plan for Biodiversity 2011-2020* is supported by the United Nation’s General Assembly and many biodiversity-related agreements.



The six main agreements discussed in this handbook that Vietnam has ratified represent the major efforts globally to deal with issues of conservation (or green law). Implementation nationally includes setting rules and standards to govern the conservation and sustainable use of biodiversity. These could include consistent legal frameworks; strong institutions; justice processes and mechanisms; and a system for early public participation to strengthen the overall system and ensure accountability.

1. Convention on Biological Diversity 1992

Effective: 29/12/1993
 Parties: 196
 VN ratification: 16/11/1994
 Focal Point: MONRE



The *Convention on Biological Diversity (CBD)* was adopted at the Rio Conference in 1992 to address the threat to species and ecosystems. It represents a step forward in the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of benefits arising from the use of genetic resources. Since 2016 the Convention’s desired outcomes are (1) a better collaboration with Convention Parties, the Secretariats and key partners, and (2) the engagement with other sectors and the mainstreaming of biodiversity objectives into other policies and sectors.

1.1 What is the Convention about?

Objective

According to Article 1 of the CBD, the objectives are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources. This includes appropriate access to genetic resources, appropriate transfer of relevant technologies, and consideration of all rights over those resources, technologies and appropriate funding.

Objectives:	Conservation of biological diversity	Sustainable use of its components	Fair and equitable sharing of benefits
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Content

The text of the Convention can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties, articles that set up institutions, and articles that establish procedures to ensure compliance (see table below). The main commitments relate to the conservation and sustainable use of biodiversity and have been specified in decisions adopted by the Conference of the Parties.

Context	Commitments	Institutions	Compliance
Objectives <i>(Article 1)</i>	Conservation and Use <i>(Articles 6-11)</i>	Conference of the Parties <i>(Article 23)</i>	Communication <i>(Article 26)</i>
Definitions <i>(Article 2)</i>	Impact assessment <i>(Article 14)</i>	Secretariat <i>(Article 24)</i>	Dispute settlement <i>(Article 27 and Annex II)</i>
Principles <i>(Article 3)</i>	Access to resources <i>(Article 15)</i>	Subsidiary Bodies <i>(Article 25)</i>	
	Research and training <i>(Article 12)</i>	Clearing House Mechanism <i>(Article 18)</i>	
	Education and awareness <i>(Article 13)</i>	Financial Mechanism <i>(Articles 20, 39)</i>	
	Cooperation <i>(Articles 5, 17, 18)</i>		

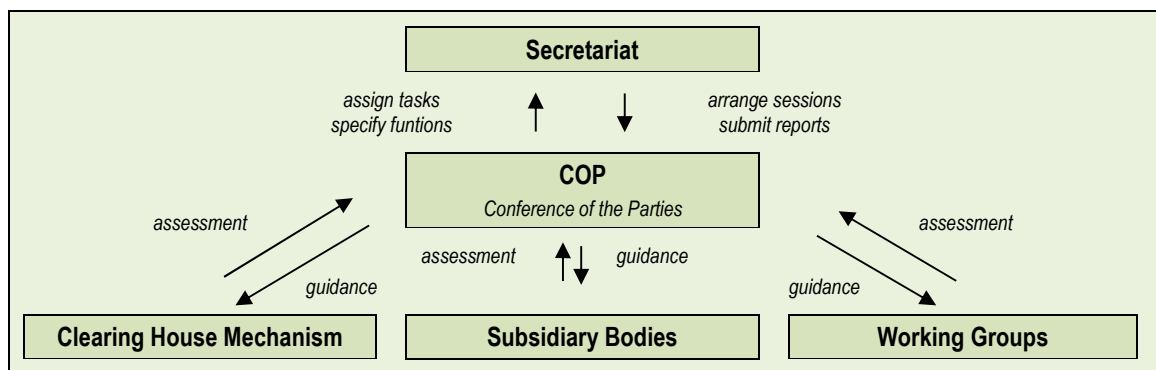
Principles

The Preamble and Article 3 CBD determine the principles that guide the implementation of the Convention. Being adopted at the same time, they match the principles laid down in the Rio Declaration on Environment and Development of 1992.

Article 3	Preamble	Preamble	Preamble
State sovereignty of natural resources	Common Heritage of Humankind	Sustainable development	Principle of common but differentiated responsibilities
Avoidance of harm in other jurisdictions	Cooperation		

Institutions

The Convention is administered by its **Secretariat** in Montreal that is provided by UNEP. The Secretariat is a permanent body that provides administrative support to the Parties, prepares the sessions of the Conference of the Parties, and completes the tasks assigned by the Convention and the Conference of the Parties. The Convention establishes a clearing-house system of national clearing-houses which are linked to a global clearing-house to ensure that all Parties have access to the information. The supreme decision-making body is the **Conference of the Parties**.



The COP has also established several **Working Groups** to deal with specific issues as they arise. Current Working Groups include the *Working Group on Access and Benefit-Sharing (ABS)*, the *Working Group on Article 8 (j) CBD*, and the *Working Group on Protected Areas*.

Compliance

Incentives for compliance with the commitments of the CBD are given by the obligation to regularly report information about implementation measures and a mechanism for dispute settlement.

Article 26	Article 27 and Annex II
Reporting	Dispute settlement
Reports on <ol style="list-style-type: none"> 1. Measures taken 2. Effectiveness of measures 	<ol style="list-style-type: none"> Step 1: Negotiations Step 2: Mediation Step 3: Conciliation <p>or, in case a Party opts in:</p> <p>Arbitration or ICJ Submission</p>

1.2 What does Vietnam need to comply with?

The *Convention on Biological Diversity* lists different commitments aimed at the **implementation** of measures to conserve biodiversity and use it sustainably. Those commitments are mandatory for all Parties, although some flexibility might be given to developing country Parties in some areas. Additionally, **reporting** of implementation measures and their effectiveness is mandatory. To ensure the effectiveness of measures to conserve and sustainably use biodiversity, the Parties also commit to exchange information and **cooperate**, especially on the technical and scientific level (→ Clearing House Mechanism).

Articles 6-15	Article 6, 26	Articles 5, 16-18
Implementation	Communication	Cooperation
6. Develop biodiversity strategies and integrate them in sectors 7. Identify important components of biodiversity and monitor them 8. Facilitate in-situ conservation (e.g. establish system of protected areas) 9. Facilitate ex-situ conservation (e.g. adopt measures for recovery of species) 10. Adopt measures for use of biodiversity components 11. Incentive measures for conservation and sustainable use of biodiversity components 12. Programmes for education and training 13. Promote public education and awareness 14. Introduce procedures for impact assessment 15. Facilitate access to resources	6. Submission of Nation Biodiversity Strategies & Action Plans (NBSAPs) → <i>Aichi Biodiversity Target No. 17</i> 26. Reporting of implementation measures and their effectiveness	5. Conservation and sustainable use of biological diversity, especially in areas beyond national jurisdiction 16. Access and transfer of technology 17. Exchange of information 18. Clearing House Mechanism <ul style="list-style-type: none"> - Tools for decision-making - Training and capacity building - Research - Funding - Technology transfer - Repatriation of information (e.g. <i>Bio-Bridge Initiative, LifeWeb Initiative</i>)

Mechanisms to facilitate implementation

Article 20 CBD states that each Party is to provide **financial** support and incentives for national projects that implement the objectives of the Convention. Developed country Parties are also expected to provide additional funding to **developing** country Parties to enable the latter to implement the Convention. Developed country Parties may provide funding through regional, bilateral and multilateral channels. Article 21 provides for a mechanism to provide **financial** resources on a grant or concessional basis to help developing country Parties.

Articles 13, 14, 17 and 18 of the CBD contain obligations for promoting and cooperating with respect to research and training; public education and awareness; information exchange; and access to technical and scientific cooperation.

Aichi Biodiversity Targets

In 2010, and in an attempt to synthesise biodiversity related conventions, COP 10 adopted the *Strategic Plan for Biodiversity 2011-2020* known as the *20 Aichi Biodiversity Targets* within 5 broad goals. UNEP's Law Division has suggested **legal** measures for compliance with the *Aichi Biodiversity Targets* that ensure cross-sectoral consistency, as summarised in the table below.

Strategic goal A	
Address the underlying causes of biodiversity loss by mainstreaming biodiversity across government and society	
Target 1	People are aware of the values of biodiversity and the steps towards conservation and sustainable use.
Target 2	Biodiversity is integrate into national and local development and poverty reduction strategies.
Target 3	Incentives harmful to biodiversity are eliminated and positive incentives are developed and applied.
Target 4	All stakeholders implement plans for sustainable production and consumption to keep use within ecological limits (e.g. limit timber exports).
Strategic goal B	
Reduce the direct pressures on biodiversity and promote sustainable use	
Target 5	Loss of all natural habitats is at least halved and where feasible brought close to zero.
Target 6	Fish is managed sustainably through approaches that avoid overfishing and measures for recovery.
Target 7	Areas under agriculture, aquaculture and forestry are managed sustainably (e.g. land use planning).
Target 8	Pollution has been brought to levels that are not detrimental to ecosystems (e.g. licenses and limits).
Target 9	Invasive alien species are identified and controlled (e.g. import controls, detection procedures).
Target 10	(2015) Pressures on vulnerable ecosystems are minimised (e.g. expand network of protected areas).
Strategic goal C	
Improve the status of biodiversity by safeguarding ecosystems, species & genetic diversity	
Target 11	Certain percentages of water and areas are conserved through systems of protected areas.
Target 12	Extinction has been prevented to conservation status (e.g. incentives for private land owners).
Target 13	Genetic diversity is maintained and strategies have been developed (e.g. risk analysis and trade rules).
Strategic goal D	
Enhance the benefits to all from biodiversity and ecosystem services	
Target 14	Ecosystems that provide essential services are restored and safeguarded (e.g. rules for compensation).
Target 15	Resilience of ecosystems & contribution of biodiversity to carbon stocks is enhanced (e.g. carbon tax).
Target 16	Nagoya Protocol is in force and operational (e.g. rules for access and benefit sharing).
Strategic goal E	
Enhance implementation through participatory planning, knowledge management and capacity building	
Target 17	(2015) Parties commenced implementing National Biodiversity Strategies and Action Plans. (→ done)
Target 18	Traditional knowledge is respected and integrated in the implementation.
Target 19	Science and technology related to biodiversity is shared and transferred (e.g. license for research)
Target 20	Mobilisation of financial resources (e.g. regulations for transparency and accountability).

1.3 Further information

Convention website:

- www.cbd.int

Key publications:

- UNEP, 2016, Elaboration of Options for Enhancing Synergies among Biodiversity-related Conventions
<https://wedocs.unep.org/rest/bitstreams/35154/retrieve>

2. **Cartagena Protocol on Biosafety 2000**

Effective: 11/09/2003
 Parties: 170
 VN accession: 21/01/2004
 Focal Point: MONRE



To protect biological diversity from the potential risks posed by living modified organisms (LMOs) resulting from modern biotechnology, the *Cartagena Protocol* was adopted in 2000 as the first protocol under Article 19 of the *Convention on Biological Diversity* (see Part II.1). It is based on the precautionary principle and aims to ensure the safe handling, transport and use of LMOs. Common LMOs include agricultural crops that have been genetically modified for greater productivity or for resistance to pests or diseases. Examples of modified crops include tomatoes, cassava, corn, cotton and soybeans. Although the USA is not Party to the *Convention on Biological Diversity*, they actively took part in the negotiation of the *Cartagena Protocol* as most LMOs originate from them. The USA however, believes trade with LMOs should be governed by the agreements negotiated under the *World Trade Organisation*.

2.1 What is the Protocol about?

Objective

According to Article 1, the objective of the *Cartagena 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** resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity. This takes into account the risks to human health, and specifically focuses on transboundary movements.

Scope:	Transfer	Handling	Use
Measures:	1. AIA procedure for importing LMOs for release directly into the environment 2. FFP procedure for exporting countries who want to put LMOs on the market 3. Requirements for shipping information: identity, handling and contacts		

Content

The text of the Protocol can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties, articles that set up institutions, and articles that establish procedures to ensure compliance (see table below). The main commitments are the ones related to the procedures requiring Parties to notify on export and to consent to the import of living modified organisms.

Context	Commitments	Institutions	Compliance
Objective <i>(Article 1)</i>	Procedures for trade <i>(Articles 7-16)</i>	Conference of the Parties <i>(Article 29)</i>	Communication <i>(Article 33)</i>
Principles <i>(Preamble and Article 2)</i>	Measures for treatment <i>(Article 18)</i>	Subsidiary Bodies <i>(Article 30)</i>	Compliance Committee <i>(Article 34)</i>
Definitions <i>(Article 3)</i>	Capacity building <i>(Article 22)</i>	Secretariat <i>(Article 31)</i>	
Scope <i>(Articles 4-6)</i>	Public awareness <i>(Article 23)</i>	Biosafety Clearing-House <i>(Article 20)</i>	

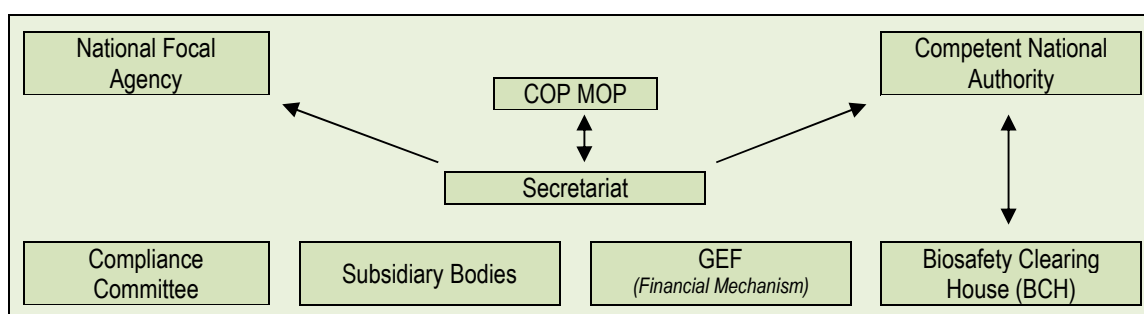
Principles

The main underlying principles of the *Cartagena Protocol* are the precautionary principle and the principle of prior informed consent. Both are mentioned in the Preamble and shape the approach to the safe transfer, handling and use of living modified organisms.



Institutions

The *Cartagena Protocol* is governed by the Conference of the Parties Serving as the Meeting of the Parties to this Protocol (COP-MOP). Under Article 34 a Compliance Committee has been set up. To facilitate exchange of information and to assist in implementation, Article 20 establishes a Biosafety Clearing-House.



Compliance

Incentives for compliance with the commitments under the *Cartagena Protocol* are given by the mandatory requirement to submit regular reports and a compliance mechanism that can be used to address cases of non-compliance.

<i>Article 33</i>	<i>Article 34</i>
Monitoring and Reporting	Compliance Mechanism
Regular National Reports on measures taken to implement the <i>Cartagena Protocol</i>	Compliance Committee - Promote compliance - Address cases of non-compliance - Provide advice or assistance

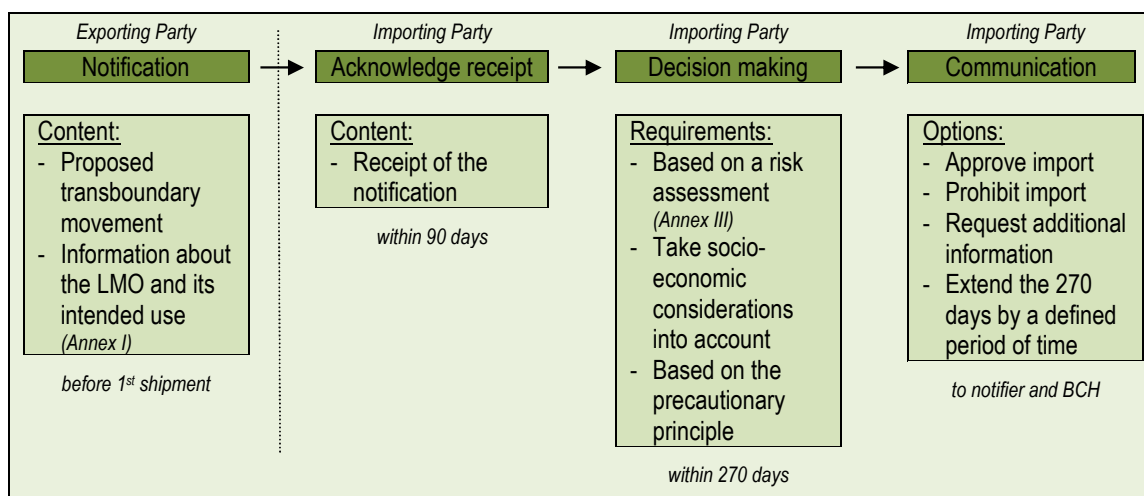
2.2 What does Vietnam need to do?

The *Cartagena Protocol* establishes different mandatory commitments that have to be met by all Parties, including Vietnam as a developing country Party. Most relevant are the commitments in regard to the procedures for advance informed agreement and for LMOs used in food, feed or processing (LMOs-FFP). However, there are also other commitments related to the transport of LMOs or the reporting of measures taken to implement the *Cartagena Protocol*.

Procedures	Measures	Cooperation	Reporting
Advance informed agreement <i>(Articles 7 et seq.)</i> LMOs used as food, feed and for processing <i>(Article 11)</i>	Public awareness and participation <i>(Article 23)</i> Safe handling, packaging and transport of LMOs <i>(Article 18)</i>	Information sharing <i>(Article 20)</i> Capacity building <i>(Article 22)</i>	Monitoring and reporting <i>(Article 33)</i>

Advanced Informed Agreement (AIA) Procedure

The *Cartagena Protocol* establishes a procedure for *Advance Informed Agreement (AIA)* to ensure Parties can make informed decisions about the import of LMOs into their territory for direct release into the environment. Vietnam is required to provide for the required organisations and procedures.



Procedure for LMOs intended for use as Food, Feed, or for Processing

For LMOs intended for direct use as food or feed or processing (LMOs-FFP), Article 11 establishes a more simplified procedure for transboundary movement. A Party must inform other Parties through the Biosafety Clearing-House within 15 days of its decision regarding domestic use of LMOs that may be subject to transboundary movement. Decisions by the Party of import on whether or not to accept the import of LMOs-FFP are taken under its domestic regulatory framework that is consistent with the objective of the Protocol. A developing country Party may, in the absence of a domestic regulatory framework, declare through the Biosafety Clearing-House that its decisions on the first import of LMOs-FFP will be taken in accordance with risk assessment as set out in the Protocol and timeframe for decision-making. In case of insufficient relevant scientific information and knowledge, the Party of import may use precautions in making their decisions on the import of LMOs-FFP.

Requirements for transboundary movement of LMOs

According to Article 18, Parties are required to take two kinds of measures in regard to the transboundary movement of LMOs (see table below).

Safe handling, packaging and transportation of LMOs that are subject to transboundary movement	Ensure LMOs subject to transboundary movement are accompanied by documentation identifying the LMOs and providing contact details of responsible persons
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2.3 Further information

Protocol website: <ul style="list-style-type: none"> - http://bch.cbd.int/protocol
Key publication: <ul style="list-style-type: none"> - UNEP, 2003, An Introduction to the Cartagena Protocol on Biosafety https://bch.cbd.int/database/attachment/?id=10862

3. Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits 2010

Effective: 12/10/2014
 Parties: 93
 VN accession: 23/04/2014
 Focal Point: MONRE



All plants and animals carry genetic resources that could be potentially useful to humans for example as medicine or cosmetics. Therefore, there are significant potential benefits to be gained from accessing genetic resources and making use of them. To provide for procedures for access to

genetic resources and the fair and equitable sharing of benefits, the *Nagoya Protocol* was adopted in 2010 as the second protocol under Article 19 of the *Convention on Biological Diversity*.

3.1 What is the Protocol about?

Objective

According to Article 1 of the *Nagoya Protocol*, the objective is the fair and equitable sharing of the benefits arising from the utilisation of genetic resources. This includes appropriate access to genetic resources, appropriate transfer of relevant technologies and appropriate funding.

Objectives:	Appropriate access to genetic resources	Fair and equitable sharing of benefits
Criteria:	<ul style="list-style-type: none"> - Only applies to genetic resources identified and developed after entry into force in 2014. - If Vietnam (as a supplier) cannot prove genetic resources pre-date the Protocol, the requirements of Prior Informed Consent (PIC) and Mutually Agreed Terms (MAT) would need to be satisfied. 	

Content

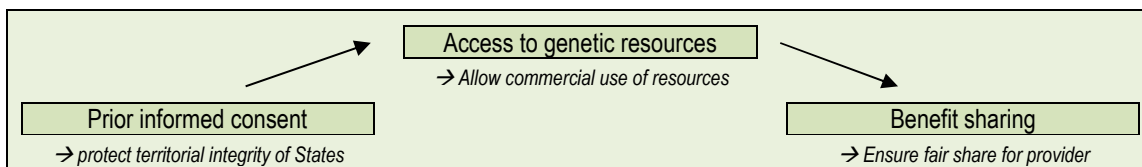
The text of the *Nagoya Protocol* can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties, articles that set up institutions, and articles that establish procedures to ensure compliance (see table below). Most important are the commitments related to access to genetic resources and to benefit sharing.

Context	Commitments	Institutions	Compliance
Objective (Article 1)	Access to resources (Articles 5-12)	Conference of the Parties (Article 26)	Monitoring and reporting (Article 29)
Definitions (Article 2)	Awareness raising (Article 21)	Subsidiary Bodies (Article 27)	Compliance Mechanism (Article 30)
Scope (Article 3)	Cooperation (Articles 22, 23)	Secretariat (Article 28)	
Principles (Preamble, Articles 5, 9, 10)		Compliance Committee (Article 30)	
		ABS Clearing House (Article 14)	
		GEF (Article 25)	

Approach

The *Nagoya Protocol* is mainly procedural in requiring **Prior Informed Consent (PIC)** when accessing genetic resources from either the country of origin or the country that has acquired the genetic resources in accordance with the CBD, and in providing provisions for the establishment of **Mutually Agreed Terms (MAT)** with the holders of genetic resources. Governments are

required to take measures that the PIC of indigenous and local communities has been obtained. According to Article 2 CBD, genetic resources are genetic material that is or can be valuable. Genetic material refers to 'any material of plant, animal, microbial or other origin containing functional units of heredity'.



Principles

The *Nagoya Protocol* is based on and refers to different principles that are taken from or comply with the 1992 *Rio Declaration on Environment and Development*. The provisions for prior informed consent protect the State's sovereignty over their territory.

Preamble	Article 5	Article 9	Article 10
Principle of intergenerational equity and indigenous rights	Fair and equitable sharing	Sustainable development	Precautionary Principle

Institutions

In regard to the institutional arrangement, the *Nagoya Protocol* builds on the institutions established under the *Convention on Biological Diversity* (Conference of the Parties, Secretariat, and Subsidiary Bodies). In addition, under Article 30, a Compliance Committee has been set up. Finally, Article 14 establishes an ABS Clearing House.

3.2 What does Vietnam need to do?

The *Nagoya Protocol* establishes different commitments that are mandatory for all Parties, including Vietnam as a developing country Party. Apart from the commitments related to access to genetic resources and benefit sharing, the *Nagoya Protocol* also formulates some general commitments.

Commitment to facilitate access to genetic resources

Article 6 (3)
<p>Each Party requiring prior informed consent has to take the necessary domestic legislative, administrative or policy measures:</p> <ul style="list-style-type: none"> (a) Provide for legal certainty, clarity and transparency of the domestic access and benefit-sharing legislation (b) Provide for fair and non-arbitrary rules and procedures on accessing genetic resources (c) Provide information on how to apply for prior informed consent (d) Provide for a clear and transparent written decision by a competent national authority, in a cost-effective manner and within a reasonable period of time (e) Provide for the issuance at the time of access of a permit or its equivalent as evidence of the decision to grant prior informed consent and of the establishment of mutually agreed terms (f) Where applicable, and subject to domestic legislation, set out criteria and processes for obtaining prior informed consent or approval and involvement of indigenous and local communities for access to genetic resources (g) Establish clear rules and procedures for requiring and establishing mutually agreed terms

Commitment to allow for benefit-sharing

Article 5 (4)

Each Party shall take legislative, administrative or policy measures, as appropriate, with the aim of ensuring that benefits arising from the utilisation of genetic resources that are held by indigenous and local communities, in accordance with domestic legislation regarding the established rights of these indigenous and local communities over these genetic resources, are shared in a fair and equitable way with the communities concerned, based on mutually agreed terms.

Commitment to provide information

Article 14

Information to the ABS Clearing House

- Legislative, administrative and policy measures on access and benefit-sharing
- Information on the national focal point and competent national authority or authorities
- Permits or their equivalent issued at the time of access as evidence of the decision to grant prior informed consent and of the establishment of mutually agreed terms

Article 29

Information to the Conference of the Parties

- Regular reporting on implementation measures according to the format determined by the COP

Commitment to raise awareness

Article 21

Parties have to develop strategies to raise awareness that should consider four priority activities (see below), and for each of those set out operational objectives, expected outcomes, indicators, the role of the Secretariat, activities and actors.

1. Communications situation analysis and the development of needs-based awareness-raising strategies
2. Creation of toolkit and awareness-raising materials
3. Training of communicators and engagement of target group
4. Evaluation and feedback

General commitments

- Designate a National Focal Point (NFP) and a Competent National Authority (CAN) (*Article 13*)
- Cooperate in cases of alleged violation of another contracting party's requirements (*Article 15*)
- Encourage contractual provisions on dispute resolution in mutually agreed terms (*Article 18*)
- Ensure opportunity to seek recourse in case of disputes arising from mutually agreed terms (*Article 18*)
- Allow access to justice in regard to compliance with mutually agreed terms (*Article 18*)
- Monitor the utilisation of genetic resources after they leave a country (*Article 17*)
- Raise awareness raising, e.g. by setting up a national database and website (*Article 21*)
- Cooperate in the capacity-building, capacity development and strengthening of human resources and institutional capacities (*Article 22*)
- Collaborate and cooperate in technical and scientific research and development programmes (*Article 23*)

3.3 Further information

Protocol website:

- <https://www.cbd.int/abs/>

Key publication:

- IUCN, 2012, An Explanatory Guide to the Nagoya Protocol on Access and Benefit-sharing
http://cmsdata.iucn.org/downloads/an_explanatory_guide_to_the_nagoya_protocol.pdf

4.	Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973	Effective:	01/07/1975
		Parties:	183
		VN accession:	20/01/1994
		Focal Point:	MARD

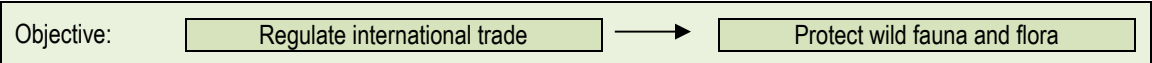


The *Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)* was adopted in 1973. It aims to ensure that international trade in specimens of wild animals and plants does not threaten the survival of the species in the wild, and it accords varying degrees of protection to more than 35,000 species of animals and plants. CITES does not regulate trade **within** its Parties or international trade in **non-threatened** species.

4.1 What is the Convention about?

Objective

According to the Preamble, CITES aims to protect wild fauna and flora against the over-exploitation through international trade.



Content

The text of the Convention can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties, articles that set up institutions, and articles that establish procedures to ensure compliance. The annexes of the Convention are of particular relevance as they determine the species that are subject to trade regulation.

Context	Commitments	Institutions	Compliance
Objective <i>(Preamble)</i>	Regulation of trade <i>(Articles 3-8, Appendix I-III)</i>	Conference of the Parties <i>(Article 11)</i>	Communication <i>(Articles 8, 13)</i>
Definitions <i>(Article 1)</i>		Secretariat <i>(Article 12)</i>	Dispute settlement <i>(Article 18)</i>
Principles <i>(Preamble, Articles 2, 5)</i>		National Authorities <i>(Article 9)</i>	

Approach

CITES regulates the international trade in wild fauna and flora by classifying species according to the level of threat, and requiring the Parties to take appropriate protection measures.

Appendix I	Appendix II	Appendix III
species that are threatened with extinction	species that may become threatened with extinction unless trade is regulated	species that are listed on request of one CITES Party
→ Trade is illegal	→ Trade can be authorised by granting of an export permit	→ Trade requires export permit and certificate of origin from listing Party

Parties can seek amendments of the Appendices according to Articles 15 and 16 CITES, that take effect 90 days after notification for all Parties except those which make a reservation.

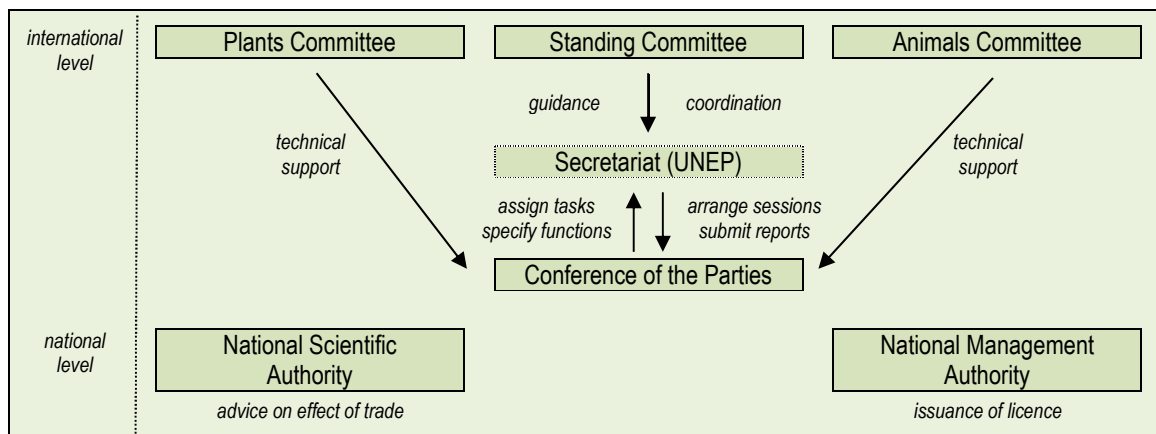
Principles

The Preamble and Articles 2 and 5 determine the principles that guide the implementation of the Convention. Although CITES was negotiated and adopted before the *Rio Conference* in 1992, its principles were later included in the *Rio Declaration on Environment and Development*.

Preamble	Article 2	Preamble	Article 5
Cooperation	Precautionary principle	Intergenerational Equity	Prior informed consent

Institutions

The Convention is administered by a **Secretariat** that is within UNEP. The **Conference of the Parties** is the main decision-making body. In addition, three committees have been established to support the Secretariat and the Conference of the Parties. Each Party has to set up a **National Management Authority** to regulate its trade and a **National Scientific Authority** to advise on the endangered status of native species of flora and fauna.

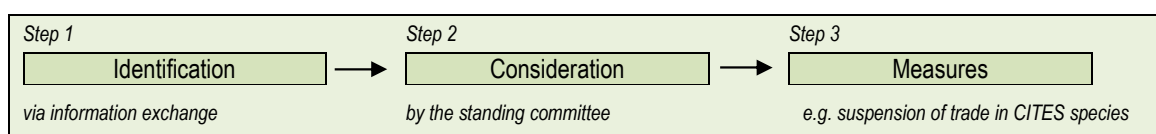


Compliance

The Convention has several mechanisms that provide an incentive for compliance. In addition to the reporting mechanism under Article 8 CITES, non-governmental organisations (e.g. TRAFFIC) and international bodies (e.g. Interpol) perform monitoring functions and report infractions to the Secretariat. Also, the Secretariat conducts ad hoc verification missions to assess a Party's compliance with the Convention.

Reporting	Participation	Assessment
Annual trade data and biannual implementation reports to the Secretariat	Inter-governmental or non-governmental international or national agencies and bodies	Ad hoc verification missions of the Secretariat to assess a Party's compliance

In 2007 the Conference of the Parties issued Resolution 14.3 on CITES compliance procedures. These allow for different measures in regard to Parties not complying with CITES that include a suspension of trade in one or all CITES species.



4.2 What does Vietnam need to do?

The Convention formulates several commitments that are mandatory for all Parties without difference between developing and developed country Parties. These relate to institutions, trade regulations and reporting.

Article 9 Institutions	Articles 3-8 Trade regulations	Article 8 (7) Reporting
<u>Designation of:</u> - National Management Authority - National Scientific Authority	<u>Implementation:</u> - Set up of permit systems for species listed in Annex I to III <u>Enforcement:</u> - Take appropriate measures including sanctions and confiscation	<u>Submission to the Secretariat:</u> - <i>Periodic reports</i> on CITES implementation - <i>Annual reports</i> with summary of number and types of permits issued - <i>Biennial reports</i> on legislative, regulatory and administrative measures taken → Resolution 11.17 of 2000: Consolidation of all reporting resolutions and decisions

4.3 Further information

<u>Convention website:</u> - https://cites.org/eng <u>Key publication:</u> - UNODC, 2016, Wildlife and Forest Crime Analytic Toolkit, Report of the UNODC Mission to Viet Nam https://www.unodc.org/documents/southeastasiaandpacific/Publications/wildlife/Vietnam_Toolkit_Report_EN_-_final.pdf

5. Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat 1971	Effective:	21/12/1975
	Parties:	169
	VN accession:	20/09/1988
	Focal Point:	MONRE



The *Ramsar Convention* of 1971 was the first agreement on global habitats and the first agreement to recognise that wetlands are among the most productive sources of ecological support on earth. It provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. As of 2016 the *Ramsar Convention* has 169 Parties and includes 2260 designated sites covering an area of some 215,276,293 hectares. The *Paris Protocol* of 1982 that came into effect in 1986 added provisions that allow for amendments of the *Ramsar Convention*.

5.1 What is the Convention about?

Objective

Considering the ecological functions of wetlands, the *Ramsar Convention* aims to stem their progressive encroachment and loss both now and in the future (see Preamble). As of 2002, the Convention’s mission is “the conservation and wise use of all wetlands through local and national actions and international cooperation, as a contribution towards achieving sustainable development throughout the world”.



Content

The text of the Convention can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties, articles that set up institutions, and articles that establish procedures to ensure compliance. Crucial are the provisions that specify the commitments in regard to the designation and conservation of national wetlands.

Context	Commitments	Institutions	Compliance
Objective <i>(Preamble)</i>	Designation <i>(Article 2)</i>	Conference of the Parties <i>(Articles 6, 7)</i>	National reports <i>(Recommendation 2.1)</i>
Definitions <i>(Article 1)</i>	Conservation <i>(Article 3)</i>	Secretariat <i>(Article 8)</i>	
Principles <i>(Preamble and Article 2)</i>	Nature reserves <i>(Article 4)</i>		
	Consultation <i>(Article 5)</i>		
	Research + Training <i>(Article 4)</i>		

Approach

Wetlands are areas where water is the primary factor controlling the environment and the associated plant and animal life. The *Ramsar Convention* takes a broad approach in determining the wetlands which come under its mandate. Five major wetland types are generally recognised:

Marine	Estuarine	Lacustrine	Riverine	Palustrine
including coastal lagoons, rocky shores and coral reefs	including deltas, tidal marshes and mangrove swamps	wetlands associated with lakes	wetlands along rivers and streams	including marshes, swamps and bogs

In addition, there are human-made wetlands such as fish and shrimp ponds, farm ponds, irrigated agricultural land, salt pans, reservoirs, gravel pits, sewerage farms and canals. The *Ramsar Convention* has adopted a classification which includes 42 types, grouped into three categories: Marine and Coastal Wetlands, Inland Wetlands and Human-made Wetlands.

At the time of joining the *Ramsar Convention*, each Party must designate at least one wetland site within its territory for inclusion in the *List of Wetlands of International Importance* (the *Ramsar List*). The inclusion of a wetland in the *Ramsar List* embodies the government's commitment to take the steps necessary to ensure that its ecological character is maintained. In 1990, the Conference of the Parties established *the Montreux Record*. It is a register of wetland sites on the *List of Wetlands of International Importance* where changes in the ecological character have occurred, are occurring, or are likely to occur as a result of technological developments, pollution or other human interference. It is maintained as part of the *Ramsar List*.

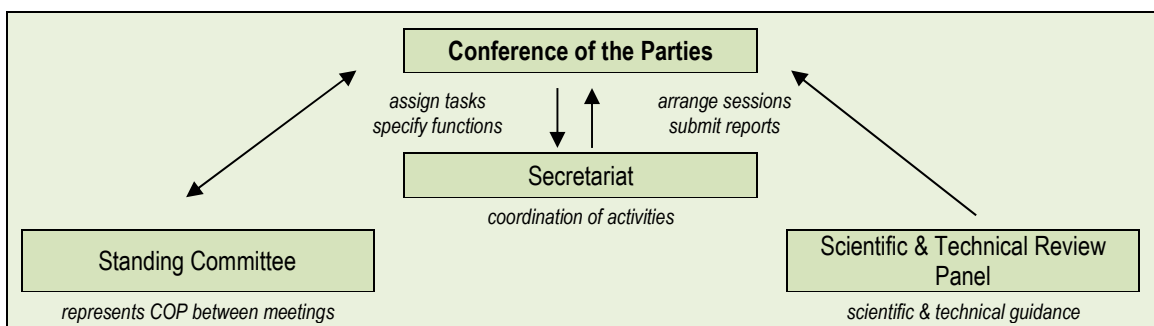
Principles

The Preamble and Article 2 determined the principles that guide the implementation of the *Ramsar Convention*.

<i>Article 2</i>	<i>Preamble</i>	<i>Preamble</i>	<i>Preamble</i>
Sovereign Rights	Cooperation	Equity	Common Heritage

Institutions

The *Ramsar Convention* is administered by an independent **Secretariat** (*Ramsar Bureau*) that is based at the headquarters of the *International Union for the Conservation of Nature (IUCN)* in Switzerland. The main decision making body is the **Conference of the Parties** that meets every 3 years. International organisations like IUCN and *WWF International* support the work of the Convention by providing expert technical advice, helping to implement field studies, and giving financial support.



Implementation

The *Ramsar Convention* was adopted before implementation assistance funds became widespread features under multilateral environmental agreements. The COP adopts a core budget administered by the Secretariat. Contributions to the budget come from the Parties, who pay at least US \$700, and from the GEF. A *Ramsar Small Grants Fund* was established in 1990

administered by the Secretariat under the supervision of the Standing Committee for developing countries via their Nature Conservation Agencies.

Compliance

Under the *Ramsar Convention*, the Parties have established different mechanisms to ensure compliance. Similar to the compliance mechanisms under other agreements is the reporting commitment. The *Ramsar Convention* neither provides for a dispute settlement process nor sets up a compliance committee.

Information	Reporting	Monitoring	Montreux Record
<p><u>Guidelines for:</u></p> <ul style="list-style-type: none"> - Wise use of wetlands - Developing and implementing national wetlands policies - Review of laws and institutions - International cooperation <p><u>Clearing house: (COP 7)</u></p> <ul style="list-style-type: none"> - Liaison with IGOs - Information exchange on indigenous knowledge systems and participatory approaches 	<p><u>National Reports:</u></p> <ul style="list-style-type: none"> - On implementation - Submission to Secretariat six month prior to COP 	<p><u>Facilitation:</u></p> <ul style="list-style-type: none"> - Secretariat can conduct on-site monitoring to review implementation <p><u>Inventory:</u></p> <ul style="list-style-type: none"> - Guidance by <i>Framework for Wetland Inventory</i> 	<p><u>Explanation:</u></p> <ul style="list-style-type: none"> - Register of wetland sites with negative changes in ecological character <p><u>Secretariat:</u></p> <ul style="list-style-type: none"> - Monitoring - Request of reports - Negotiation of solution - Technical assistance - Inform Standing Committee (and COP) <p>→ since 1993 (COP 5)</p>

5.2 What does Vietnam need to do?

The *Ramsar Convention* formulates commitments that are mandatory for all Parties including developing country Parties such as Vietnam.

Wise use	Designation	Cooperation	Communication
<p>Conservation of wetlands and waterfowl by establishing nature reserves, even if not on Ramsar List (Article 4)</p>	<p>Designate at least one wetland for the <i>List of Wetlands of International Importance</i> (Article 2)</p>	<p>Consultation on transboundary wetlands, shared wetland systems and shared species (Article 5)</p>	<p>National Reports (Recommendation 2.1)</p>

Although the *Ramsar Convention* does not require Parties to adopt legislative measures, this in reality is the best means to protect listed wetlands. Parties have to encourage research and the exchange of information, and promote training regarding wetlands.

Commitment to designate at least one wetland

In regard to the Parties' commitment to designate at least one wetland, the *Ramsar Convention* formulates several associated mandatory and voluntary commitments.

<ul style="list-style-type: none"> - Selection of wetlands according to their international significance in terms of ecology, botany, zoology, limnology or hydrology (Article 2 (2) RC → voluntary) - Conservation and wise use of listed wetlands and migratory stocks of waterfowl (Article 2 (6) RC → mandatory) - Include wetland conservation in land use planning to promote wise use (Article 3 (1) RC → mandatory) - Compensation by creating additional reserves for waterfowls in case of boundary restrictions due to urgent national interests (Article 4 (2) RC → voluntary)
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Commitment to regularly report to the Secretariat

At COP 2 in 1984, the Parties to the *Ramsar Convention* issued Recommendation 2.1 that asks for the submission of National Reports to the Secretariat prior to each COP meeting. These National Reports need to answer a series of indicator questions summarised below.

1.1.3	Has the condition (ecological character) of the Ramsar Site changed since the last triennium?
1.4.1	Has an assessment been made of the ecosystem benefits/services provided by the Ramsar Site?
2.4.1	Does the site have a management plan (or equivalent)? Is the management plan being implemented?
2.4.4	Has a cross-sectoral site management committee been established for the site?
2.4.5	Has a description of the ecological character of the Ramsar Site been prepared?
1.4.3	Have socio-economic and cultural values of wetlands been included in the management planning for the Ramsar Site?
2.5.1	Has any assessment of the effectiveness of Ramsar Site management been made?
2.6.1	Are mechanisms in place for the Administrative Authority to be informed of negative changes or likely negative changes in the ecological character of the Ramsar Site, pursuant to Article 3 (2)?
2.6.2	Have all cases of change or likely negative change in the ecological character of the Ramsar Site been reported to the Ramsar Secretariat, pursuant to Article 3 (2)?
4.1.2	Has a visitor/interpretation/education centre been established at the Ramsar Site?
4.1.3b	Is stakeholder participation in decision-making promoted, especially with local stakeholder involvement in the management of the Ramsar Site?
4.1.7a	Have communication mechanisms been established to share information between the Ramsar Administrative Authority and the Ramsar Site manager?

5.3 Further information

Convention website:

- <http://www.ramsar.org/>

Key publication:

- Secretariat, 2013, The Ramsar Convention Manual, 6th edition
<http://www.ramsar.org/sites/default/files/documents/library/manual6-2013-e.pdf>

6.	Convention concerning the Protection of the World Cultural and Natural Heritage 1972	Effective:	17/12/1975
		Parties:	193
		VN accession:	19/10/1987
		Focal Point:	MOFA

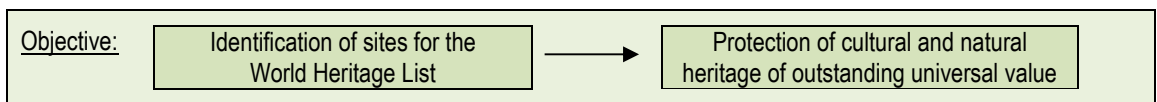


The *World Heritage Convention* has been adopted under the UN Educational, Scientific and Cultural Organisation (UNESCO) in 1972 and achieves nearly universal ratification (193 ratifications as of 2017). The Convention's primary purpose is to define the cultural and natural sites of the world which signify our common heritage and which would represent an irreplaceable loss should they disappear. To this end, it provides for the listing of natural and cultural heritage sites of outstanding universal value. UNESCO has described heritage as 'our legacy from the past, what we live with today, and what we pass onto future generations'.

6.1 What is the Convention about?

Objective

According to the Preamble, the *World Heritage Convention* aims to establish an effective system of collective protection of cultural and natural heritage of outstanding universal value, organised on a permanent basis and in accordance with modern scientific methods.



Content

The text of the Convention can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties, articles that set up institutions, and articles that establish procedures to ensure compliance.

Context	Commitments	Institutions	Compliance
Definitions <i>(Articles 1, 2)</i> Objective <i>(Preamble)</i> Principles <i>(Preamble, Articles 4, 25)</i>	Protection <i>(Articles 4-7)</i> Education and awareness <i>(Articles 27-28)</i>	General Assembly <i>(Article 8)</i> World Heritage Committee <i>(Articles 8-10)</i> Secretariat <i>(Article 14)</i> World Heritage Fund <i>(Articles 15-18)</i>	Submission of inventory <i>(Article 11)</i> Report on implementation <i>(Article 29)</i>

Approach

The Convention defines and conserves world heritage by maintaining two lists:

<i>Article 11 (2)</i>	<i>Article 11 (4)</i>
<div style="border: 1px solid black; padding: 5px; display: inline-block;">World Heritage List</div>	<div style="border: 1px solid black; padding: 5px; display: inline-block;">List of World Heritage in Danger</div>
List of properties forming part of the cultural and natural heritage, which have outstanding universal value	List of properties in the <i>World Heritage List</i> for the conservation of which major operations are necessary

The Convention is supplemented by Operational Guidelines adopted by the World Heritage Committee that were updated in 2016. These specify the criteria for properties of universal value. In order to list a property, it must meet at least one criterion.

Cultural criteria

1. to represent a masterpiece of human creative genius
2. to exhibit an important interchange of human values, over a time span or within a cultural area
3. to bear a unique testimony to a cultural tradition which is living or which has disappeared
4. to be an outstanding example of a type of building or landscape significant in human history
5. to be an outstanding example of a traditional human settlement, especially vulnerable under the impact of irreversible change
6. to be directly or tangibly associated with events or living traditions, of outstanding universal significance

Natural criteria

7. contains superlative natural phenomena or areas of exceptional natural beauty and aesthetic importance
8. to be outstanding examples representing major stages of earth's history geological processes
9. to be outstanding examples representing significant on-going ecological and biological processes, ecosystems and communities of plants and animals
10. to contain the most significant natural habitats for in-situ conservation of biodiversity

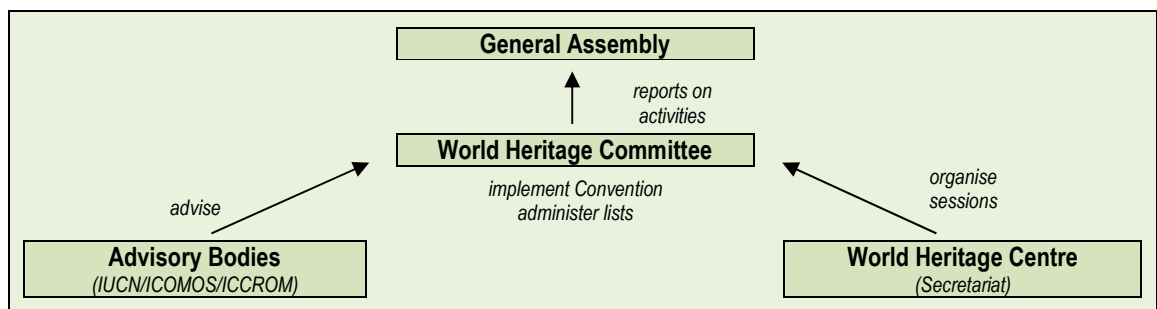
Principles

The Convention was adopted before the *Rio Conference* in 1992. However, principles later enshrined in the *Rio Declaration on Environment and Development* can be found in the Preamble and in Articles 4 and 25 of the text.

<i>Preamble</i>	<i>Article 4</i>	<i>Article 4</i>	<i>Article 25</i>
Common heritage	Cooperation	Intergenerational equity	Common but differentiated responsibilities

Institutions

The *World Heritage Convention* is implemented and administered by a **World Heritage Committee** that maintains the World Heritage List and the List of World Heritage in Danger. The main decision making body is the **UNESCO General Assembly** that convenes its meetings during the sessions of the UNESCO General Conference. The **Secretariat** (or World Heritage Centre) is the permanent body of the Convention. The Convention names three organisations that are **advisory bodies** to the World Heritage Committee.



Compliance

The main mechanisms under the *World Heritage Convention* to ensure compliance are international assistance to help Parties to identify and protect their heritage sites and reporting to the General Conference.

<i>Article 13 and Articles 19-26</i>	<i>Article 29</i>
Assistance	Reporting
<u>Form:</u> Studies, experts, equipment, etc.	<u>Content:</u> Provisions adopted and actions taken
<u>Entity:</u> World Heritage Committee	<u>Addressee:</u> General Conference

In the event a Party does not comply with the commitments under the Convention, a heritage site can be **removed** from the *World Heritage List*.

6.2 What does Vietnam need to comply with?

The *World Heritage Convention* lists different commitments that are mandatory to all Parties. These relate to the identification and conservation of heritage sites and the communication about actions taken. These commitments have been specified in decisions adopted by the General Assembly of UNESCO.

Commitment to identify and protect heritage sites

The commitments under the *World Heritage Convention* are formulated less forcefully than other Conventions ("shall endeavour"). Only a few States have actually adopted specific legislation for implementation.

Article 11	<u>Identification of world heritage sites</u> 1. Submission of an inventory of property forming part of the cultural or natural heritage
Article 5	<u>Protection and conservation of world heritage sites</u> a. Adopt policy for heritage sites and integrate protection into planning programmes b. Set up services for protection, conservation and presentation of heritage sites c. Develop scientific and technical studies and research to prevent dangers to heritage sites d. Take appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage e. Foster the establishment of training centres
Article 6	<u>Relation to other States</u> 1. Cooperate in assistance to other Parties to ensure preservation of heritage sites 2. Support of requests from other Parties for heritage sites in their territory 3. Prohibition to take measures damaging heritage sites on another territory

Commitment to submit Conservation Reports

Article 29 requires the Parties to regularly submit reports. Annex 13 of the Operational Guidelines from 2016 provides a format for the submission of Conservation Reports by the Parties.

<u>Name of World Heritage Property</u> 1. Executive Summary of the report 2. Response to the Decision of the World Heritage Committee to the respective World Heritage Property Additional information requirements for properties inscribed on the <i>List of World Heritage in Danger</i> : - Progress achieved in implementing the corrective measures adopted by the World Heritage Committee - Suitability of the timeframe for implementation of corrective measures and reasons - Progress achieved towards the desired state of conservation for the removal of the property from the <i>List of World Heritage in Danger</i> 3. Conservation issues identified by the Party which may impact on the property's outstanding Universal Value 4. Describe any potential major restorations, alterations and new construction intended within the property, the buffer zone and corridors in case such developments may affect the Outstanding Universal Value of the property 5. Public access to the state of conservation report (Executive Summary) 6. Signature of the Authority
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6.3 Further information

<u>Convention website:</u> - http://whc.unesco.org/en/convention/
<u>Key publication:</u> - UNESCO, 2005, Basic Texts of the 1972 World Heritage Convention http://whc.unesco.org/document/101839



Land management

Several multilateral environmental agreements contain provisions on land management. Apart from the *UN Convention to Combat Desertification* of 1994 that is covered in this section, there is the *Biodiversity Convention* of 1992 and the *Paris Agreement* of 2015.

Biodiversity Convention (see Part II.1)

The issue of sustainable land use is tackled indirectly through a number of mechanisms and instruments:

- The term “sustainable use of biodiversity and its components” is conceptually close to the elements of sustainable land use.
- The “ecosystem approach” is a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use.

Paris Agreement (see Part II.15)

There are different instruments and mechanisms under the Paris Agreement of 2015 that are relevant in regard to land use:

- The Paris Agreement makes specific reference to land use, reaffirming and anchoring the complete forest-related REDD-plus framework adopted under the Convention.
- Detailed mitigation strategies, developed by all Parties in the context of their Nationally Determined Contributions (NDCs) are expected to cover forests and land use.
- Adaptation planning and actions address the protection of ecosystems and therefore land use.

7.	United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa 1994	Effective: 26/12/1996 Parties: 196 VN accession: 25/08/1998 Focal Point: MARD
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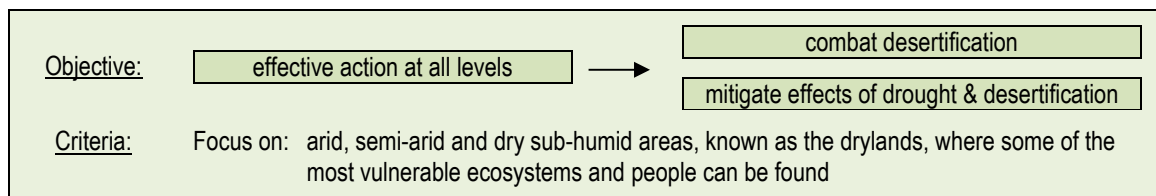
The *UN Convention to Combat Desertification (UNCCD)* of 1994 is the sole legally binding multilateral agreement linking environment and development to sustainable land management. It has 196 Parties, making it nearly universal in reach. Desertification, along with climate change and the loss of biodiversity, were identified as the greatest challenges to sustainable development during the 1992 *Rio Conference*. The Convention aims to combat desertification and mitigate the effects of drought through national action programmes that incorporate long-term strategies supported by international cooperation and partnership arrangements.

7.1 What is the Convention about?

The Convention requires affected Parties to give due priority to combating desertification, establish strategies within the framework of sustainable development plans, address the underlying causes of desertification, promote awareness of the problem and strengthen relevant existing legislation (Article 5 UNCCD).

Objective

According to Article 2 UNCCD, the Convention aims to promote an integrated approach to combating desertification and to mitigate the effects of serious drought and/or desertification through effective actions at all levels, supported by international cooperation and partnership arrangements.



Content

The articles of the Convention can be classified according to the following groups: context, commitments, institutions, compliance.

Context	Commitments	Institutions	Compliance
Definitions <i>(Article 1)</i>	Commitments for Asia <i>(Articles 4, 5 and Annex II)</i>	Conference of the Parties <i>(Article 22)</i>	Communication <i>(Article 26)</i>
Objective <i>(Article 2)</i>	Action Programmes <i>(Articles 9-11)</i>	Secretariat <i>(Article 23)</i>	Dispute settlement <i>(Article 28)</i>
Principles <i>(Article 3)</i>	Scientific & technical cooperation <i>(Articles 16-18)</i>	Committee on Science & Technology <i>(Articles 24, 25)</i>	Withdrawal <i>(Article 29)</i>
	Education & awareness <i>(Article 19)</i>	Financial Mechanism <i>(Article 21)</i>	

There are five Annexes that specify the commitments for the different regions affected by desertification, among them is the Asian region. They provide the basis for sub-regional programmes, regional institutions, financial mechanisms, coordination and partnerships.

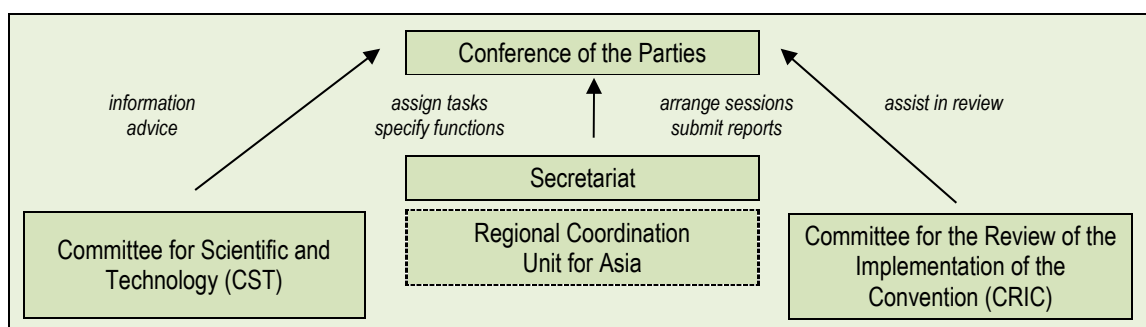
Principles

Article 3 UNCCD determines the principles that guide the implementation of the Convention. These principles are taken from or comply with the *Rio Declaration on Environment and Development* from 1992 (see Part I.3).

Common heritage of humankind	Cooperation and Good Faith Consultations	Sustainable development	Principle of common but differentiated responsibilities
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Institutions

The **Conference of the Parties** is the supreme decision-making body and has been meeting on a biennial basis since 2001. The Convention is administered by a **Secretariat** in Bonn that serves as a permanent body. Apart from preparing the session of the Conference of the Parties, it also provides assistance to affected developing country Parties. There is a **Regional Coordination Unit for Asia** within the Secretariat that is located in Bangkok. In addition, regional activities are being launched through **Thematic Programme Networks (TPNs)** that each deal with one core aspect, which is either a cause or an effect of desertification.



Compliance

Incentives to ensure compliance with the different commitments under the UNCCD are provided by the reporting mechanism, the compliance mechanism and the dispute settlement mechanism.

<p>Article 26</p> <p>Reporting commitment</p> <p>Regular reporting on implementation measures</p>	<p>Article 27</p> <p>Compliance mechanism</p> <p>Procedures and institutions not set up yet by COP</p>	<p>Article 28</p> <p>Dispute settlement</p> <p>Step 1: Negotiations Step 2: Mediation Step 3: Conciliation or, in case a Party opts in: Arbitration / ICJ Submission</p>
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7.2 What does Vietnam need to comply with?

The Convention consists of 6 parts with 40 Articles that only have few mandatory commitments. While some of these are addressed at all Parties, there are special commitments to provide financial assistance for developed country Parties.

Part I: Introduction Part II: General Obligations	Part III: Action Programmes Part IV: Institutions	Part V: Procedures Part VI: Final Clauses
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The mandatory commitments for all Parties are listed in Article 4 UNCCD with additional commitments for affected Parties listed in Article 5 UNCCD.

<i>Article 4</i>	<i>Article 5</i>
all Parties	affected Parties
<ul style="list-style-type: none"> - Adopt an integrated approach addressing desertification and drought - Integrate strategies for poverty eradication into efforts to combat desertification and drought - Strengthen sub-regional, regional and international cooperation - Cooperate with intergovernmental organisations - Determine institutional mechanisms - Promote the use of existing bilateral and multilateral financial mechanisms 	<ul style="list-style-type: none"> - Give due priority to combating desertification and drought - Establish strategies and priorities within sustainable development plans - Address underlying causes of desertification - Promote awareness and facilitate participation of local populations in efforts to combat desertification - Provide an enabling environment by strengthening relevant existing legislation and establishing long-term policies

Besides those general mandatory commitments, the Convention specifically addresses the areas of planning, resources, cooperation and communication.

Planning	Resources	Cooperation	Communication
National Action Programmes <i>(Articles 9, 10)</i> Sub-regional Action Plans <i>(Article 11)</i>	Build capacity, education and public awareness <i>(Article 19)</i> Financial resources <i>(Articles 20, 21)</i>	General <i>(Article 12)</i> Scientific and technical cooperation <i>(Articles 16-18)</i>	Reports on implementation to the Secretariat <i>(Article 26: "shall")</i>

The commitments usually target all Parties, but take the different capabilities into account. Therefore, in regard to the provision of financial support, all Parties shall make every effort to ensure that adequate financial resources are available. In addition, developed country Parties have to mobilise substantial financial resources to support the implementation of programmes to combat desertification and mitigate the effects of drought.

7.3 Further information

Convention website: <ul style="list-style-type: none"> - General: http://www2.unccd.int/ - Asia: http://www.unccd.int/en/regional-access/Asia/Pages/asia.aspx Key publication: <ul style="list-style-type: none"> - UNCCD, Introduction to the United Nations Convention to Combat Desertification http://www.unccd.int/Lists/SiteDocumentLibrary/Publications/factsheets-eng.pdf
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Management of international watercourses

Rivers have been regulated by international law for some time because they often form the natural boundaries between States and they frequently flow through the territories of several States. Environmental regulation related to rivers developed relatively early with the *Helsinki Rules* 1966 reflecting customary law of the time in regard to equity in utilisation. Riparian state rights caused issues because it is politically difficult for the upstream States to make concessions in their river policies in the interests of the downstream States if these are seen to create burdens on a State's own population or economic interests.

Most international river agreements apply to single river areas, but regional and even global agreements have also been made to promote the sustainable management of transboundary inland waterways. The UN International Law Commission prepared the *Convention on the Law of the Non-navigational Uses of International Watercourses* 1997 with ambitious rules.

Rivers, lakes and groundwater are today understood to be an intricate drainage basin: a hydrological unit that also includes the groundwater in connection with the surface waters. In 2008, the UN International Law Commission completed its own draft articles on the *Law of Transboundary Aquifers*, groundwaters that are not connected with surface waters and can be compared with such legally shared natural resources as transboundary oil and gas wells.

8. Convention on the Law of the Non-navigational Uses of International Watercourses 1997	Effective:	17/08/ 2014
	Parties:	36
	VN accession:	19/05/2014
	Focal Point:	MONRE



International rules for freshwater resources have long been developed to regulate their navigational and other uses only. These regimes mostly treated water as an economic resource, and dealt largely with the quantitative aspect of water resources. The *Helsinki Rules on Uses of Waters of International Rivers* of 1966 have no legally binding affect but led to the controversial *UN Watercourses Convention (UNWC)* that took 17 years to enter into force with still only 36 ratifications (Vietnam being the 35th). The UNWC is a global treaty adopted by the UN General Assembly in 1997. It is a framework convention governing international watercourses that establishes basic standards and rules for cooperation between water-course States on the use, management, and protection of international watercourses.

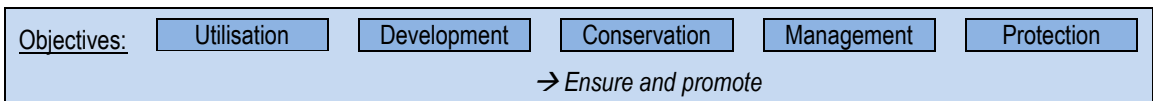
8.1 What is the Convention about?

The *UN Watercourses Convention* is the single most authoritative and widely quoted set of rules for regulating the use and protection of international watercourses. It embodies five fundamental rules that are also considered part of customary international law:

1. Equitable and reasonable utilisation of watercourses
2. Prevention of significant harm to other riparian States
3. Prior notification of planned measures that might affect other sharing States
4. Protection of ecosystems
5. Cooperation

Objective

The Convention aims to manage international watercourses such as the Mekong River, holistically, including the equitable sharing of resources for downstream States.



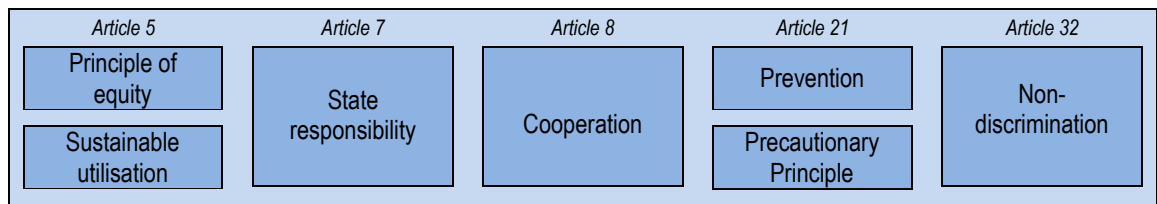
Content

The text of the Convention can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties, articles that set up institutions, and articles that establish procedures to ensure compliance.

Context	Commitments	Institutions	Compliance
Scope <i>(Article 1)</i>	General <i>(Articles 7-9)</i>	Joint Management Mechanism <i>(Article 24)</i>	Dispute settlement <i>(Article 33, Annex II)</i>
Definitions <i>(Article 2)</i>	Planned measures <i>(Articles 11-18)</i>		
Principles <i>(Articles 5, 6 and 32)</i>	Protection, preservation and management <i>(Articles 20-26)</i>		
	Emergency situations <i>(Article 28)</i>		

Principles

The Articles are based on or refer to different principles that are mentioned in the 1992 *Rio Declaration on Environment and Development*.

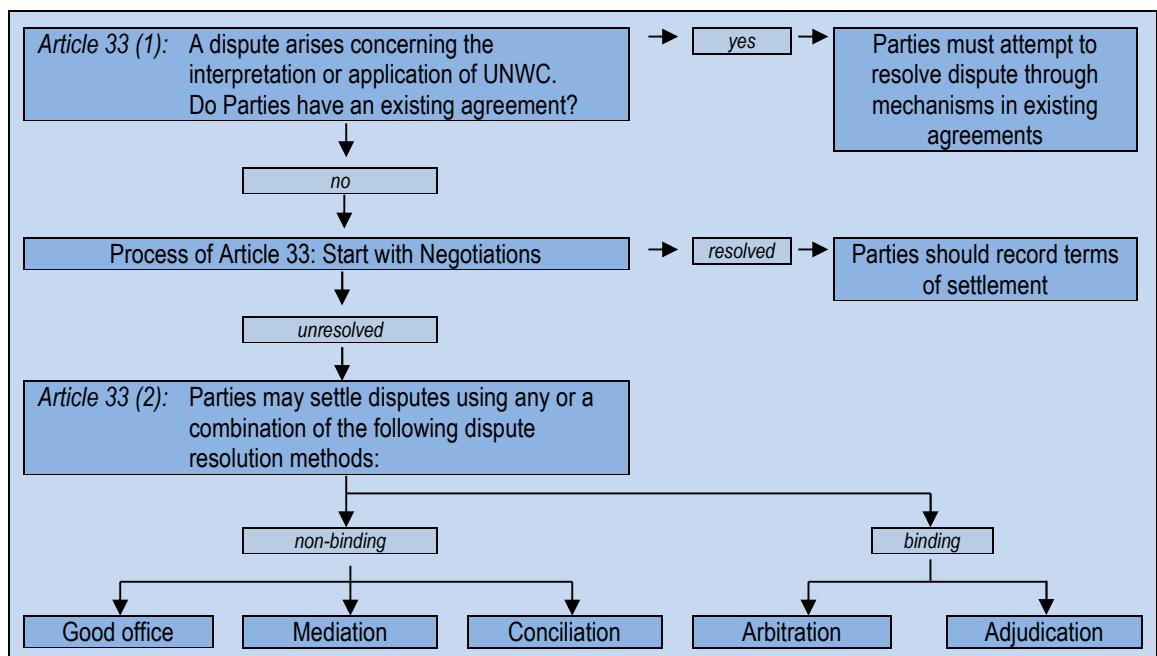


Institutions

The *UN Watercourse Convention* does **not** set up a formal institutional framework consisting of a Conference of the Parties, a Secretariat and Working Groups. Instead, Article 24 allows for the establishment of a **joint management mechanism** for international watercourses, leaving the composition and number of Parties cooperating open. Currently, three options are being discussed for an institutional framework for the implementation of the Convention, including shared institutions with the *UNECE Water Convention* of 1992. In 2015 a first informal Meeting of the Parties to the Convention was organised by Finland, Germany and the Netherlands in coordination with the *UNESCO International Hydrological Programme*. This meeting was hosted by UNESCO at its Headquarters.

Compliance

The *UN Watercourse Convention* does not have a reporting commitment. An incentive for compliance is given by the **dispute settlement process** detailed in Article 33 that provides for the use of an impartial fact-finding commission in the event that negotiation cannot resolve a conflict between the Parties. Annex II details the procedures for Arbitration.



Therefore, in relation to any dispute concerning the Mekong River, the dispute settlement mechanisms under the 1995 *Mekong Agreement* prevail.

8.2 What does Vietnam need to comply with?

The *UN Watercourse Convention* establishes different commitments. While some of them target the protection, preservation and management of international watercourses, other aim to facilitate a peaceful relationship between the Parties sharing an international watercourse.

Utilisation	Coordination	Conservation
Equitable and reasonable utilisation <i>(Articles 5, 6)</i>	Cooperation & Information exchange <i>(Articles 8, 9)</i>	Prevention, reduction and control of pollution <i>(Article 21)</i>
Prohibition to cause significant harm <i>(Article 7)</i>	Information exchange & consultation <i>(Article 11)</i>	Prevention of the introduction of alien or new species <i>(Article 22)</i>
	Notification of planned measures <i>(Articles 12-18)</i>	Protection and preservation of the marine environment <i>(Article 23)</i>

Notification of planned measures

According to Article 12 UNWC, before a watercourse State implements or permits a measure that may have significant adverse effects upon other watercourse States, it has to issue a notification of the planned measure.



Equitable and reasonable utilisation

Article 5 (1) UNWC requires the Parties to utilise their international watercourses in an equitable and reasonable manner. Article 6 (1) UNWC lists seven factors that determine what equitable and reasonable utilisation means.

- (a) Geographic, hydrographic, hydrological, climatic, ecological and other factors of a natural character
- (b) Social and economic needs of the watercourse States concerned
- (c) Population dependent on the watercourse in each watercourse State
- (d) Effects of the use or uses of the watercourses in one watercourse State on other watercourse States
- (e) Existing and potential uses of the watercourse
- (f) Conservation, protection, development and economy of use of the water resources of the watercourse and the costs of measures taken to that effect
- (g) Availability of alternatives, of comparable value, to a particular planned or existing use

8.3 Further information

Convention website:

- www.unwatercoursesconvention.org

Key publication:

- IUCN, 2016, A Window of Opportunity for the Mekong Basin
https://www.iucn.org/sites/dev/files/import/downloads/iucn_bridge_unwc_mra_comparison.pdf



Marine environment protection

There are numerous international instruments that cover the various aspects of marine management and marine environment protection. The key instrument is the 1982 *UN Convention on the Law of the Sea (UNCLOS)* that took 12 years to come into force and is considered ‘a constitution for the oceans’. As no reservations are permitted, States had to accept the whole treaty. UNCLOS provides an overarching legal framework for all activities in the oceans governing all aspects of ocean space, such as delimitation, environmental control, marine scientific research, economic and commercial activities, transfer of technology and the settlement of disputes relating to ocean matters. Various norms of customary international law supplement UNCLOS. Of relevance for this handbook is Part XII on the ‘Protection and Preservation of the Marine Environment’.

Besides UNCLOS there are plenty of other instruments that address marine environment pollution. While UNCLOS is administered by the UN’s *Division of Ocean Affairs and Law of the Sea* in New York, the other instruments are managed by the *International Marine Organisation (IMO)* in London. There are around 50 IMO Convention that can be divided into conventions for maritime safety, conventions for marine pollution, and conventions for liability and compensation.

Marine pollution

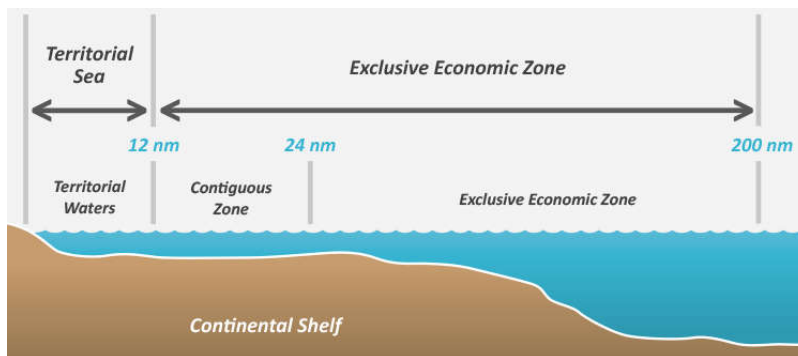
- International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78)
- International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (INTERVENTION), 1969
- Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (LDC), 1972
- International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC), 1990
- Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000 (HNS Protocol)
- International Convention on the Control of Harmful Anti-fouling Systems on Ships (AFS), 2001

Among the conventions addressing marine pollution, the 1973 *Convention for the Prevention of Pollution from Ships as modified by the 1978 Protocol of 1978 (MARPOL 73/78)* prevails. It has six Annexes; Vietnam is a Party to all of them. Among the different types of marine pollution, land-based sources account for 82% while offshore activities only generate minor pollution.

Land-based sources	Vessel-based sources	Offshore activities
<u>Examples:</u> Sewage outfalls, industrial discharges, runoff from agriculture, etc.	<u>Examples:</u> Operational discharges such as bilge water discharges, dumping, etc.	<u>Examples:</u> Use of oily drilling muds, production blow outs, etc.

9. United Nations Convention on the Law of the Sea 1982

Effective: 16/11/1994
 Parties: 168
 VN ratification: 25/07/1994
 Focal Point: MOFA



The *UN Convention on the Law of the Sea (UNCLOS)* is considered the **constitution** for oceans and interrelated resources that covers not only delimitation, but also the protection and preservation of the marine

environment. It carves out **maritime zones** – Internal Waters, Territorial Sea, Contiguous Zones, Exclusive Economic Zones, Continental Shelf, High Seas, and the ‘Area’ (see on the left) – and sets out rules for delimitation with the guiding principle that ‘**land dominates the sea**’.

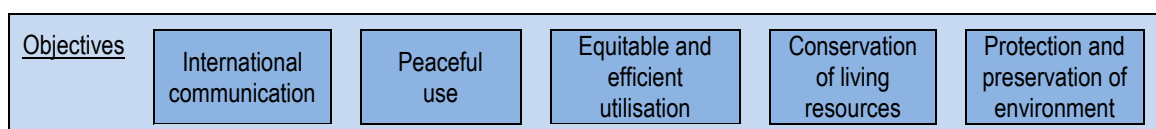
9.1 What is the Convention about?

In total, *UNCLOS* consists of 17 Parts, 320 Articles, and 9 Annexes. The Articles govern all aspects of ocean space, such as delimitation, environmental control, marine scientific research, economic and commercial activities, transfer of technology and the settlement of disputes relating to ocean matters. This handbook only deals with Part XII on the ‘Protection and Preservation of the Marine Environment’.

<u>Parts</u>	I.	Introduction	VIII.	Regime of Islands	XII.	Protection and Preservation of the Marine Environment
	II.	Territorial Sea and Contiguous Zone	IX.	Enclosed and Semi-enclosed seas	XIII.	Marine Scientific Research
	III.	Straits Used for International Navigation	X.	Right of Access of Land-Locked States to and from The Sea and Freedom of Transit	XIV.	Development and Transfer of Marine Technology
	IV.	Archipelagic States	XI.	The Area	XV.	Settlement of Disputes
	V.	Exclusive Economic Zone			XVI.	General Provisions
	VI.	Continental Shelf			XVII.	Final Provisions
	VII.	High Seas				
<u>Annexes</u>	I.	Highly Migratory Species	III.	Basic Conditions of Prospecting, Exploration and Exploitation	VI.	Statute of the International Tribunal for the Law of the Sea
	II.	Commission on the Limits of the Continental Shelf	IV.	Statute of the Enterprise	VII.	Arbitration
			V.	Conciliation	VIII.	Special Arbitration

Objective

According to the Preamble, *UNCLOS* aims to facilitate international communication, promote the peaceful uses of the seas and oceans, the equitable and efficient utilisation of their resources, the conservation of their living resources, and the protection and preservation of the marine environment.



Content

UNCLOS provides an overarching framework, a constitution, for the use and the protection of the seas. Commitments in regard to the protection and preservation of the marine environment are detailed especially in Part XII while provisions for compliance are found throughout the Convention.

Context	Commitments	Institutions	Compliance
Definitions (Article 1) Objective (Article 192) Principles (Articles 193, 194, 202-206)	Marine protection (Articles 192-221) Research and observation (Articles 196, 200) Education and awareness (Article 196)	Meeting of State Parties (Article 319) UN Office Legal Affairs (Article 314) Commission on the Limits of the Continental Shelf (Article 76, Annex II) International Seabed Authority (Part XI, Section 4) International Tribunal for the Law of the Sea (Annex VI) Trust Fund (GA Resolution 55/7)	Dispute settlement (Part XV, Annexes V-VIII) ISA & Area Disputes (Part XI)

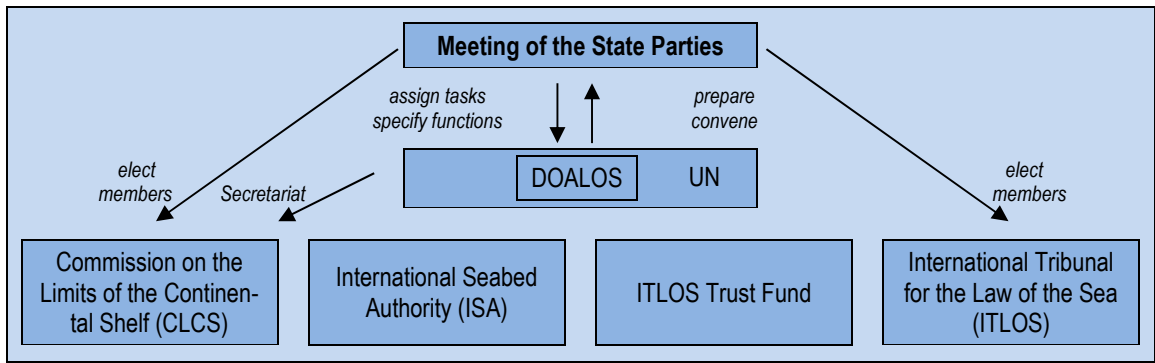
Principles

As UNCLOS is a broad all-encompassing constitution of the seas, it addresses many principles of international environmental law. Most relevant for the protection and preservation of the marine environment under Part XII are the principles laid down in Articles 193 to 194 and Articles 202 to 206.

Article 193	Article 194	Articles 202-206	Article 136
State Sovereignty	Principle of common but differentiated responsibilities	Consideration of needs and circumstances of developing countries	Common heritage of mankind
	Precautionary principle	Environmental Impact Assessment	
	Prevention of transboundary harm		

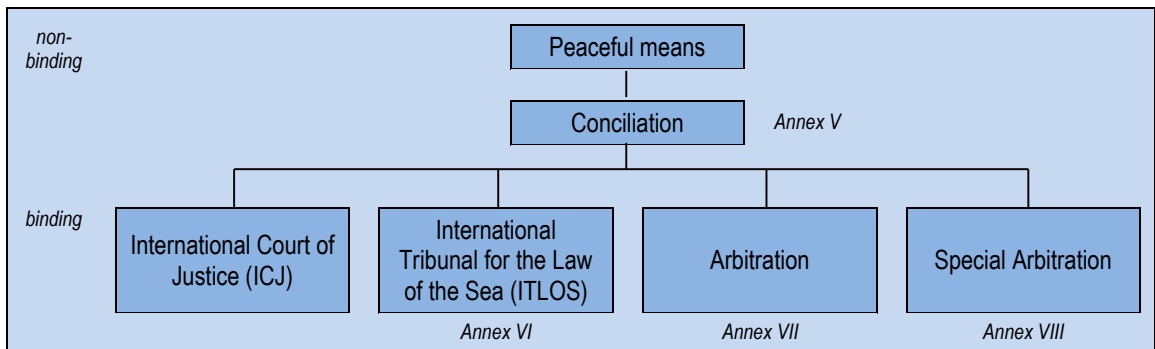
Institutions

The **Meeting of the State Parties** is the main decision-making body. Unlike other multilateral environmental agreements, UNCLOS does not have one article that details the functions and tasks. Instead, it simply requires the Secretary General to convene the meetings. The *Division for Ocean Affairs and Law of the Sea (DOALOS)* is the **Secretariat** for the Meeting of the Parties and carries out the responsibilities entrusted to the Secretary-General under UNCLOS, especially Article 319. It also serves as Secretariat to the *Commission on the Limits of the Continental Shelf (CLCS)*. There are four supporting bodies: (1) the *Commission on the Limits of the Continental Shelf (CLCS)* facilitates implementation of the establishment of the outer limits of the continental shelf beyond 200 nautical miles, (2) the *International Seabed Authority (ISA)* organises and controls activities in the international seabed area beyond national jurisdiction, (3) the *International Tribunal for the Law of the Sea (ITLOS)* settles disputes arising under UNCLOS, and (4) the *ITLOS Trust Fund* provides financial assistance to State Parties for expenses in connection with cases submitted to the Tribunal.



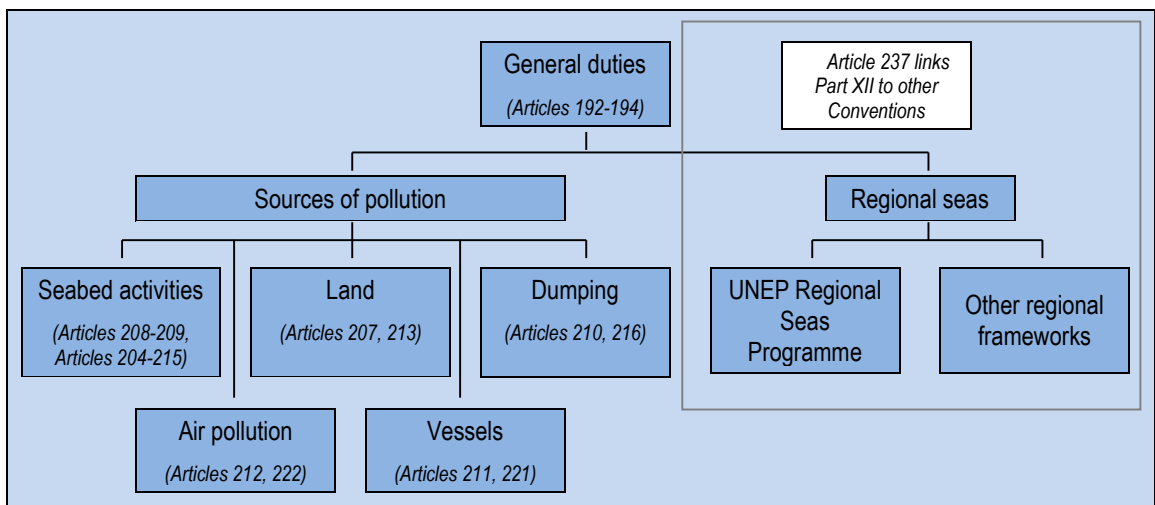
Compliance

To deal with disputes relating to the interpretation and application of *UNCLOS*, Parties can either pursue diplomatic solutions or the dispute settlement mechanisms detailed in Part XV and Annexes V to VIII.



9.2 What does Vietnam need to comply with?

UNCLOS details commitments that are mandatory to all Parties. Also, much of *UNCLOS* is considered part of customary international law (see Part I.1) and therefore applicable to Parties as well as non-Parties. Part XII has three components: (1) general duties to protect and preserve the marine environment, (2) standards in regard to the different sources of pollution, and (3) a link to other conventions regulating the relationship to *UNCLOS*.



The general duties provide the umbrella for the obligations in regard to the different sources of pollution.

General duties

- Article 192 Protect and preserve the marine environment
- Article 194 Prevent, reduce and control pollution of the marine environment from any source
 - Ensure activities within territory do not cause damage by pollution
 - Minimise pollution from dumping, vessels and installations
- Article 195 Refrain from the transfer of damage or hazards from one area to another
- Article 196 Prevent, reduce and control pollution from use of technologies

9.3 Further information

Convention website:
- <http://www.un.org/Depts/los/>

10. **International Convention for the Prevention of Pollution from Ships 1973/78**

Effective: 02/10/1983
 Parties: 155
 VN accession: 29/05/1991
 Focal Point: MOT



MARPOL 73/78 sets up an international regime for the prevention of pollution from ships as a result of routine operational discharges and accidental pollution incidents. Its six Annexes regulate the discharge from ships. There are 155 Parties representing 98.7% of the world's shipping tonnage. The Convention is regularly updated to specify requirements to improve the control of marine pollution from ships. Given the delays in accepting amendments, there is now a new procedure involving the 'tacit acceptance' of amendments by Parties to *MARPOL*.

10.1 What is the Convention about?

Objective

According to the Preamble, the Convention aims to achieve the complete elimination of intentional pollution of the marine environment by oil and other harmful substances and the minimisation of accidental discharge of such substances.

Objectives	Elimination	Minimisation
	Intentional pollution of the marine environment by oil and other harmful substances	Accidental discharge of oil and other harmful substances

Content

The text of the Convention can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties and articles that establish procedures to ensure compliance.

Context	Commitments	Institutions	Compliance
Objectives <i>(Preamble)</i> Principles <i>(Preamble)</i> Definitions <i>(Article 2)</i> Scope <i>(Article 3)</i>	Prevention of marine pollution <i>(Articles 4-7)</i> Technical Cooperation <i>(Article 17)</i>	Assembly Council Secretariat Marine Environment Protection Committee → Set up under the Convention on the International Maritime Organisation (IMO)	Communication <i>(Articles 8, 11 and 12)</i> Dispute settlement <i>(Article 10, Protocol II)</i>

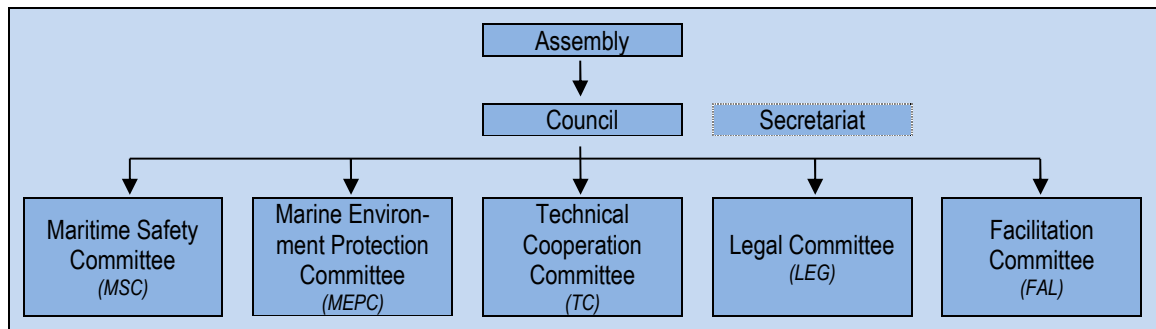
Principles

The Convention was developed before the *Rio Conference* acknowledged the different principles of international environmental law in 1992. However, as the name indicates, the Convention is mainly based on the principle of prevention. It also encourages cooperation between the Parties.

Institutions

MARPOL 73/78 does not set up any institutions, but builds on the institutions established under the *Convention on the International Maritime Organisation (IMO)* in 1958. The **Assembly** and the

Council are the main organs and meet on a yearly basis. The **Secretariat** is the permanent body that prepares the sessions for the Assembly and the Council. The **Committees** – among them the Marine Environment Protection Committee (MEPC) – considers issues within their areas of responsibility and submit proposals for regulations, recommendations and reports on their work to the Council.



Compliance

To keep track of the Parties implementation activities, *MAROPL 73/78* requires the communication of certain information to the IMO. In case of disputes regarding the interpretation of the Convention, a mechanism for dispute settlement has been set up.

Articles 8, 11 and 12	Article 10
<p style="text-align: center;">Reporting</p> <ul style="list-style-type: none"> - Reports on incidents involving harmful substances - Communication of information incl. annual reports - Supply of investigation outcomes regarding casualties 	<p style="text-align: center;">Dispute settlement</p> <p>Step 1: Negotiation</p> <p>Step 2: Submission to Arbitration under Protocol II</p>

10.2 What does Vietnam need to comply with?

The Convention and its Annexes establish various mandatory commitments for its Parties. There is no differentiation between developed and developing country Parties. The Parties have to comply with the commitments of the Convention itself and the Annexes they acceded to. Vietnam acceded to all six Annexes. The commitments can be divided into commitments to prevent marine pollution and commitments to communicate information.

Commitments to prevent marine pollution

The commitments to prevent marine pollution can be found in the Convention text and in the different Annexes. In principle, the Flag States are primarily responsible for the certification of their ships in compliance with the pollution prevention standards and for investigations outside any other States' jurisdiction. In addition, each Port State can also conduct its own examination of foreign ships in its ports.

<u>Article 4</u>	Prohibit and sanction violations of the Convention
<u>Article 5</u>	Accept other Parties' certificates and limit inspections to verification of certificate
<u>Article 6</u>	Cooperate with other Parties in the detection of violations and enforcement
<u>Article 7</u>	Avoid undue delay or detention as a result of inspections

Also, the Parties have to issue guidelines for the implementation of the six Annexes. These establish regulations for the prevention of marine pollution from different sources.

Annex I	<u>Pollution by Oil</u> (effective since 02/10/1983) - Measures to prevent pollution by oil from operational measures and from accidental discharges
Annex II	<u>Pollution by Noxious Liquid Substances in Bulk</u> (effective since 02/10/1983) - Details the discharge criteria and measures for pollution control for around 250 substances
Annex III	<u>Pollution by Harmful Substances Carried by Sea in Packaged Form</u> (effective since 01/07/1992) - Requirements for the issuing of detailed standards on packing, marking, labelling, documentation, stowage, quantity limitations, exceptions and notifications
Annex IV	<u>Pollution by Sewage from Ships</u> (effective since 27/09/2003) - Prohibition of discharge of sewage into the sea, except when ship has approved sewage treatment plant or is discharging comminuted and disinfected sewage using an approved system
Annex V	<u>Pollution by Garbage from Ships</u> (effective since 31/12/1988) - Specifies the distance from land and the manner in which different types of garbage may be disposed, and bans the disposal of all forms of plastics into the sea
Annex VI	<u>Air Pollution from Ships</u> (effective since 19/05/2005) - Sets limits on sulphur oxide and nitrogen oxide emissions from ship exhausts and prohibits deliberate emissions of ozone depleting substances

Commitments to communicate information

The Convention establishes different communication commitments that relate to implementation activities and the handling of incidents.

Article 11	Article 8 and Protocol I	Article 12
<p style="text-align: center;">Communication of implementation activities</p> <ul style="list-style-type: none"> - Text of laws, decrees, etc. - Selection of certificates issued - Reports on application of MARPOL 	<p style="text-align: center;">Reports on incidents involving harmful substances</p> <ul style="list-style-type: none"> - Setup of a reporting system - Notify IMO of arrangements - Ensure reports to affected States 	<p style="text-align: center;">Supply of investigation outcomes regarding casualties</p> <ul style="list-style-type: none"> - Investigation of every casualty - Supply of findings to IMO

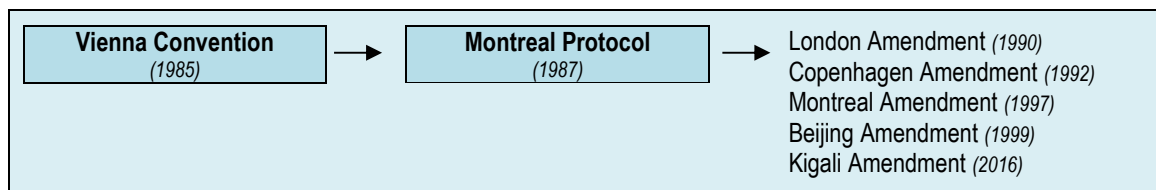
10.3 Further information

<p>Convention website:</p> <ul style="list-style-type: none"> - www.imo.org <p>Key publication:</p> <ul style="list-style-type: none"> - TOCPRO, 2015, International Convention for the Prevention of Pollution from Ships, Practical Guide https://maddenmaritime.files.wordpress.com/2015/08/marpol-practical-guide.pdf
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Ozone layer protection

In the 1970s scientists began to warn that a hole in the layer of ozone surrounding the earth could have serious effects on human health and the environment. A framework for the international efforts to protect the ozone layer was provided by the *Vienna Convention for the Protection of the Ozone Layer* of 1985. As it does not specify legally binding reduction goals for ozone depleting substances, these were specified in the accompanying *Montreal Protocol* of 1987. The *Montreal Protocol* has been strengthened through several amendments that have brought forward phase out schedules and added new ozone depleting substances.



On 16th September 2009, the *Vienna Convention* and the *Montreal Protocol* became the first multilateral environmental agreements in the history of the United Nations to achieve universal ratification. As a result of the international agreement, the ozone hole in Antarctica is slowly recovering. Climate projections indicate that the ozone layer will return to 1980 levels between 2050 and 2070. Some of the ozone depleting substances regulated under the *Montreal Protocol* also contribute to climate change.

11. Vienna Convention for the Protection of the Ozone Layer 1985

Effective: 22/09/1988
 Parties: 197
 VN accession: 26/01/1994
 Focal Point: MONRE



The *Vienna Convention for the Protection of the Ozone Layer* provides the framework for international efforts to phase out ozone depleting substances. These include, for example, chlorofluorocarbons that have been used in air-conditioning, refrigeration and packing materials.

11.1 What is the Convention about?

Objective

The *Vienna Convention* aims to protect human health and the environment against adverse effects resulting from human activities which modify the ozone layer.

Content

The text of the *Vienna Convention* can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties, articles that set up institutions, and articles that establish procedures to ensure compliance.

Context	Commitments	Institutions	Compliance
Principles (Preamble)	General obligations (Article 2)	Conference of the Parties (Article 6)	Information transmission (Article 5)
Definitions (Article 1)	Research and observation (Article 3)	Secretariat (Article 7)	Dispute settlement (Article 11)
	Cooperation (Article 6)		

Principles

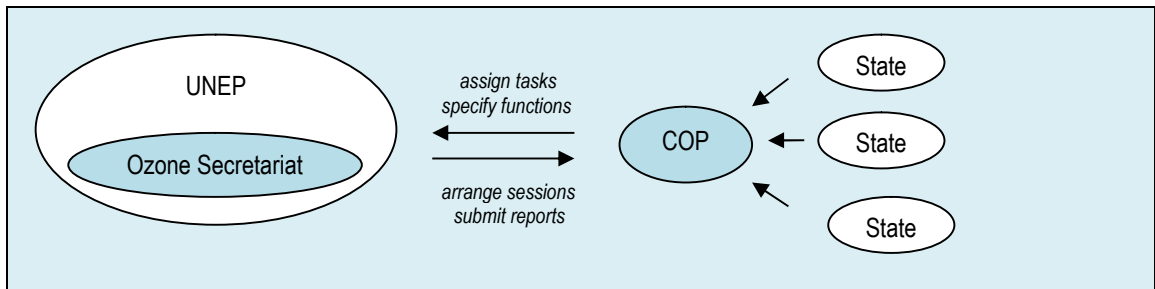
The Preamble specifically refers to the *Rio Declaration on Environment and Development* of 1992 (see Part I.2) and adopts the different principles relevant in the context of ozone layer protection.

Preamble				
State sovereignty of natural resources	Avoidance of transboundary harm	Cooperation	Precautionary principle	Common but differentiated responsibilities

These principles shape the commitments that have been formulated. For example, in consideration of the precautionary principle, the Parties agree with Article 3 to conduct further research and scientific assessment.

Institutions

The institutional arrangement set up under the Convention focuses on the **Conference of the Parties** as main decision making body. The **Secretariat** is the permanent body that prepares the sessions of the Conference of the Parties and completes the tasks assigned by the Convention and the Conference of the Parties. It is based at the United Nations Environment Programme (UNEP) offices in Nairobi, Kenya.



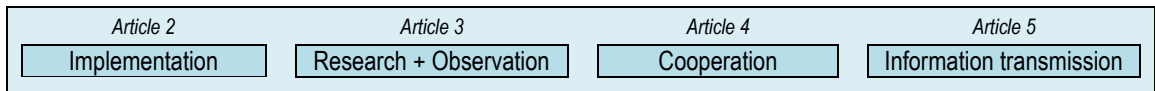
Compliance

Incentives for compliance with the commitments under Article 2 and the *Montreal Protocol* are given by the mandatory requirement to regularly transmit information about implementation activities to the Secretariat and the possibility of a dispute settlement.

Article 5	Article 11
<p style="text-align: center;">Transmission of information</p> <p>Information on measures adopted in implementation of the Vienna Convention and the Montreal Protocol</p>	<p style="text-align: center;">Dispute settlement</p> <p>Step 1: Negotiation Step 2: Good offices or mediation by third Party Step 3: Submission to a conciliation commission or the International Court of Justice</p>

11.2 What does Vietnam need to comply with?

The *Vienna Convention* establishes mandatory commitments related to measures for ozone layer protection, commitments focused on research and systematic observation, commitments addressing cooperation in different fields, and commitments to transmit information to the Secretariat.



The commitments have to be met by developed and developing country Parties, subject to their respective capabilities.

Implementation commitments

Article 2 (1) formulates the general requirement for Parties to take appropriate measures to protect human health and the environment against adverse effects resulting from human activities which modify the ozone layer. Article 2 (2) further elaborates on this general requirement.

Commitments under 2 (2)	
Adoption	Cooperation
(b) Adopt appropriate legislative or administrative measures	(a) By means of systematic observations, research and information exchange (b) In harmonising appropriate policies to control, limit, reduce or prevent harmful human activities (c) In the formulation of agreed measures procedures and standards for implementation (d) With competent international bodies

The commitment under Article 2 (1) is further specified by the *Montreal Protocol*.

Commitments related to research and systematic observations

Article 3 formulates research and systematic observation as a common commitment shared by all Parties including developing country Parties.

Commitments under Article 3	
<ol style="list-style-type: none">1. Initiate and cooperate in the conduct of research and scientific assessment2. Promote or establish joint or complementary programmes for systematic observation3. Cooperate in ensuring the collection, validation and transmission of research and observational data through appropriate centres	<i>Directly or through competent international bodies</i>

Commitment to cooperate in the legal, scientific and technical fields

Under Article 4, the Parties commit to cooperate with each other taking into account the particular needs of the developing country Parties.

<i>Article 4 (1)</i>	<i>Article 4 (2)</i>
Facilitation	Cooperation
<u>Exchange of information</u> <ul style="list-style-type: none">- Scientific- Technical- Socio-economic- Commercial- Legal	<u>Means of cooperation</u> <ul style="list-style-type: none">- Facilitation of acquisition of alternative technologies- Provision of information on alternative technologies and equipment- Supply of equipment and facilities for research and observation- Training of scientific and technical personnel

Commitment to transmit information

According to Article 5, Parties are required to transmit information on the measures adopted by them in implementation of the *Vienna Convention* and also the *Montreal Protocol* in such form and such intervals as determined by the Conference of the Parties.

11.3 Further information

<u>Convention website:</u> <ul style="list-style-type: none">- http://ozone.unep.org/en/treaties-and-decisions/vienna-convention-protection-ozone-layer
<u>Key publication:</u> <ul style="list-style-type: none">- UNEP, 2016, Vienna Convention Handbook http://ozone.unep.org/en/handbook-vienna-convention-protection-ozone-layer/38623

12. Montreal Protocol on Substances that Deplete the Ozone Layer 1987

Effective: 01/01/1989
 Parties: 197
 VN accession: 26/01/1994
 Focal Point: MONRE



Elaborating on the *Vienna Convention*, the *Montreal Protocol* sets out a mandatory timetable for the phase out of ozone depleting substances. This timetable has been reviewed regularly, with phase out dates accelerated in accordance with scientific understanding and technological advances. Regular amendments – the last being the *Kigali Amendment* of 2016 – provide for the inclusion of new ozone depleting substances.

The Protocol is widely considered as the most successful multilateral environmental agreement.

12.1 What is the Protocol about?

Objective

The *Montreal Protocol* shares the objective of the *Vienna Convention* to protect human health and the environment against adverse effects resulting from human activities which modify the ozone layer.

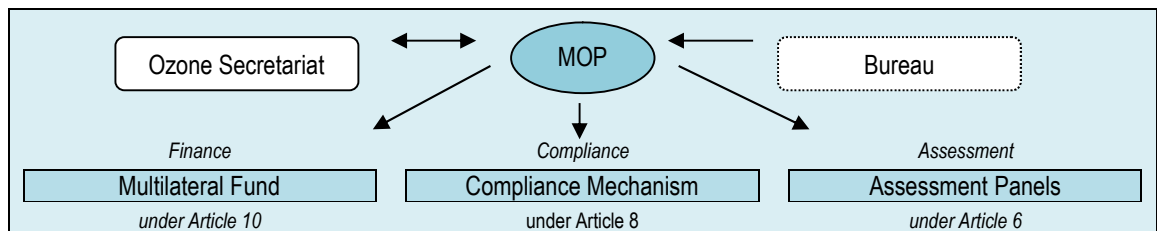
Content

The text of the *Montreal Protocol* can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties, articles that set up institutions, and articles that ensure compliance.

Context	Commitments	Institutions	Compliance
Objective <i>(Preamble)</i>	Control measures <i>(Articles 2 et seq.)</i>	Meeting of the Parties <i>(Article 11)</i>	Assessment and review <i>(Article 6)</i>
Principles <i>(Preamble)</i>	Research, awareness <i>(Article 9)</i>	Secretariat <i>(Article 12)</i>	Reporting <i>(Article 7)</i>
Definitions <i>(Article 1)</i>	Technology transfer <i>(Article 10A)</i>		Non-compliance <i>(Article 8)</i>

Institutions

There are several institutions that have been set up either by the *Montreal Protocol* itself or, in the case of the Bureau and the Assessment Panels, by the Meeting of the Parties.



Compliance

As an incentive to ensure compliance, the *Montreal Protocol* establishes procedures for the reporting of statistical data in regard to controlled substances and uses the compliance mechanism established under the *Vienna Convention*.

Article 7	Article 8
Reporting of data	Compliance
Statistical data for controlled substances - Production - Import - Export	Basis for the setup of a compliance mechanism - Procedural rules - Institutional arrangement

12.2 What does Vietnam need to comply with?

The *Montreal Protocol* lists all the major ozone depleting substances in Annexes A, B, C, and E and sets mandatory progressive phase out obligations for developed and developing countries. These relate to the consumption and production as well as to the import and export of the substances. For Vietnam as a developing country Party, Article 5 extends the phase out period.

Articles 2 et seq.	Article 7	Article 9
Controlling	Reporting	Cooperation
Consumption and production Import and export	Statistical data on production, import and export	Research, development, exchange Promote public awareness

Commitments for consumption and production

Articles 2A to 2J of the *Montreal Protocol* set out schedules for the progressive phase out of different ozone depleting substances. For developing country Parties, these schedules are adjusted by Article 5. The **Beijing Amendment** from 1999 introduced Article 2F that sets out the schedule for **Hydrochlorofluorocarbons (HCFCs)**. These have replaced Chlorofluorocarbons in refrigerators, freezers and air conditioning systems after Chlorofluorocarbons had to be reduced under Article 2A.

	Article 2F		Article 5 (Vietnam)	
2010	25%	Reduction to baseline level	Freeze	
2013			90%	
2015	10%		65%	
2020	0,5%		32,5%	
2025			2,5%	
2030	Phase out of HCFCs			
2035				
2040			Phase out of HCFCs	

In 2016 the Parties adopted the **Kigali Amendment** that will enter into force in 2019 and determines the timeline for a phase down of the production and consumption of **Hydrofluorocarbons (HFCs)** until 2045. To this end, it will add Article 2J to the *Montreal Protocol*. HFCs are chemical refrigerants that also contribute to climate change.

	Article 2J		Article 5 (Vietnam)
2019	90%	Reduction to baseline level	Freeze
2024	60%		90%
2029	30%		
2034	20%		70%
2035			50%
2036	15%		
2040			20%
2045			

Commitments for import and export

All Parties also have commitments related to the import and export of controlled substances and products either containing or produced with controlled substances. These commitments vary depending on whether the trading partner is a non-Party or a Party to the *Montreal Protocol*.

Article 4	Articles 4A, 4B				
<table border="1"><thead><tr><th data-bbox="316 383 868 416">Trade with non-Parties</th></tr></thead><tbody><tr><td data-bbox="316 416 868 649"><u>Controlled substances</u><ul style="list-style-type: none">- Ban import and export<u>Listed products</u> (containing or produced with controlled substances)<ul style="list-style-type: none">- Ban import<u>Production equipment and technology</u><ul style="list-style-type: none">- Refrain from export</td></tr></tbody></table>	Trade with non-Parties	<u>Controlled substances</u> <ul style="list-style-type: none">- Ban import and export <u>Listed products</u> (containing or produced with controlled substances) <ul style="list-style-type: none">- Ban import <u>Production equipment and technology</u> <ul style="list-style-type: none">- Refrain from export	<table border="1"><thead><tr><th data-bbox="890 383 1444 416">Trade with Parties</th></tr></thead><tbody><tr><td data-bbox="890 416 1444 649"><u>Export ban</u><ul style="list-style-type: none">- Used, recycled and reclaimed substance- After phase out- Exception: For destruction<u>Licensing system</u><ul style="list-style-type: none">- Establish and implement- New, used, recycled and reclaimed substances</td></tr></tbody></table>	Trade with Parties	<u>Export ban</u> <ul style="list-style-type: none">- Used, recycled and reclaimed substance- After phase out- Exception: For destruction <u>Licensing system</u> <ul style="list-style-type: none">- Establish and implement- New, used, recycled and reclaimed substances
Trade with non-Parties					
<u>Controlled substances</u> <ul style="list-style-type: none">- Ban import and export <u>Listed products</u> (containing or produced with controlled substances) <ul style="list-style-type: none">- Ban import <u>Production equipment and technology</u> <ul style="list-style-type: none">- Refrain from export					
Trade with Parties					
<u>Export ban</u> <ul style="list-style-type: none">- Used, recycled and reclaimed substance- After phase out- Exception: For destruction <u>Licensing system</u> <ul style="list-style-type: none">- Establish and implement- New, used, recycled and reclaimed substances					

Reporting commitments

According to Article 7, each Party is required to submit statistical data on its production, imports and exports of each controlled substance to the Secretariat. This commitment has been specified by various decisions.

Cooperation commitment

Article 9 requires all Parties to cooperate in promoting research, development and exchange of information on best technologies and alternatives to controlled substances. The Parties also committed to promote public awareness of ozone depleting substances.

12.3 Further information

Protocol website:

- <http://ozone.unep.org/en/treaties-decisions/montreal-protocol-substances-deplete-ozone-layer>

Key publication:

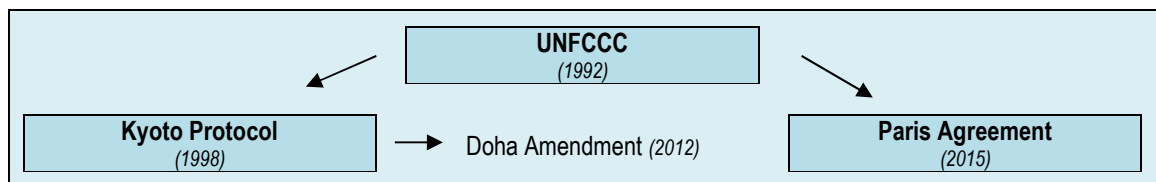
- UNEP, 2016, Montreal Protocol Handbook
<http://ozone.unep.org/en/handbook-montreal-protocol-substances-deplete-ozone-layer/25411>



Climate change response

Climate change, also called global warming, refers to the rise in average surface temperatures on Earth. The primary cause of climate change is the burning of fossil fuels, such as oil and coal, which emits greenhouse gases into the atmosphere, primarily carbon dioxide. Other human activities, such as agriculture and deforestation, also contribute to the proliferation of greenhouse gases that cause climate change. Impacts of climate change include the loss of sea ice, accelerated sea level rise and longer, more intense heat waves.

The umbrella for a global climate change response is provided by the *United Nations Framework Convention on Climate Change*. The Convention has been adopted during the *Rio Conference* (see Part I.2) in 1992 and addresses the reduction of greenhouse gases that are not controlled by the Montreal Protocol.



While the *Kyoto Protocol* of 1997 determined specific emission reduction targets for developed countries, the *Paris Agreement* of 2015 goes beyond that and establishes specific mandatory and voluntary commitments for the mitigation of greenhouse gas emissions, the adaptation to the adverse impacts of climate change, support provided from developed countries to developing countries, and the reporting of implementation activities.

13. United Nations Framework Convention on Climate Change 1992

Effective: 21/03/1994
 Parties: 197
 VN ratification: 16/11/1994
 Focal Point: MONRE



The *United Nations Framework Convention on Climate Change* (UNFCCC, Convention) provides the umbrella for the global response to climate change and has been specified by various decisions adopted by the Conference of the Parties.

13.1 What is the Convention about?

Objective

Article 2 UNFCCC determines the objective of global climate change response by naming a general goal and criteria for the determination of the time frame to achieve it.

Goal:	Stabilise the greenhouse gas concentration at a level that prevents dangerous interference
Criteria:	Allow ecosystems to adapt naturally to climate change Ensure that food production is not threatened Enable economic development to proceed in a sustainable manner

Later, the goal was formally translated by the Parties into a temperature goal of 2°C above pre-industrial levels. The *Paris Agreement* even goes beyond that and formulates an optional goal of 1.5°C (see Part II.15).

Content

The text of the Convention can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties, articles that set up institutions, and articles that establish procedures to ensure compliance.

Context	Commitments	Institutions	Compliance
Definitions <i>(Article 1)</i>	Commitments <i>(Article 4)</i>	Conference of the Parties <i>(Article 7)</i>	Communication <i>(Article 12)</i>
Objective <i>(Article 2)</i>	Research and observation <i>(Article 5)</i>	Secretariat <i>(Article 8)</i>	Dispute settlement <i>(Article 14)</i>
Principles <i>(Article 3)</i>	Education and awareness <i>(Article 6)</i>	Subsidiary Bodies <i>(Articles 9, 10)</i>	

Principles

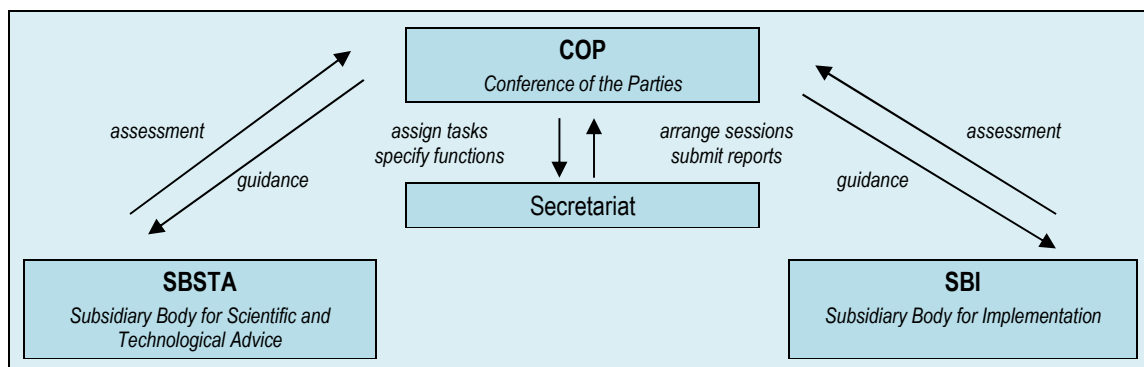
Article 3 UNFCCC determines the principles that guide the implementation of the Convention. These principles are taken from or comply with the *Rio Declaration on Environment and Development* of 1992 (see Part I.3).

Article 3 (1)	Article 3 (2)	Article 3 (3)	Article 3 (4)	Article 3 (5)
Principle of equity	Consideration of needs and circumstances of developing countries	Precautionary Principle	Sustainable development	Principle of free trade
Principle of common but differentiated responsibilities				

Besides guiding the implementation of the Convention, these principles also shape the commitments that have been formulated. For example, in consideration of the principle of common but differentiated responsibilities, Article 4 UNFCCC formulates commitments for all Parties and commitments for developed country Parties only.

Institutions

The institutional arrangement set up under the Convention centres around the **Conference of the Parties** as the main decision making body. The **Secretariat** is the permanent body located in Bonn, Germany that prepares the sessions of the Conference of the Parties and completes the tasks assigned by the Convention and the Conference of the Parties.



Under the guidance of the Conference of the Parties, the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation are following the tasks assigned to them by Article 9 and 10 UNFCCC.

Compliance

Incentives for compliance with the commitments of Article 4 UNFCCC are given by the obligation to regularly communicate information about implementation activities to the Secretariat and the availability of a dispute settlement.

Article 12	Article 14
Communication	Dispute settlement
Mandatory: National GHG inventory Implementation activities Relevant information Voluntary: Proposal of projects	Step 1: Negotiation Peaceful means Step 2: Submission to conciliation commission

13.2 What does Vietnam need to comply with?

The Convention differentiates between mandatory commitments that all Parties have to comply with and commitments that either only developed country Parties or only developing country Parties have to comply with. For Vietnam as a developing country Party, the Convention formulates implementation and communication commitments.

Article 4	Article 12
Implementation	Communication

The commitments have been specified in decisions adopted by the Conference of the Parties.

Implementation commitments for developing country Parties

Article 4 (1) UNFCCC formulates commitments that are mandatory for all Parties to the Convention. However, according to Article 4 (7) UNFCCC, their implementation by developing country Parties like Vietnam depends on the support provided by developed country Parties.

Commitments under Article 4 (1) UNFCCC
(b) Formulate, implement and update climate change response programmes
(c) Develop, apply and transfer climate change technologies
(d) Sustainably manage and conserve sinks and reservoirs for greenhouse gases
(e) Prepare for climate change adaptation and plan for coastal zone management
(f) Mainstream climate change response into national policies
(g) Promote research, systematic observation and data archive development
(h) Exchange information related to the climate system and consequences of climate change
(i) Promote education, training and raising of public awareness

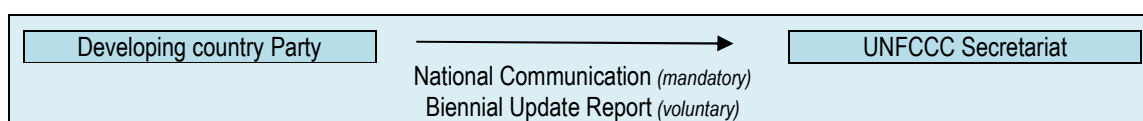
Within the context of the commitment under Article 4 (1) (b) UNFCCC to implement mitigation measures, the concept of **Nationally Appropriate Mitigation Actions (NAMAs)** has been established by the Conference of the Parties as a voluntary tool for developing country Parties to reduce their greenhouse gas emissions with support from developed country Parties.

Communication commitments for developing country Parties

Article 12 UNFCCC formulates the mandatory and voluntary reporting commitments that provide the basis for the transparency framework under the Convention.

Commitments under Article 12 UNFCCC	
<u>All Parties (mandatory)</u> <ul style="list-style-type: none">- National GHG inventory- Description of implementation activities- Other relevant information	<u>Developing country Parties (voluntary)</u> <ul style="list-style-type: none">- GHG emission reduction projects for financing

The Conference of the Parties has specified these commitments in regard to content and frequency of the reporting of various decisions. Accordingly, the submission of **National Communications** is mandatory and the submission of **Biennial Update Reports** is voluntary for Vietnam as a developing country Party.



13.3 Further information

<u>Convention website:</u> <ul style="list-style-type: none">- http://unfccc.int/essential_background/convention/items/6036.php
<u>Key publication:</u> <ul style="list-style-type: none">- UNFCCC Secretariat, 2006, UNFCCC Handbook https://unfccc.int/resource/docs/publications/handbook.pdf

14. Kyoto Protocol 1997

Effective: 16/02/2005
 Parties: 192
 VN ratification: 25/09/2002
 Focal Point: MONRE



In pursuit of the Convention's objective, the *Kyoto Protocol* enhances the commitments related to greenhouse gas emissions for the Parties listed in Annex I UNFCCC and scales up the commitments concerning financial support for Parties listed in Annex II UNFCCC. It therefore takes in to account that the Parties listed in Annexes I and II UNFCCC were the main contributors to man-made climate change during the pre-treaty industrialisation period.

14.1 What is the Protocol about?

Objective

The *Kyoto Protocol* shares the ultimate objective of the Convention to stabilise atmospheric concentrations of greenhouse gases (GHGs) at a level that will prevent dangerous interference with the climate system (see Part II.13). In pursuit of this objective, the *Kyoto Protocol* builds upon and enhances many of the commitments already in place under the Convention.

Content

The text of the Protocol can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties, articles that set up institutions, and articles that ensure compliance.

Context	Commitments	Institutions	Compliance
Objective (Preamble)	Emission reduction (Articles 2-4)	Meeting of the Parties (Article 13)	Reporting + Review (Articles 7, 8)
Definitions (Article 1)	Flexibility mechanisms (Articles 6, 12, 17)	Secretariat (Article 14)	Compliance mechanism (Article 18)
	Article 4 UNFCCC (Article 10)	Subsidiary Bodies (Article 15)	Dispute settlement (Article 19)
	Financial support (Article 11)		

Approach

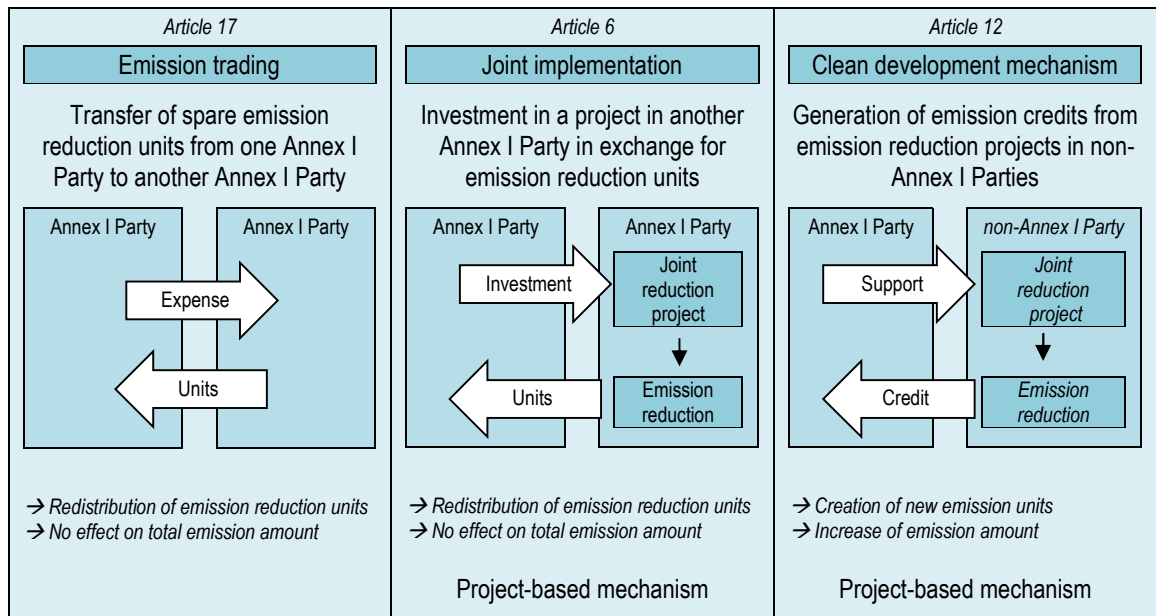
With the *Kyoto Protocol*, Parties listed in Annex I UNFCCC agreed to be legally bound by specific commitments on greenhouse gas emission reduction. The reduction targets of all of these Parties are listed in Annex B of the Protocol. They are calculated to add up to a total of at least 5 per cent below baseline levels for the group as a whole, the normal base year being 1990. The reduction targets have to be achieved within the first five-year commitment period from 2008 to 2012.

Annex I Parties	Annex II Parties	non-Annex Parties
Industrialised OECD countries Economies in transition → for GHG emission reduction	OECD members of Annex I → for finance	Mostly developing countries

The *Doha Amendment* of 2012 established a second commitment period of the *Kyoto Protocol* from 2013 to 2020, but has not yet entered into force due to pending ratifications.

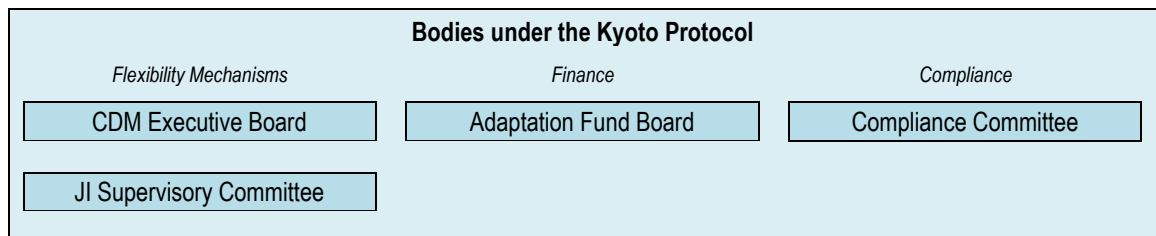
Flexibility mechanisms

To allow Annex I Parties flexibility in the achievement of their individual emission reduction commitments, the *Kyoto Protocol* establishes three different mechanisms. They allow Annex I Parties to take advantage of lower-cost emission reductions outside their territories.



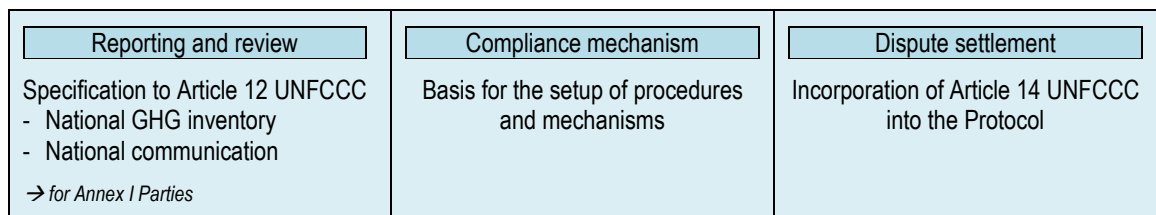
Institutions

The institutions set up by the Convention – the Conference of the Parties, the Secretariat and the Subsidiary Bodies – also serve the implementation of the *Kyoto Protocol*. However, additional institutions have been established.



Compliance

As an incentive to ensure compliance, the *Kyoto Protocol* establishes procedures for reporting and review in regard to the emission reduction targets of Annex I Parties, sets up a compliance mechanism and incorporates the dispute settlement mechanism of the Convention into the Protocol.



14.2 What does Vietnam need to comply with?

The focus of the *Kyoto Protocol* lies on the emission reduction commitments of Annex I Parties and the commitment of Annex II Parties to provide new and additional financial resources. There

are no obligations for non-Annex Parties to reduce emissions due to the fact that they were not the main contributors to the greenhouse gas emissions during the pre-treaty industrialisation period. However, Vietnam as a non-Annex developing country Party has to comply with the mandatory commitments listed in Article 10 for all Parties. They build on and specify the commitments formulated in Article 4 UNFCCC (see Part II.13).

Programme formulation	Cooperation	Communication
Programmes to improve factors and data for preparation and periodic update of national GHG inventories Programmes of measures for climate change mitigation and adaptation for sectors including: - Energy - Agriculture - Transport - Forestry - Industry - Waste	Promotion of modalities for development, diffusion, application and transfer of technologies, know-how, practices and processes Scientific and technical research, development of data archives and observation systems Development and implementation of education and training programmes	Include information on programmes and activities under Article 10 KP in the National Communication

For developing country Parties, the principle of common but differentiated responsibilities and specific national development priorities can be taken into account in assessing the commitments.

14.3 Further information

<p><u>Protocol website:</u> - http://unfccc.int/kyoto_protocol/items/2830.php</p> <p><u>Key publication:</u> - UNFCCC, 2008, Kyoto Protocol Reference Manual https://unfccc.int/resource/docs/publications/08_unfccc_kp_ref_manual.pdf</p>

15. Paris Agreement 2015

Effective: 04/11/2016
 Parties: 134
 VN approval: 03/11/2016
 Focal Point: MONRE



The *Paris Agreement* has been negotiated under the umbrella of the Convention as a follow up to the *Kyoto Protocol* since 2011. It builds on voluntary contributions in regard to emission reductions, specifically addresses climate change adaptation and enhances reporting obligations.

15.1 What is the Agreement about?

Objectives

Article 2 specifies the mitigation objective of the Convention and goes beyond that in regard to adaptation and financial flows.

Mitigation	Adaptation	Finance
Temperature goals compared to pre-industrial levels: - Hold increase well below 2°C - Pursue efforts to limit to 1.5°C	- Increase adaptation ability - Foster climate resilience - Promote low GHG emission development	Consistency of financial flows with - Pathway to low GHG emissions - Climate resilient development

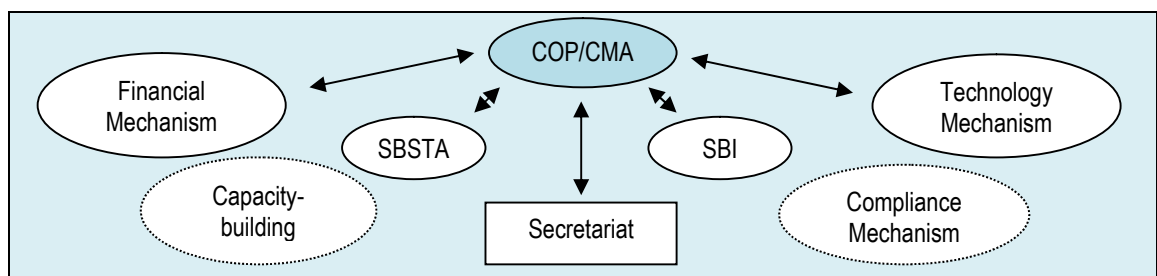
Content

The text of the *Paris Agreement* can be roughly divided into articles that give the context for its understanding, articles that formulate commitments for its Parties, articles that set up institutions, and articles that establish procedures to ensure compliance.

Context	Commitments	Institutions	Compliance
Definitions <i>(Article 1)</i> Objectives <i>(Article 2)</i>	Mitigation <i>(Articles 4-6)</i> Adaptation <i>(Article 7)</i> Support <i>(Articles 9-11)</i>	Meeting of the Parties <i>(Article 16)</i> Secretariat <i>(Article 17)</i> Subsidiary Bodies <i>(Article 18)</i>	Transparency <i>(Article 13)</i> Mechanism + Committee <i>(Article 15)</i>

Institutions and mechanisms

The *Paris Agreement* largely builds on the existing institutions and mechanisms under the Convention (see Part II.13). Additionally there are provisions for appropriate institutional arrangements for capacity building and a mechanism for implementation and compliance.



Compliance

Incentives for compliance are given by the obligation to regularly report information about implementation activities to the Secretariat and the compliance mechanism.

Article 13 Transparency	Article 14 Compliance
<p><u>Mandatory:</u> National GHG inventory NDC implementation tracking</p> <p><u>Voluntary:</u> Climate change impacts and adaptation Support needed and received</p>	<p><u>Compliance committee</u></p> <ul style="list-style-type: none"> - Expert-based - Facilitative in nature - Functions transparent, non-adversarial, non-punitive

15.2 What does Vietnam need to comply with?

The *Paris Agreement* differentiates between commitments that all Parties have to comply with and commitments that either only developed country Parties or only developing country Parties have to comply with. For Vietnam as a developing country Party, the Paris Agreement formulates commitments related to the following topics: mitigation, adaptation, support and transparency.

Mitigation	Adaptation	Support	Transparency
<p>Article 4 Planning Implementation</p>	<p>Article 7 Planning Implementation</p>	<p>Article 9 Finance</p>	<p>Article 13 Mitigation Adaptation Support</p>
<p>Article 5 REDD+</p>		<p>Article 10 Technology develop- ment and transfer</p>	<p>Article 11 Capacity building</p>
<p>Article 6 Cooperation</p>		<p>Article 11 Capacity building</p>	<p>Article 7 Adaptation</p>

Mitigation commitments of developing country Parties

To reduce greenhouse gases, Article 4 formulates planning and implementation commitments for all Parties. Central is the obligation to pledge targets for greenhouse gas emissions reduction in the form of nationally determined contributions. This provides for a country-driven approach towards climate change mitigation. To increase ambition, Article 6 provides the basis for cooperation between Parties in the achievement of their mitigation targets.

Planning	Implementation	Cooperation
<p>Prepare, communicate and maintain successive nationally determined contributions (NDC) <i>(mandatory)</i></p> <p>Formulate and communicate a low emission development strategy <i>(voluntary)</i></p>	<p>Pursue mitigation measures <i>(mandatory)</i></p>	<p>Use internationally transferred mitigation outcomes (ITMO) <i>(voluntary)</i></p> <p>Use sustainable development mechanisms (SDM) <i>(voluntary)</i></p>

Adaptation commitments of developing country Parties

In regard to adaptation, Article 7 formulates commitments for the planning and implementation of adaptation actions that are mandatory for developing country Parties.

Planning	Implementation
Engage in adaptation planning <i>(mandatory)</i>	Implement adaptation actions <i>(mandatory)</i>

The commitments can be met by formulating and implementing national adaptation plans. These should be country-driven, gender-responsive, participatory and transparent. During planning and implementation vulnerable groups, communities and ecosystems should be considered.

Support commitments of developing country Parties

The *Paris Agreement* outlines three different kinds of support: finance, technology development and transfer, and capacity building. The commitments are not specific, especially for developing country Parties. In regard to financial support, they are only encouraged to provide such support voluntarily. For technology development and transfer as well as for capacity building, the *Paris Agreement* only requires the Parties to cooperate with each other.

Finance	Technology	Capacity
Provide <i>(voluntarily)</i>	Cooperate <i>(mandatory)</i>	Cooperate <i>(mandatory)</i>

Transparency commitments of developing country Parties

The *Paris Agreement* has a strong transparency framework that provides for the measuring, reporting and verification of climate change action and support. One of its characteristics is that it will apply to all Parties, with built in flexibility for Parties that need it in light of their capacities.

Mitigation	Adaptation	Support
National GHG inventory report <i>(Article 13 (7) (a) PA)</i>	Climate change impacts and adaptation <i>(Article 13 (8) PA)</i>	Information on financial, technology transfer and capacity building support needed and received <i>(Article 13 (10) PA)</i>
Information necessary to track NDC implementation progress <i>(Article 13 (7) (b) PA)</i>	Adaptation communication <i>(Article 7 (10) PA)</i>	Communication on progress with capacity building implementation <i>(Article 11 (4) PA)</i>
mandatory (" <i>shall</i> ")	advised (" <i>should</i> ")	advised (" <i>should</i> ")

The transparency framework outlined in the *Paris Agreement* is enhanced in comparison with the transparency framework developed under the Convention (see Part II.13) in that it addresses current gaps.

15.3 Further information

Agreement website:

- http://unfccc.int/paris_agreement/items/9485.php

Key publications:

- WRI, 2016, Staying on Track from Paris
<http://www.wri.org/publication/staying-track-paris>
- ECBI, 2016, Pocket Guide
<http://www.eurocapacity.org/downloads/PocketGuide-Digital.pdf>



Waste management

Industrial production results in hundreds of millions of tonnes of waste every year. The cross-border transport of hazardous wastes seized the public's attention in the late 1980s when ships sailed from port to port trying to offload their poisonous cargos. Once on shore, unwanted shipments are typically dumped indiscriminately, spilled accidentally or managed improperly, causing severe health problems and poisoning the land, water and air for decades. By the 1980s, the international community launched treaty negotiations under the auspices of the United Nations Environment Programme (UNEP). In March 1989, they adopted the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal*.

The *Basel Convention* shares the common objective of protecting human health and the environment with the 1998 *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals* (see Part II.17) and the 2001 *Stockholm Convention on Persistent Organic Pollutants* (see Part II.18). Together, these three conventions cover key elements of 'cradle-to-grave' management of hazardous chemicals. Therefore, in 2008 and 2009, the Conferences of the Parties to the Conventions adopted decisions to enhance cooperation and coordination. These decisions concern synergies at the national, regional and global levels for the following areas:

Organisational issues	Technical issues	Information management and public awareness issues	Administrative issues
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The decisions also set in motion the establishment of joint services among the Conventions that provide support to all three secretariats. These cover resource mobilisation, financial and administrative support, legal advice, information technology, and information. Finally, the decisions provided for the convocation of simultaneous extraordinary meetings of the Conferences of the Parties of all three Conventions and the adoption by these meetings of substantially identical decisions. This is likewise an unprecedented and innovative step.

16. **Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal 1989**

Effective: 05/05/1992
 Parties: 186
 VN accession: 13/03/1995
 Focal Point: MONRE



The *Basel Convention* of 1989 is the most important legally binding international agreement related to hazardous and other wastes. During its first decade, the Convention's principal focus was the elaboration of controls on the transboundary movement of hazardous wastes, that is the movement of such wastes across international frontiers, and the development of criteria for environmentally sound management of the wastes.

More recently the work of the Convention has emphasised full implementation of treaty commitments, promotion of the environmentally sound management of hazardous wastes, a lifecycle approach, and minimisation of hazardous waste generation.

16.1 What is the Convention about?

Objective

According to the Preamble, the *Basel Convention* aims at the minimisation of waste generation, the strict control of transboundary movement of hazardous waste, and the environmentally sound management of hazardous waste and other wastes.

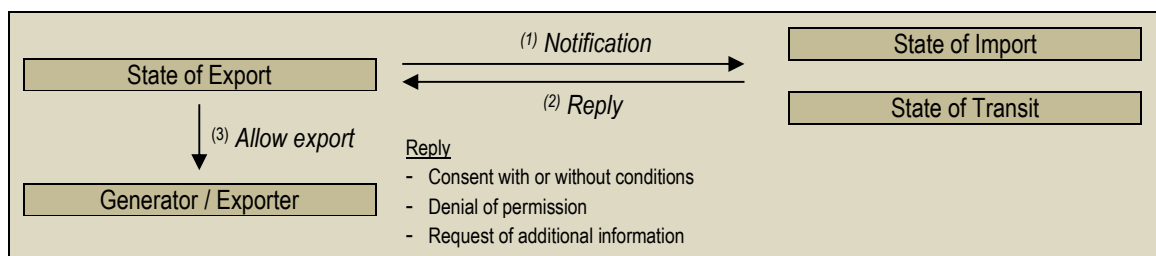
<u>Objectives:</u>	minimisation of the generation of waste	strict control of trans-boundary movement	environmentally sound management
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Approach

The *Basel Convention* consists of 29 Articles and 7 Annexes that specify 47 waste streams and 35 notification requirements.

Annex I	Categories of waste to be controlled
Annex II	Categories of waste requiring special consideration
Annex III	List of hazardous characteristics
Annex IV	Disposal Operations
Annex VA	Information to be provided on notification
Annex VB	Information to be provided on the movement document
Annex VI	Arbitration
Annex VII	Parties and other States which are members of OECD, EU, Lichtenstein

Its regulatory system centres on the concept of **prior informed consent** detailed in Article 6. It ensures that transboundary movement of hazardous waste is based on the consent of affected States.



In the event a movement of hazardous waste is carried out illegally or with incomplete consignment role, the *Basel Convention* attributes responsibility and imposes the duty to ensure safe disposal, either by re-import into the State of generation or otherwise. 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.

Content

The text of the Convention can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties, articles that set up institutions, and articles that establish procedures to ensure compliance.

Context	Commitments	Institutions	Compliance
Scope <i>(Article 1)</i>	General obligations <i>(Article 4)</i>	Conference of the Parties <i>(Article 15)</i>	Communication <i>(Article 13, Annex V)</i>
Definitions <i>(Article 2)</i>	Competent authority <i>(Article 5)</i>	Secretariat <i>(Article 16)</i>	Dispute settlement <i>(Article 20, Annex VI)</i>
Objectives <i>(Preamble)</i>	PIC Procedure <i>(Articles 6, 7)</i>	I&C Committee <i>(Article 15)</i>	
Principles <i>(Preamble)</i>	Re-import <i>(Article 8)</i>	Working Group <i>(Article 15)</i>	
	Illegal traffic <i>(Article 9)</i>	Funds <i>(Article 14)</i>	
	Cooperation <i>(Article 10)</i>		

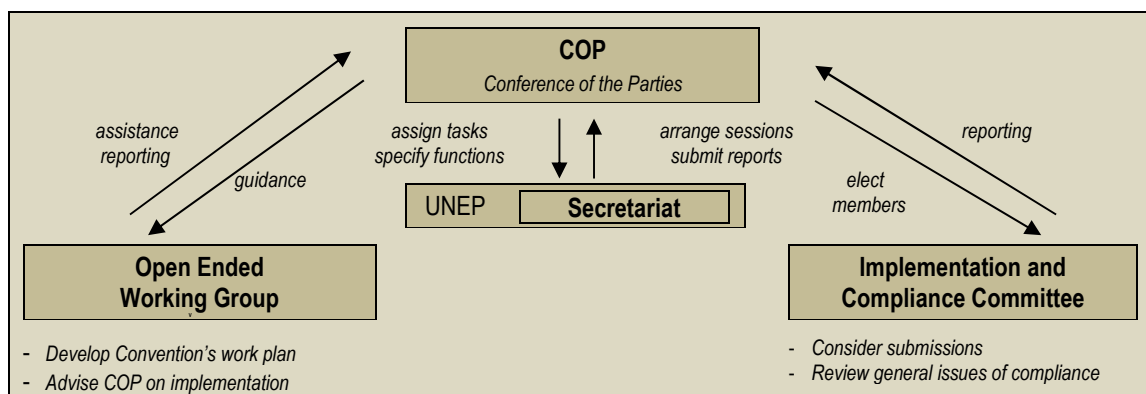
Principles

The Preamble of the *Basel Convention* refers to several principles that have later been acknowledged by the *Rio Declaration on Environment and Development* (see Part I.3).

State sovereignty	Prior notification	Avoidance of transboundary harm	Cooperation
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Institutions

The institutional arrangement to implement and administer the *Basel Convention* mainly consists of the **Conference of the Parties** as the main decision-making body and the **Secretariat** as a permanent body. In addition, under Article 15, an **Implementation and Compliance Committee** and an **Open Ended Working Group** have been set up.



Compliance

To monitor compliance with the *Basel Convention*, Article 13 requires Parties to transmit different information about implementation activities to the Secretariat. For cases of disputes about the implementation of the Convention, Article 20 provides for a dispute settlement mechanism that can include arbitration in accordance with Annex VI.

16.2 What does Vietnam need to do?

The *Basel Convention* formulates commitments that are mandatory for all Parties. However, special attention is given to the capabilities and needs of developing country Parties. This means that the Convention aims to prevent disposal of hazardous waste in developing country Parties and gives them access to financial and technical support.

Control of trade	Cooperation	Notification	Reporting
General obligations <i>(Article 4)</i> Competent authority <i>(Article 5)</i> PIC Procedure <i>(Articles 6, 7)</i> Re-import & Illegal traffic <i>(Articles 8, 9)</i>	Improve waste management <i>(Article 10)</i>	Definition of waste <i>(Article 3)</i> Contact Point & Authority <i>(Article 5)</i>	Annual reports <i>(Article 13)</i>

Commitments in regard to the control of trade

Article 4	<u>Commitments</u> <i>(extract)</i> - Reduce generation of wastes to a minimum - Prohibit export and import of hazardous wastes to and from non-Parties - Limit transboundary movement to cases where – e.g. – the export State does not have the capacity - Prevent import when environmentally sound management not - Criminalise illegal trafficking of hazardous wastes
Articles 6/7	<u>Commitments</u> <i>(Prior Informed Consent -procedure)</i> - Obtain consent of importing and transit States and permit export only after consent - Set up a system to reply to notifications
Article 8	<u>Commitments</u> <i>(re-import)</i> - Ensure exporter takes waste that could not be managed according to the terms of the consent back - Not oppose, hinder or prevent return of waste to export State
Article 9	<u>Commitments</u> <i>(illegal traffic)</i> - Ensure exporter takes back hazardous waste from illegal traffic - Facilitate environment sound disposal of hazardous waste from illegal traffic - Adopt legislation to prevent and punish illegal traffic of hazardous waste
Article 12	<u>Commitment</u> <i>(liability)</i> - Consult and legislate on any liability and compensation for damage from transboundary waste

16.3 Further information

Convention website:

- <http://www.basel.int/>

Key publication:

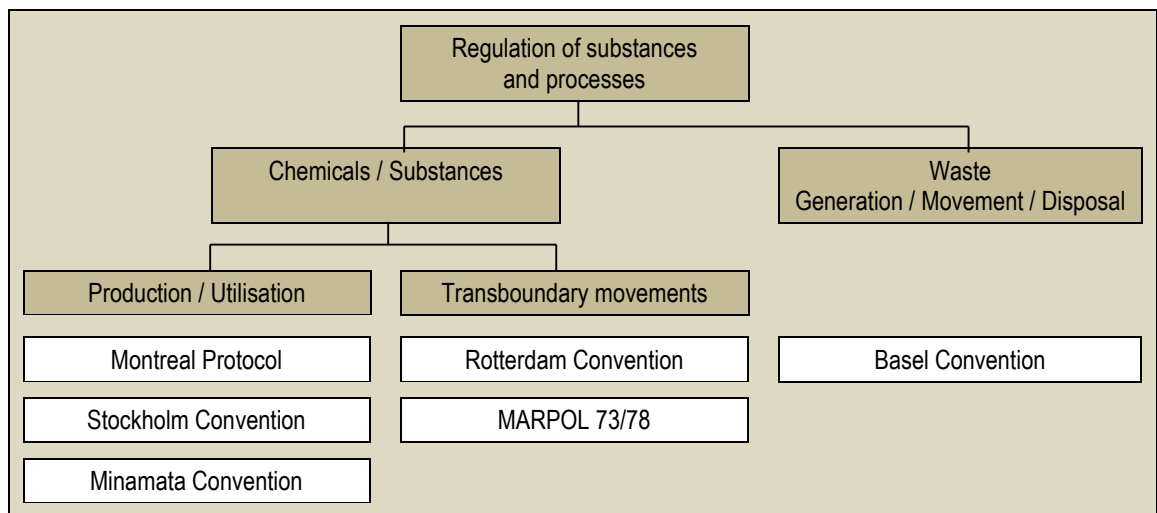
- UNEP, 2002, A Simplified Guide to the Basel Convention
<http://archive.basel.int/pub/simp-guide.pdf>



Chemical management

The 1989 *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes* (see Part II.16) together with the 1998 *Rotterdam Convention on the Prior Informed Consent Procedure* (see Part II.17) and the 2001 *Stockholm Convention on Persistent Organic Pollutants* (see Part II.18) cover the key elements of 'cradle-to-grave' management of hazardous chemicals. As the three Conventions share the common objectives and address the same challenges, the Conferences of the Parties adopted decisions in 2008 and 2009 to enhance cooperation and coordination. These decisions concern synergies at the national, regional and global levels and set in motion the establishment of joint services among the Conventions that provide support to all three secretariats.

Apart from these three Conventions, the 1987 *Montreal Protocol on Substances that Deplete the Ozone Layer* (see Part II.12), the 1973 *International Convention for the Prevention of Pollution from Ships* (see Part II.10) and the 2013 *Minamata Convention* (see Part II.19) establish provisions to regulate the production, utilisation and transboundary movements of chemicals.



17. **Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade 1998**

Effective: 24/02/2004
 Parties: 157
 VN accession: 07/05/2007
 Focal Points: MOIT/MARD

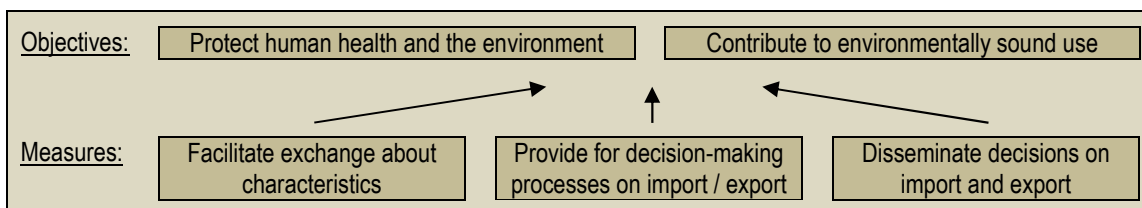


As growth in chemical production and trade raised concerns about the potential risks to human health and the environment, delegates to the 1992 *Rio Conference* called for a legally binding instrument to ensure governments can take informed decisions on their future import. Therefore, under the auspices of the United Nations Environment Programme (UNEP), the *Rotterdam Convention* was developed and adopted in 1998. It details procedures for the import and export of certain hazardous industrial chemicals and pesticides. To assist developing country Parties, the Convention also sets up a financial mechanism.

17.1 What is the Convention about?

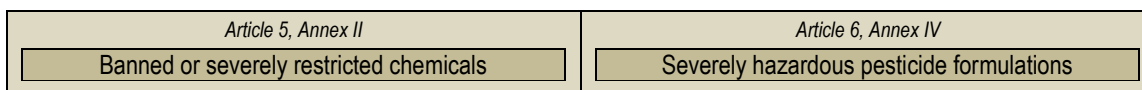
Objective

According to Article 1 the *Rotterdam Convention* aims to promote shared responsibilities and cooperative efforts among the 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 their environmentally sound use.



Approach

The *Rotterdam Convention* gives legal force to the implementation of the previously voluntary **Prior Informed Consent (PIC) procedure**. 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. Annex III currently lists 48 chemicals and is subject to continuous additions. It covers two types of chemicals:



Another important feature of the *Rotterdam Convention* is **information exchange** among the Parties for a very broad range of potentially hazardous chemicals facilitated through the Secretariat in its function as a Clearing House.

Content

The text of the *Rotterdam Convention* can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties, articles that set up institutions, and articles that establish procedures to ensure compliance.

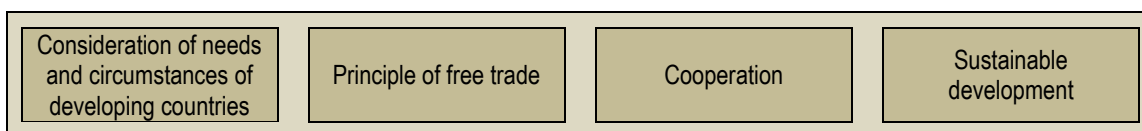
Context	Commitments	Institutions	Compliance
Principles (Preamble)	National Authority (Article 4)	Conference of the Parties (Article 18)	Compliance mechanism (Article 17)
Objective (Article 1)	PIC procedure (Articles 5-11, 15)	Secretariat (Article 19)	Dispute settlement (Article 20, Annex VI)
Definitions (Article 2)	Information exchange (Article 14)	Chemical Review Committee (Article 18)	
Scope (Article 3)	Technical assistance (Article 16)		

There are several Annexes that provide for detailed information about some Articles of the *Rotterdam Convention* and their implementation.

Annex I	Information requirements for notifications
Annex II	Criteria for listing banned or severely restricted chemicals in Annex III
Annex III	Chemicals subject to the Prior Informed Consent (PIC) procedure
Annex IV	Information and criteria for Listing Severely Hazardous Pesticide Formulations (SHPF) in Annex III
Annex V	Information requirements for export notifications
Annex VI	Settlements of disputes

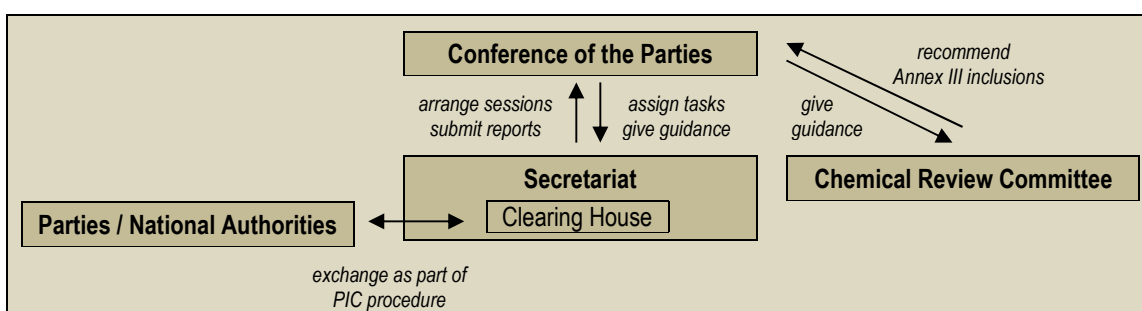
Principles

According to the Preamble, the *Rotterdam Convention* is based on several principles that are relevant for its implementation and interpretation.



Institutions

The main decision-making body for the *Rotterdam Convention* is the **Conference of the Parties** (Article 18). The **Secretariat** is the permanent body that manages implementation and functions as the Clearing House for the PIC procedure (Article 19). The **Chemical Review Committee** has been set up by the Conference of the Parties under Article 18 as a subsidiary body to review notifications and proposals from Parties, and to make recommendations on the addition of chemicals to Annex III.



Compliance

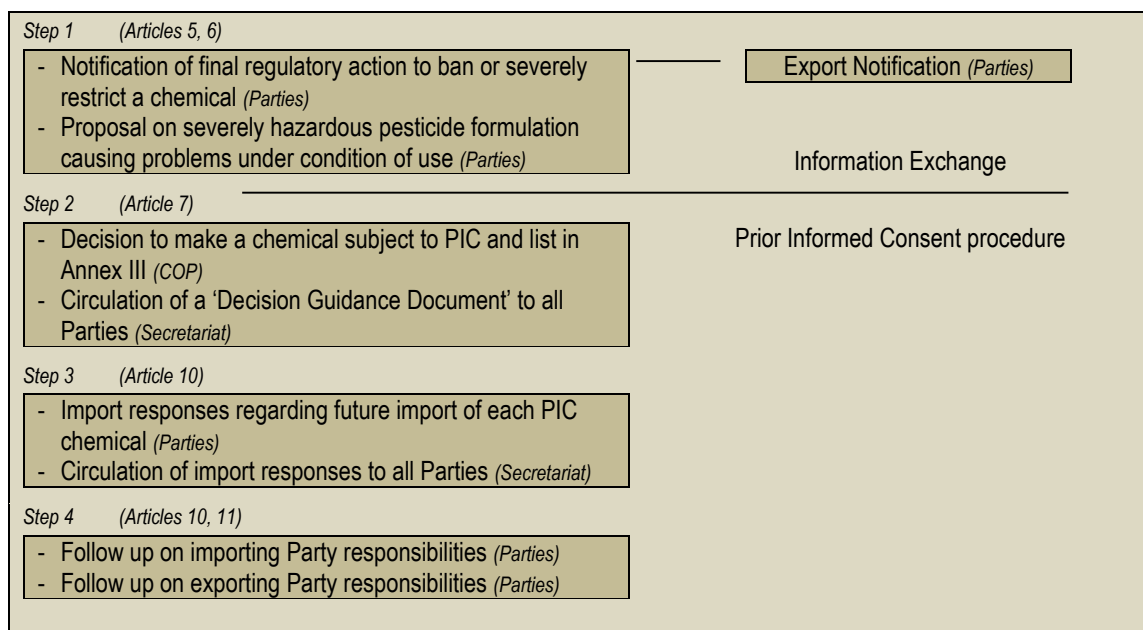
The *Rotterdam Convention* does not establish communication commitments for Parties to monitor compliance, but instead focuses on the information exchange related to the PIC procedure. Article 17 establishes the basis for a compliance mechanism but this has not yet been set up. To deal with disputes about the interpretation of the Convention, Article 20 and Annex VI detail a mechanism for the settlement of disputes.

17.2 What does Vietnam need to comply with?

The *Rotterdam Convention* formulates several commitments that are mandatory to all Parties. Developing country Parties, however, can receive technical assistance under Article 16 and propose the listing of severely hazardous pesticide formulations in Annex III according to the procedures detailed in Article 6.

Prior Informed Consent procedure

Articles 5 to 11 establish a Prior Informed Consent procedure with different commitments for the Parties. Its operation requires the contribution of all Parties.



Implementation commitments

Article 10-13	Article 14	Article 15
<p>PIC procedure</p> <ul style="list-style-type: none"> - Inform other Parties of each national ban or restriction - Provision of an export notification to importing Party with required information - Labelling of chemicals listed in Annex III 	<p>Information exchange</p> <ul style="list-style-type: none"> - Scientific, technical, economic and legal information concerning the chemicals within the scope of this Convention - Publicly available information on domestic regulatory actions relevant to the objectives of this Convention - Domestic regulatory actions that substantially restrict one or more uses of the chemical 	<p>Operation</p> <ul style="list-style-type: none"> - Take measures necessary to establish and strengthen national infrastructure and institutions - Ensure access of public to information on chemical handling, accident management and safer alternatives - Cooperation with other Parties either directly or through international organisations

17.3 Further information

Convention website:

- <http://www.pic.int/>

Key publication:

- Secretariat, 2008, Rotterdam Convention Overview
<http://www.fao.org/docrep/014/i0783e/i0783e00.pdf>

18. **Stockholm Convention on Persistent Organic Pollutants 2001**

Effective: 17/05/2004
 Parties: 181
 VN ratification: 22/07/2002
 Focal Point: MONRE



Persistent organic pollutant (POPs) are carbon-based substances that possess certain physical and chemical properties upon release in the environment. They (1) remain intact for exceptionally long periods of time, (2) become widely distributed throughout the environment as a result of natural processes, (3) accumulate in living organisms, and (4) are toxic to both humans and wildlife. The *Stockholm Convention* of 2001 originally addressed 12 POPs – called the ‘Dirty Dozen’ – and currently lists 26 POPs.

18.1 What is the Convention about?

Objective

According to Article 1, the *Stockholm Convention* aims to protect human health and the environment from persistent organic pollutants.

Approach

The *Stockholm Convention* divides chemicals into three groups and marks them for elimination (Annex A), restriction (Annex B) and minimisation (Annex C).

Annex A	Annex B	Annex C
Elimination	Restriction	Minimisation
→ intentional production and use	→ intentional production and use	→ unintentional production
Example: PCBs used as plasticisers	Example: the insecticide DDT	Example: HCB that kills fungi affecting food crops

The Annexes are not static and new chemicals can be added according to the procedure described in Article 8 following the proposal of a Party and an assessment of the POP Review Committee. Therefore, in addition to the original 12 chemicals, new chemicals were added in 2009 (9 chemicals), 2011 (1 chemical), 2013 (1 chemical) and 2015 (3 chemicals). Currently, there are 3 more chemicals (*Decabromodiphenyl ether*, *Dicofol* and *Short-chained chlorinated paraffins*) being proposed which would bring the number from currently 26 to 29 POPs.

Content

The text of the Convention can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties, articles that set up institutions, and articles that establish compliance, non-compliance and implementation reporting obligations.

Context	Commitments	Institutions	Compliance
Principles (Preamble)	Reduction / Elimination (Articles 3, 5, 6)	Conference of the Parties (Article 19)	Reporting (Article 15)
Objective (Article 1)	Implementation plans (Article 7)	Secretariat (Article 20)	Compliance mechanism (Article 17)
Definitions (Article 2)	Information exchange (Article 9)	POP Review Committee (Article 19)	Dispute settlement (Article 18, Annex G)
	Public awareness (Article 10)	Regional Centres (Article 12)	
	Research, monitoring (Article 11)	Funds (Articles 13, 14)	

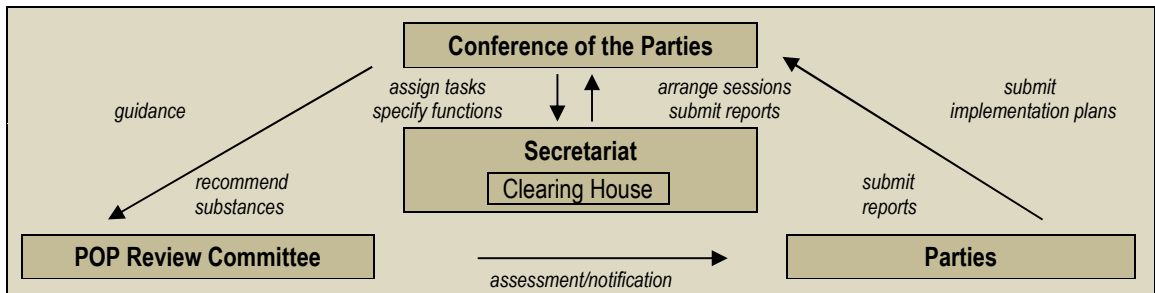
Principles

The Preamble makes explicit reference to the *Rio Declaration on Environment and Development* of 1992 and mentions several principles that provide the basis for the *Stockholm Convention*.

Common but differentiated responsibilities	Polluter pays principle	Precautionary principle	State sovereignty of resources	Cooperation	Avoidance of transboundary harm
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Institutions

The main decision-making body to the *Stockholm Convention* is the **Conference of the Parties**. The **Secretariat** is the permanent body that manages the Convention's implementation. The **POP Review Committee** examines proposals for the inclusion of substances in the Annexes.



Compliance

There are several instruments and mechanisms that provide an incentive for compliance or the basis for a monitoring of compliance.

Article 11	Article 15	Article 17	Article 18, Annex G
Monitoring	Reporting	Compliance	Dispute settlement
Monitoring of: <ul style="list-style-type: none"> - Sources and releases into the environment - Presence, levels and trends in humans and the environment - Environmental transport, fate and transformation - Effects on human health and the environment - Socio-economic and cultural impacts - Release reduction and/or elimination → primarily to provide scientific information	→ COP Implementation actions → Secretariat Statistical data	Procedures and institutions not yet set up	Step 1: Negotiation Step 2: Conciliation or (if a Party opts in) Arbitration or (if a Party opts in) ICJ submission

18.2 What does Vietnam need to comply with?

The *Stockholm Convention* establishes commitments that are mandatory to all Parties. However, for developing country Parties like Vietnam, flexibility in regard to their capacities is provided. Also, they have access to technical and financial support. The key commitments for the Parties relate to the reduction and elimination of the release of POPs; the development, submission and implementation of an implementation plan; and the reporting of implementation measures to the Secretariat.

Commitment to reduce or eliminate release of POPs

The *Stockholm Convention* establishes mandatory commitments to reduce or eliminate the chemicals listed in Annex A, B and C.

Annex A	Annex B	Annex C
Elimination	Restriction	Minimisation
→ intentional production and use <u>Article 3:</u> <ul style="list-style-type: none"> - Prohibit production and use - Prohibit import and export <u>Article 6:</u> <ul style="list-style-type: none"> - Reduce or eliminate releases from stockpiles and wastes 	→ intentional production and use <u>Article 3:</u> <ul style="list-style-type: none"> - Restrict production and use <u>Article 6:</u> <ul style="list-style-type: none"> - Reduce or eliminate releases from stockpiles and wastes 	→ unintentional production <u>Article 5:</u> <ul style="list-style-type: none"> - Take measures to reduce the total release <u>Article 6:</u> <ul style="list-style-type: none"> - Reduce or eliminate releases from stockpiles and wastes

Commitment to develop, submit and implement an implementation plan

Article 11 lists different commitments related to implementation plans for the *Stockholm Convention*.

Facilitation	Procedure	Integration
<ul style="list-style-type: none"> - Develop and endeavour to implement - Transmit to COP within 2 years - Periodic review and update 	<ul style="list-style-type: none"> - Cooperate with other Parties - Consult national stakeholders 	<ul style="list-style-type: none"> - Integrate plans into sustainable development strategies

Reporting commitment

Article 15 requires Parties to provide information to the Conference of the Parties and the Secretariat on a regular basis.

<p>→ Conference of the Parties</p> <ul style="list-style-type: none"> - Implementation measures - Effectiveness of implementation measures 	<p>→ Secretariat</p> <ul style="list-style-type: none"> - Statistical data on production, import and export - List of States from which it has imported
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18.3 Further information

Convention website:

- <http://chm.pops.int/>

Key publication:

- UNEP, 2005, Ridding the World of POPs: A Guide to the Stockholm Convention
http://www.pops.int/documents/guidance/beg_guide.pdf

19. Minamata Convention on Mercury 2013

Effective: not in force
 Parties: 38
 VN ratification: not ratified
 Focal Point: MOIT

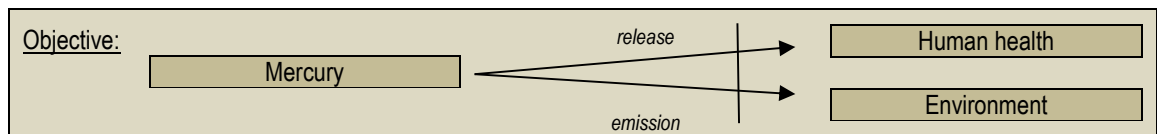


Mercury is a heavy metal that is highly toxic and persistent in the environment. It can be released into air, water and soil through human activities such as mining, cement production, and combustion of fossil fuels. It is used in electronic and measuring devices, cosmetics, lamps, batteries, and in several industrial processes. The *Minamata Convention on Mercury* is a multilateral environmental agreement that was adopted in 2013 and addresses the adverse effects of mercury through practical actions. It requires Parties to address mercury throughout its life-cycle through to end-of-life aspects including waste, contaminated sites and long-term storage. This includes its production, its intentional use in products and processes and its unintentional release from industrial activity.

19.1 What is the Convention about?

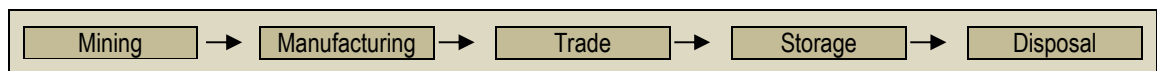
Objective

According to Article 1 the *Minamata Convention* aims to protect human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds.



Approach

The *Minamata Convention* aims to protect human health and the environment from the negative impacts of mercury by establishing specific measures for each stage of the lifecycle of mercury, from mining to manufacturing to storage and finally to disposal.



The main innovations are the prohibition of new mercury mining, the phase out of existing mercury mining and the control of mercury emissions into the air.

Content

The text of the *Minamata Convention* can roughly be divided into articles that give the context for its understanding, articles that formulate commitments for the Parties, articles that set up institutions, and articles that establish procedures to ensure compliance.

Context	Commitments	Institutions	Compliance
Principles (Preamble)	Mercury lifecycle (Articles 3-12)	Conference of the Parties (Article 23)	Reporting (Article 21)
Objective (Article 1)	Resources & Technology (Articles 13, 14)	Secretariat (Article 24)	Dispute settlement (Article 25, Annex E)
Definitions (Article 2)	Information exchange (Article 17)	Implementation and Compliance Committee (Article 15)	
	Awareness & monitoring (Articles 18, 19)	Financial Mechanism (Article 13)	

Principles

The Preamble of the *Minamata Convention* recalls the principles laid down in the *Rio Declaration on Environment and Development* of 1992 and explicitly mentions the principle of common but differentiated responsibilities.

Institutions

Under the *Minamata Convention*, the **Conference of the Parties** is the main decision making body that also evaluates the Convention's overall effectiveness. The **Secretariat** is the permanent body that prepares the sessions of the Conference of the Parties and completes the tasks assigned by the Convention and the Conference of the Parties. A **Committee** has also been set up to promote implementation and review compliance of the Parties.



Compliance

An incentive to comply with the commitments under the *Minamata Convention* is given by the Parties' commitment to monitor compliance in the form of regular reporting. Also, a mechanism for the settlement of disputes has been set up.

Article 21	Article 25 and Annex E
Communication	Dispute settlement
Submit: (1) National Action Plan (2) Implementation Reports	Step 1: Negotiation Step 2: Conciliation or (if a Party opts in) Arbitration / ICJ submission

19.2 What will Vietnam need to comply with?

The *Minamata Convention* formulates several mandatory commitments for all Parties that relate to the life cycle of mercury. Other commitments aim to facilitate implementation by providing support for raising awareness. Finally, Parties have to submit certain information to the Secretariat.

address mercury within
its life cycle

supporting and awareness
activities

reporting on implementation
activities

Commitments in regard to the lifecycle of mercury

Mercury and its compounds (Article 3)

- Prohibition to allow new mercury mining
- Requirement to phase out existing mercury mining within 15 years after entry into force
- Requirement to obtain written consent for export of mercury from importing Party (→ PIC procedure)
- Prohibition to import mercury from a non-Party

Mercury Added Products (Article 4 + Annex A)

- Requirement to prohibit manufacturing, import, and export of products listed in Part I of Annex A after 2020 (e.g. batteries, switches, relays, pesticides, and biocides)
- Exceptions for products without feasible mercury-free alternative for replacement upon request from Parties according to Article 6

Manufacturing processes (Article 5 + Annex B)

- Requirement to prohibit use of mercury or mercury compounds in manufacturing processes listed in Part I of Annex B after phase out date (e.g. chlor-alkali production)
- Requirement to restrict use of mercury in processes listed in Part II of Annex B (e.g. production of polyurethane using mercury containing catalysts)

life
cycle

Artisanal and small-scale gold mining (Article 7 + Annex C)

- Obligation to take steps to reduce and eliminate the use of mercury and mercury compounds
- Requirement to develop and implement a national action plan in accordance with Annex C

Emissions from sources such as coal fire power plants (Article 8 + Annex D)

- Requirement to take measures for emission control
- Obligation to require use of best available techniques for new sources
- Requirement to implement measures for existing sources such as quantified goals for control and reduction

Interim storage (Article 10)

- Requirement to take measures to facilitate environmentally sound interim storage

Waste management (Article 11)

- Requirement to take measures for environmentally sound management of mercury waste
- Obligation to only allow recovery, recycling or re-use for use allowed under the Convention
- Prohibition to transport across international boundaries except for environmentally sound disposal

Contaminated sites (Article 12)

- Requirement to develop strategies for identification and assessment of contaminated sites
- Obligation to perform risk reduction in environmentally sound manner

Commitments related to support and awareness

Article 13 Provision of financial resources within a Party's capabilities

Article 14 Cooperation in regard to capacity-building and technical assistance (*all Parties → developing country Parties*)

Article 17 Facilitation of information exchange (*scientific, technical, economic and legal information*)

Article 18 Promotion of access to information, education, training and public awareness

Article 19 Cooperation in development of inventories, monitoring, impact assessment, methodologies, etc.

19.3 Further information

Convention website:

- <http://www.mercuryconvention.org/>

Key publications:

- NRDC, 2016, Minamata Convention Ratification and Implementation Manual
<https://www.nrdc.org/sites/default/files/minamata-convention-on-mercury-manual.pdf>

