



Women's
Environmental
Network



Environmental Law Foundation

a brief guide to international treaties

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Legal tools for environmental activists

What are international treaties?

International treaties are agreements between different countries that underpin a common basis for policy and legislation. Any country can sign a treaty and declare a general commitment to its aims. However, the treaty can only effectively be enforced when the country has 'ratified' it by adopting it into domestic law. Ratification can take years and may happen only after intense lobbying and, quite often, legal action by groups and individuals. For instance, the United Nations Universal Declaration of Human Rights was agreed in 1948, but the Human Rights Act 1998, putting its principles into UK law, only came into force in October 2000. Nevertheless, international treaties are important as they can raise and harmonise standards, activities and policies in a large number of countries and, although national laws may vary in detail, they



Treaty

There are over 100 treaties relating to the environment, human rights and human health alone. However, there are a few key treaties directly relevant to anyone wanting to take positive action to protect health and the environment. Some of these relate to specific

will broadly reflect what was agreed in the original treaty. Law and legislation often cascades from the broadest principles right down to a local community level, so international treaties are also important in providing the basis of many national laws on environmental protection. Even if they are not yet law in a particular country, civil society groups can cite them as a lever for change.

The process

Treaties are formed at meetings known as international conventions. A treaty is often known by the name of a convention, for example the Basel Convention was concluded and signed by the participating countries in Basel, Switzerland. The terms 'treaty' and 'convention' are often synonymous.

The Vienna Convention sets the framework for the treaty-making process. The process and timetable varies but will probably go something like this.

Step 1 The draft is usually written by working groups of government delegates to the United Nations (UN) and its sub-organisations

Step 2 It is presented to the UN General Assembly, which debates amendments and votes on whether to adopt the treaty text. Adoption formally establishes the form and content of a treaty.

Step 3 States are invited to sign-up to the treaty. Signature shows the states

have begun the process of 'ratification' and that they agree to refrain from acts contrary to the treaty objectives.

Step 4 Ratification. Several countries must ratify a treaty before it becomes law but there is no set number - each one is different. A country expresses formal intent to be bound by the treaty and to make its national laws comply. Each country can ratify a treaty directly, although in Europe, the European Union (EU) often introduces law first, with which EU member states must comply.

Step 5 Entering into force. In Europe this happens either through EU Regulations, which EU states must comply with immediately, or Directives, for which the national governments of member states must enact their own national laws. Once the law is in place, government agencies or local authorities such as district councils will usually be required to enforce the law and to ensure that their policies conform to it.

The key treaties

There are over 100 treaties relating to the environment, human rights and human health alone. However, there are a few key treaties directly relevant to anyone wanting to take positive action to protect health and the environment. Some of these relate to specific areas of environmental regulation while others, such as the Aarhus Convention, cut across all areas of environmental protection. We have selected some of the major treaties.

Waste

The Basel Convention

Full title

Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal 1989.

Aims

To control the export of hazardous/toxic waste and dumping by industrial nations in developing countries, and to reduce the amount of hazardous waste generated.

Is it enforceable?

Yes. It entered into force in 1992 and has been ratified by 151 countries including the UK and other EU states. The relevant UK legislation is the Statutory Instrument on Transfrontier Shipment of Waste Regulations: SI 1994/1137: Under this it is a criminal offence to ship hazardous and toxic waste into or out of the UK without a licence.

Responsible body

The Environment Agency. Public action involves reporting suspected offenders to the Environment Agency. If the agency fails to act then it can be subject to court action.

Other relevant legislation

The EU Waste Framework Directive 1975 covers the disposal of waste in EU countries. The UK Environmental Protection Act 1990 enacts the Directive and creates a waste regime based on criminal offences for the unlawful disposal, handling, storing and transporting of waste.



Human rights and the right to participate

The European Convention on Human Rights (ECHR)

Full title

European Convention on Human Rights and Fundamental Freedoms 1950.

Aim

To ensure that certain fundamental human rights are secured and incorporated into national law. There is no specific right to a healthy environment, although certain parts provide indirect support, including: Article 6: the right to a fair hearing by an independent tribunal; Article 8: the right to respect for private and family life and the home; Article 10: the right to freedom of expression; First Protocol, Article 1: a right to the peaceful enjoyment of possessions.

Is it enforceable?

Yes. Incorporated into UK law by the Human Rights Act 1998.

Responsible body

All central and local government bodies and agencies must comply with the Convention. Under the Human Rights Act, all legislation must be compatible with the Convention. Any decision, act or omission that may breach the Convention may be subject to review by a Court.



The Aarhus Convention

Full title

The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters 1998.

Aims

As its name implies, it aims to secure three key rights: access to information, effective participation in decision-making and access to justice in environmental matters.

Is it enforceable?

Not at present, although the UK expects to ratify it in 2003. A new EU Environmental Information Directive entered into force in February 2003.

Responsible body

All central and local government bodies and agencies will have to comply with the Convention. Any decision, act or omission that may breach the Convention may be subject to review by a Court. When enacted, any breach of the environmental information regulations can be referred to the new Information Commissioner or Tribunal under the Freedom of Information Act 2000.

CEDAW (the Women's Convention)

Full title

The Convention on the Elimination of All Forms of Discrimination Against Women 1979.

Aims

CEDAW defines discrimination against women and sets an agenda to end it. It contains no specific rights on the environment although Article 7 covers discrimination in political and public life, Article 11 covers the right to protection of health and safety, and Article 14 seeks to ensure that women have the right to participate in development planning at all levels.

Is it enforceable?

Yes. CEDAW entered into force in 1981. The UK has ratified the Treaty and relies on a range of legislation and regulations to ensure compliance, including the Human Rights Act 1998, the Sex Discrimination Act 1975 and the Protection from Harassment Act 1997.

Responsible body

All public bodies must comply with the Convention including central and local government. The Equal Opportunities Commission should be contacted if there is a potential breach of the convention.

Other relevant decisions

In April 2003 the UN Commission on Human Rights issued a decision emphasising the strong link between human rights and a healthy environment. It says: "Respect for human rights and fundamental freedoms are essential for achieving sustainable development...Environmental damage can have potentially negative effects on the enjoyment of some human rights."

Chemicals

The Rotterdam Convention

Full title

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

Aims

To promote a shared responsibility between countries to protect human health and the environment from the harmful effects of pesticides and other toxic and hazardous chemicals. Requires countries exporting certain chemicals to obtain prior informed consent from the importing country.

Is it enforceable?

Not yet. It entered into force in 1998 and has been ratified by 22 countries. The UK has signed but not ratified it.

Responsible body

When implemented in the UK it is likely to be the Environment Agency. Public action will involve reporting suspected offenders to the Environment Agency. If the agency fails to act then it can be subject to court action.



The Stockholm Convention

Full title

Convention on Persistent Organic Pollutants 2001.

Aims

To protect human health and the environment from Persistent Organic Pollutants (POPs) by restricting and ultimately prohibiting their use and trade. POPs are by-products of industrial activity and have become serious environmental hazards because they do not degrade very easily. They can accumulate inside humans, animals and plants. Examples of POPs include Polychlorinated Biphenyls (PCBs), Dioxins and a number of pesticides including DDT.

Is it enforceable?

Not yet; it has been ratified by 12 countries, not including the UK.

Responsible body

When implemented in the UK it is likely to be the Environment Agency, which you should first contact with any concern. If it fails to act then that failure may be subject to court action.

Other Issues

For more information on any of these, see sources listed on the back page.

Climate Change

United Nations Framework Convention on Climate Change 1992 - seeks to stabilise atmospheric concentrations of greenhouse gases at safe levels; commits all signatory countries to limit their emissions, gather relevant information, develop strategies for adapting to climate change, and cooperate on research and technology.

Kyoto Protocol to the Framework Convention 1997 - sets targets and mechanisms for reducing greenhouse gas emissions but not yet ratified by enough countries to enter into force.

Conservation and biodiversity

Convention on Biological Diversity 1992 - aims to secure the conservation of biodiversity, sustainable use of its components and equitable sharing of the benefits of genetic resources; came into force in 1993 and is reflected in the UK Biodiversity Action Plan and related national legislation.

Cartagena Protocol 2000 - sets out a regulatory system for ensuring the safe transfer, handling and use of genetically modified organisms (GMOs), with a specific focus on movements of these organisms across national borders. Comes into force, September 2003.

Ramsar Convention on Wetlands of International Importance 1971 - provides a general duty to promote the conservation of wetlands and waterfowl.

CITES (Convention on International Trade in Endangered Species 1973) - aims to ban international trade in endangered species and regulate trade in species that could be endangered; Wildlife and Countryside Act 1981 protects native UK species.



Glossary

International law is awash with jargon and abbreviations. These include:

Articles: The relevant sections of a treaty.

Convention: An international meeting to form a treaty; also an alternative term for 'treaty'.

Directive: EU law that member states must introduce into national law.

EU: European Union.

ECHR: European Convention on Human Rights 1950.

PCBs: polychlorinated biphenyls, a group of industrial chemicals once widely used, that are recognised POPs.

POPs: Persistent Organic Pollutants; toxic chemicals that persist in the environment and build up in body fat.

Optional Protocol: additions to the main treaty that reach further and that parties can sign up to if they want.

Protocol: an alternative term for an agreement between Governments; may refer to part of a treaty or the whole treaty.

Ratify: to give formal approval or consent to. Importantly, confirm a country's commitment to legislation.

Regulation: An EU law that has direct effect on all member states regardless of whether national law has been introduced.

SI: Statutory Instrument. The formal term for UK regulations.

Signatory: a country that has signed up to the general principles of a convention.

UN: United Nations.

How you can use international treaties

- If the Convention you are interested in has been ratified in the UK or any other country of interest then you can rely on it to demand action by authorities and government agencies, such as the prosecution of polluters, release of information or protection of your rights as a citizen. Just citing the name of the relevant UK Act or regulation and the threat of legal action may be enough to persuade the regulatory body and/or offender to act.
- If the Convention has not been ratified, then lobby your MP and central Government for it to be adopted. Quote it when dealing with authorities and encourage them to honour the spirit of the treaty.
- You may have to take legal action, and it is usually necessary to exhaust all remedies in the national courts before going to the European Court of Human Rights. On some occasions it may be possible to apply to the European Court of Justice (for EU matters). This is usually preceded by a Petition to the European Parliament. The right to petition is available to any individual or organisation in the EU on any matter relating to the EU, including protecting the environment.

Importantly, if you are considering taking legal action, then you are strongly advised to consult a legal advisor about this. While it is possible to take legal action without a lawyer, you may still be liable for the high costs of the other side if you lose your case. Please contact the Environmental Law Foundation for more information and if appropriate to discuss your matter with an expert in environmental law.

More information

- **ECOLEX** - a gateway to environmental law: www.ecolex.org
- **The Environment Agency** - responsible for enforcing environmental matters in England and Wales www.environment-agency.gov.uk or **01454 624 400**
- **Environmental Law Foundation** - an independent charity that helps communities and individuals with environmental problems. **020 7404 1030** or info@elflaw.org.
- **Europa** - The European Union online - www.europa.eu.int
- **UK Online** - a gateway to national and local government sites and services, including finding your MP and other elected representatives. www.open.gov.uk.
- **United Nations** - The UN Environment Programme, www.unep.ch or UN High Commissioner for Human Rights, www.unhchr.ch/environment, provide information on UN decisions and programmes of action.
- **Women's Environmental Network** - a national membership charity that educates, informs and empowers women and men who care about the environment. www.wen.org.uk or **020 7481 9004**.

NB: *While much of the legislation considered in this briefing is relevant across the UK, there is some distinction between the law of England, Scotland, Northern Ireland and Wales and particular legislation may vary.*

All information correct as of July 2003

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