



The Diplomatic Conference for the Adoption of the International Legally Binding Instrument on Plastic Pollution, Including in the Marine Environment

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Mandate for the Diplomatic Conference

United Nations Environment Assembly (UNEA) Resolution 5/14, mandated the Executive Director of UNEP

“to convene a diplomatic conference of plenipotentiaries upon completion of negotiations by the Intergovernmental Negotiating Committee [to develop an international legally binding instrument on plastic pollution, including in the marine environment (INC)], for the purpose of adopting the instrument and opening it for signature”

Key point: While the mandate includes both adoption and signature, it is expected that the primary objective of the Diplomatic Conference, in accordance with the established practice of the United Nations, will be the adoption of the instrument only.



Overview of the Process

If Members of the INC agree that the Instrument is to be deposited with the United Nations Secretary-General, then the adoption process and subsequent opening for signature must comply with established United Nations procedure as outlined in the Secretary-General's bulletin ST/SGB/2001/7, and contains the following steps:

1. Completion of the negotiations
2. Optional: Preparatory Meeting
3. Adoption of the treaty text by the plenipotentiaries at a Diplomatic Conference
4. Preparation of originals and certified copies for the opening of signature (4-6 weeks)
5. Opening for signature





Preparatory Meeting

- The Executive Director can, as needed, convene a Preparatory Meeting prior to the Diplomatic Conference.
 - Its purpose is to prepare the texts of draft resolutions, for consideration and adoption by the Conference of Plenipotentiaries.
 - The Preparatory Meeting may be convened back-to-back with the Diplomatic Conference (e.g. Stockholm Convention) or be held as a separate event, depending on logistical and substantive needs.
 - The preparatory meeting has its own Bureau and rules of procedure, which may mirror those of the INC (e.g., Preparatory Meeting for the Conference of Plenipotentiaries on the Minamata and Stockholm Conventions).
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Diplomatic Conference

- A Diplomatic Conference serves as the formal setting where plenipotentiaries agree upon and adopt a treaty and a Final Act.
 - The Final Act is a formal document summarizing the proceedings of a Diplomatic Conference, and typically includes the treaty text, any agreed resolutions, and interpretative declarations made by participating States.
 - The determination of the timing and location is typically undertaken through consultations with Member States, based on the readiness of the instrument for adoption and offers received to host the Conference.
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Diplomatic Conference: Participation

Participation is open to:

1. All UN Member States and members of UN specialized agencies
2. Regional economic integration organizations
3. Relevant stakeholders (NGOs, civil society)

Diplomatic Conference: Election of the Bureau and Adoption of the Rules of Procedure

- Rules of procedure, prepared by the Secretariat, drawing from similar recent conferences under the auspices of the United Nations or UNEP, or by taking the rules of the relevant Intergovernmental Negotiating Committee, applied *mutatis mutandis*, will be adopted.
- The Conference will elect its Bureau, which typically involves the election of a President, Vice-Presidents, and a Rapporteur.
- The Conference will appoint committee members, such as those of the Credentials Committee.

Diplomatic Conference: Credentials and Signing the Final Act

- Participating States not represented by a Head of State, Head of Government, or Minister for Foreign Affairs, are required to submit credentials for their representatives in order to:
 - Fully participate in the Conference,
 - Adopt the text of a treaty, and
 - Sign the Final Act of the Diplomatic Conference.
- Member States and Members of Specialized Agencies who participated as observers can sign, accede and eventually ratify the Instrument at a later date.
- Duly issued credentials are sufficient for the purpose of adopting a treaty and signing the Final Act, and Full Powers are not required.
- Signing the Final Act does not create legal obligations.



Decisions within the Authority of the Diplomatic Conference



- The Conference may adopt additional resolutions for interim measures.
 - For example, the Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity adopted, alongside the agreed text of the Convention, the following four resolutions:
 - Resolution 1: Interim financial arrangements;
 - Resolution 2: International cooperation for the conservation of biological diversity and the sustainable use of its components pending the entry into force of the Convention;
 - Resolution 3: Interrelationships between the Convention and the promotion of sustainable agriculture; and
 - Resolution 4: Tribute to the Government of the Republic of Kenya.
- The Conference may authorize additional intergovernmental meetings to facilitate the treaty's entry into force and implementation.
 - For example, the Conference of Plenipotentiaries on the Rotterdam Convention invited the Executive Director of UNEP and the Director-General of the FAO to convene further sessions of the INC during the period between the Convention's opening for signature and the first meeting of the Conference of the Parties as necessary.

Role of the Depository

- The depository for the treaty is expected to be the UN Secretary-General.
- The depository ensures that all legal and procedural requirements are met for participation in the treaty.
- Following the formal adoption of the texts of the Instrument at the Diplomatic Conference, the adopted texts are submitted to the Treaty Section of the United Nations in view of preparing the original text of the treaty.
- Certified true copies of the treaty are prepared and distributed to all States.
- The depository handles the signatures, ratifications, and accessions.

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Reference: C.N.168.2022.TREATIES-XXVI.4 (Depository Notification)

COMPREHENSIVE NUCLEAR-TEST-BAN TREATY
NEW YORK, 10 SEPTEMBER 1996

DOMINICA: RATIFICATION

The Secretary-General of the United Nations, acting in his capacity as depository,
communicates the following:

The above action was effected on 30 June 2022.

30 June 2022



Opening for Signature



- Arrangements for the opening for signature, including the decision on holding a separate ceremony, are determined by the participating States, often during the Diplomatic Conference.
- Time must be allowed for preparing the original treaty text and circulating certified true copies, giving States sufficient time to complete domestic procedures before the ceremony.
- Treaties can specify a fixed period for signature or remain open indefinitely for universal participation.
- Most treaties are open for signature at the UN Headquarters in New York unless arrangements are made to hold the ceremony elsewhere.

Signature, Ratification, Acceptance, Approval, and Accession of the Treaty

- Heads of State, Heads of Government, or Ministers for Foreign Affairs may sign a treaty directly, while other representatives need an instrument of full powers.
- **Signing** the treaty does not create legal obligations but requires the State to avoid actions that would defeat the treaty's purpose.
- The consent to be bound arises at a later stage through ratification, approval or acceptance of the signed treaty
- **Acceptance or approval** has the same legal effect as ratification, unless specified otherwise in the treaty.
- **Accession** allows a State to join the treaty without prior signature by depositing an instrument of accession, which has the same legal effect as ratification, acceptance, or approval.

Conclusion

- The Diplomatic Conference serves as the forum for adopting the treaty text and finalizing procedural arrangements.
- A Preparatory Meeting, if needed, may help draft resolutions to facilitate the Conference proceedings.
- The Conference may decide on interim measures and authorize additional meetings to support the treaty's implementation and entry into force.
- The treaty will be opened for signature after preparing certified copies, usually taking 4-6 weeks, in addition to the time needed for participating States to complete their domestic procedures prior to the signing ceremony.





Thank you

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