



Nature Protection in the International Law Framework

Biodiversity and Species Protection

EXCELLENCE IN
EUROPEAN **LAW**

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Outline

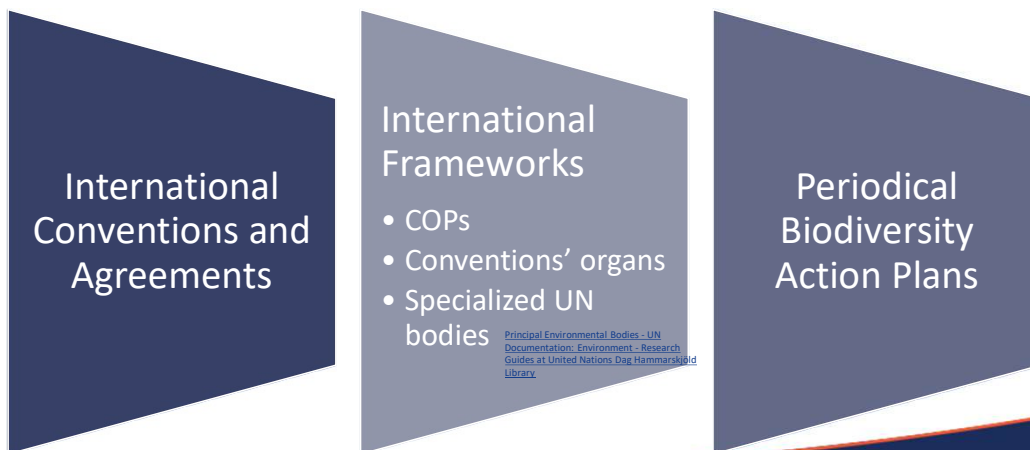
- Purpose of this material
- Overview of international instruments variety
- Highlights of
 - Rio Declaration
 - CBD and the IPBES
- Main nature conservation and related treaties
- Other relevant MEAs and IEL perspectives
- The EU and the international framework

Andrej has already gone through the scientific aspects and why protection is essential and urgent. And the international nature of the issues are clear.

So, I go directly to the legal aspects within the International Law and How they relate to EU Law.

The MEAs are too many, so in this presentation we are talking about highlights.

Nature Protection at the International Level



Nature protection at the international level is based on three pillars: international conventions and agreements, periodical biodiversity action plans and international frameworks adopted by the conferences of the parties, and the conventions' organs and specialised UN bodies.

Ramsar (1971), Bern (1979), Washington (1973), and Rio (1992) are the main milestones on broader MEAs

Ramsar – protect the wetlands

Bern – will have a unit only on it later on in this workshop

Washington (CITES) and Rio – I will come to them

The conferences of parties to these (and other)

conventions establish priority collective goals and strategies to reach them. These conferences reveal a growing concern with nature restoration alongside with preventive protection. We will talk about the main MEAs on the topic of Nature Protection during the presentation

As for specialised bodies, I bring you the example of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), which is of particular relevance for the topic of our Seminar. The IPBES is an independent intergovernmental body, with around 140 members, established in 2012 by the United Nations to provide scientifically credible assessments, to inform policy decisions, to promote international cooperation, and to raise awareness about the importance of biodiversity and ecosystem services for human well-being. The IPBES assessment reports, produced by experts from around the world, based on the latest scientific research, and approved by the plenary of the IPBES are recognised to have both a high scientific credibility and strong policy relevance.

Other examples you might know are

- **High-level Political Forum on Sustainable Development**
- **Commission on Sustainable**

Development (CSD)

- Intergovernmental Panel on Climate Change (IPCC)
- UN Forum on Forests

A Science-Policy Panel on Chemicals, Waste and Pollution Prevention is currently being structured.

Periodical Biodiversity Action Plans



The [Convention on International Trade in Endangered Species of Wild Fauna and Flora](https://cites.org/sites/default/files/eng/disc/CITES-Convention-EN.pdf) (<https://cites.org/sites/default/files/eng/disc/CITES-Convention-EN.pdf>), also known as CITES, is a multilateral treaty adopted in Washington in 1973, to protect endangered plants and animals from the threat of international trade.

According to INTERPOL, illegal wildlife trade is one of the world's largest – and most profitable – criminal activities.

CITES is a response to overexploitation, habitat loss, and illegal trade of wild species, aiming to regulate and

monitor international trade in endangered and threatened species to prevent species overexploitation and extinction.



Rio Declaration and some key legal aspects



- 27 Principles
 - Prevention
 - Precautionary
 - Common but Differentiated Responsibilities
 - Sustainable Development

Principle 2

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

The Rio Declaration (1992) was one of the outcomes from the Earth Summit. It is responsible for the incorporation of (what are today) key aspects of International Environmental Law and Environmental Law worldwide. For instance...



CBD and the IPBES



- **CBD** has three main goals:
 - the conservation of biological diversity;
 - the sustainable use of its components; and
 - the fair and equitable sharing of benefits arising from genetic resources
- [Cartagena Protocol on Biosafety](#) (2000)
- [Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization](#) (2010)
- Transboundary effects
- 4

The **IPBES** is a Subsidiary body on scientific, technical, and technological advice.

- independent intergovernmental body
- around 140 members
- established in 2012
- [reports](#)

CBD was also adopted during Rio Earth Summit, in 1992.

And its regime has been further developed by two Protocols:

- the 2000 [Cartagena Protocol on Biosafety](#), aimed at ensuring the safe handling, transport, and use of living modified organisms resulting from biotechnology and genetic manipulation.
- the 2010 [Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization](#) (ABS), providing a transparent legal framework to ensure the sustainable use of genetic resources and the fair

distribution of benefits derived from their utilisation.

The Convention on Biological Diversity is grounded on the reaffirmation of the States' sovereign rights over their own biological resources while at the same time affirms that the conservation of biological diversity is a common concern of humankind and should be protected for its intrinsic value as well as for the ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values of biological diversity and its components.

(So, compatible with principle 2 that we just read).

Because of this approach:

- Regarding biodiversity components, the Convention applies only to species and communities, ecosystems and habitats occurring in areas within the limits of its national jurisdiction.
- With respect to anthropogenic processes or activities generating impacts on biodiversity, the Convention applies to any processes or activities conducted under the country's jurisdiction or control despite taking place within its own borders or beyond them and regardless of where the impacts are felt.

To implement the CBD, the States shall, first of all, **identify and monitor** ecosystems and habitats, species and communities, important for its conservation and

sustainable use.

Next, processes and categories of activities which have or are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity must also be identified and monitored. The most obvious examples of such activities are those that usually require an environmental impact assessment: extraction of natural resources (mining, industrial fisheries, intensive farming), heavy industries, large transport or energy infrastructures, urban development, etc.

Concerning transboundary effects, States shall notify, exchange information and consult on any activities which are likely to significantly affect adversely the biological diversity of other States or areas beyond the limits of national jurisdiction.

IPBES: Intergovernmental Platform on Biodiversity and Ecosystem Services. Established in 2012 by the United Nations to provide scientifically credible assessments, to inform policy decisions, to promote international cooperation, and to raise awareness about the importance of biodiversity and ecosystem services for human well-being. The IPBES assessment [reports](#), produced by experts from around the world, based on the latest scientific research, and approved by the plenary of the IPBES are recognised to have both a high scientific credibility and strong policy relevance.

Overall, IPBES fulfils a pivotal function in enhancing global understanding of biodiversity and ecosystem services, informing policy decisions, and fostering international cooperation to address the challenges facing biodiversity and ecosystems.

Nature Conservation and related environmental treaties



CMS



UNCLOS



UNFCCC

CMS: Convention on Migratory Species

UNCLOS: United Nations Convention on the Law of the Seas

UNFCCC: United National Convention on Climate Change

Other Relevant MEAs



London Convention
and Protocol



BRS Conventions



Minamata Convention
on Mercury



UNCCD



Upcoming

UN Plastic
Treaty



Next
chapters?

Treaty on Fossil Fuel
Non-Proliferation

• **London Convention and Protocol – The Convention on the Prevention of Marine Pollution by Dumping Wastes and Other Matter**, also known as the 1972 London Dumping Convention, addresses the waste issue in a general way. Being one of the first international instruments to protect the marine environment – it entered into force in **1975** – emphasizes its importance.

1996 London Protocol, which only entered into force in 2006 and “was agreed to further modernize the Convention and, eventually, replace it”. Furthermore, article XII establishes which polluting substances States should prevent but it does not list plastic.

BRS Conventions – Basel, Rotterdam, Stockholm

Basel: transboundary movements of waste

The **Basel Convention** is the only international binding convention regarding the global movement of waste. It entered into force in 1992.

In June 2018, the Norwegian government proposed an amendment regarding the treatment of plastics, which was adopted during COP14, in May, 2019. The changes came into force in January 1st, 2021, and establish especial caution for plastic waste transboundary trade.

“If a company intends to export [plastic] wastes, it is required to acquire prior informed consent from the destination country”

New listing of plastic wastes (some as hazardous)

The **Rotterdam Convention**

The **Stockholm Convention**

Minamata Convention on Mercury

UNCCD (United Nations Convention for Combating Desertification)

The EU and MEAs

Multilateral Environmental Agreements (MEAs) - European Commission

Addressing the triple planetary crisis of climate change, biodiversity loss and pollution, as well as other global environmental challenges, requires efficient international cooperation. Most environmental problems also have a transboundary nature.

For this reason, the Lisbon Treaty establishes that one of the key objectives of the EU policy on the environment is to promote measures at international level to deal with regional or worldwide environmental problems. The EU therefore plays an active role in the elaboration, ratification, and implementation of multilateral environmental agreements.

All of this to pave the way to EU Law.

You might be wondering how EU, or national law, fit in all this, and how this can affect your approach or decision-making in a certain case.

A first aspect to have in mind is the active role of the EU in the elaboration, ratification, and implementation of multilateral environmental agreements. The EU is itself a signatory country of all the MEAs mentioned in this presentation and many more (full list can be found in the link on the slide).

Therefore, the international provisions will also be incorporated into the EU legislation, to make sure it aligns with the MEAs.

The EU and MEAs

Multilateral Environmental Agreements (MEAs) - European Commission

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The CJEU and International Conventions

- To verify compatibilities with EU treaties, ex ante or ex post
- [Case Kadi I](#)
- In some cases, like WTO decisions, the CJEU has demonstrated more resistance to direct effect
- [C-61/94](#), [C-53/96](#)

Also worth noting that the CJEU has competency to verify compatibilities of International Conventions with EU treaties.

Thank you!

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