



CENTER for INTERNATIONAL
ENVIRONMENTAL LAW

The State of Play After INC-5.3

Assessing the “Start-and-Strengthen” Approach

The third part of the fifth session of the Intergovernmental Negotiating Committee (INC-5.3) to advance a plastics treaty concluded at the beginning of February 2026 with the election of a new Chair. It remains unclear how the treaty will progress in the next round of negotiations. Although several treaty drafts have been developed, significant divergence persists regarding how the future treaty should be designed. The purpose of this brief is to take stock of the status of the different treaty texts and to analyze them in light of one of the most frequently debated approaches: the so-called “start-and-strengthen” approach.

Where the Plastics Treaty Text Stands After INC-5.3

While INC-5.3 was convened solely to elect a new Chair, the previous meeting, the second part of the fifth session of the Intergovernmental Negotiating Committee (INC-5.2), concluded with a complex and uncertain outcome regarding the status of the future treaty’s text. Negotiations began with a text from the previous session in Busan (INC-5.1). Over the course of two weeks, Member States submitted nearly 300 new proposals and draft texts. Some of these proposals garnered significant support, including a proposal on voting put forward by Peru and Colombia that received the backing of 117 Member States.¹

To advance a treaty text that Member States could adopt by the end of the session, the INC Chair at the time, Ambassador Luis Vayas Valdivieso of Ecuador, introduced two new draft texts — one on the 13th of August and the other on the 15th. The first text was rejected by a significant number of delegations during a plenary shortly after its introduction. The second text was introduced in the middle of the night after the negotiation was scheduled to have concluded. While the text received some support, with many delegations noting its significant shortcomings, it was equally rejected by members of the Committee.² As a result, the text from INC-5.1 in Busan remains the last version of the treaty text to have received the Committee’s approval and continues to serve as the basis for the ongoing negotiations, until and unless the Committee reaches another agreement.

¹ Colombia and Peru on behalf of the African Group of Negotiators, Australia, Antigua and Barbuda, Bahamas, Bangladesh, Canada, Chile, Dominican Republic, European Union and its 27 Member States, Georgia, Grenada, Mexico, Moldova, Monaco, Norway, Pacific Small Islands and Developing States, Panama, Philippines, Switzerland, Thailand, United Kingdom, Ukraine, Uruguay, “Article 20 Conference of the Parties,” August 5, 2025, https://resolutions.unep.org/incres/uploads/article_20_proposal.pdf.

² Earth Negotiations Bulletin, Summary of the Resumed Fifth Session of the Intergovernmental Negotiating Committee to Develop an International Legally Binding Instrument on Plastic Pollution, including in the Marine Environment: 5-15 August 2025, August 18, 2025, <https://enb.iisd.org/sites/default/files/2025-08/enb3643e.pdf>.

Understanding a “Start-and-Strengthen” Approach

Since the start of negotiations, many Member States have argued in favor of adopting a treaty using a **“start-and-strengthen” approach**. Arguably, such an approach would allow Member States to adopt a treaty that would be strengthened over time through decisions at future Conferences of the Parties (COPs) – some arguing that starting with a partially empty treaty and adding further elements later could be a practical way forward. A start-and-strengthen approach is usually **used to secure broad participation within the treaty while providing flexibility to enhance commitments through future decisions**. This approach has many precedents in other multilateral environmental agreements (MEAs) and can serve as an effective means of building ambition over time. Its success, however, **depends on embedding sufficient core obligations and structural elements in the treaty text from the outset**.

The start-and-strengthen approach has been used under different treaty approaches and models, including the “framework convention and protocol approach” and the “convention and annexes approach,” as well as *hybrid* instruments that combine elements from both models and often include substantive obligations, annexes, and provisions for developing future protocols.

Framework conventions and protocols: This type of instrument usually establishes broad commitments and “leaves the setting of specific targets either to subsequent more detailed agreements (usually called protocols) or to national legislation.”³ The legal and practical value of this approach lies in parties' commitment to a procedural framework that ensures they will enter negotiations with a view to agreeing on more substantial instruments in due course, including, but not limited to, new mechanisms,⁴ commitments, or even new institutions.

Convention and annexes: This type of instrument often contains a main body with core elements such as fundamental principles, the obligations of parties to act in certain ways, and the treaty's procedural and institutional framework for implementation and compliance. More specific standards or lists are developed in one or more separate annexes.⁵ However, parties may agree at the time of the instrument's adoption on a set of initial annexes that can be updated through future COP decisions. Likewise, additional annexes may be developed and adopted by the COP at a later stage.

³United Nations Economic Commission for Europe (UNECE), *Informal notice 5: Framework Convention Concept, Note by the secretariat*. Document for the Committee on Housing and Land Management, 72nd Session, Geneva, 2011, <https://unece.org/fileadmin/DAM/hlm/sessions/docs2011/informal.notice.5.pdf>.

⁴Ulrich Beyerlin and Thilo Marauhn, *International Environmental Law* (Oxford: Hart Publishing, 2011), p. 271.

⁵Ulrich Beyerlin and Thilo Marauhn, *International Environmental Law* (Oxford: Hart Publishing, 2011), p. 272.

Essential Legal and Institutional Elements for the Success of a Start-and-Strengthen Approach

Under either a *framework convention and protocol* and the *convention and annexes* approach or a *hybrid* instrument, the effectiveness of a *start-and-strengthen* architecture depends on the inclusion of specific legal and procedural elements:

- 1. A clear and legally operative treaty objective, accompanied by core enforceable obligations.**
The treaty should articulate a clear and coherent global objective that provides normative direction. Building on this objective, the treaty's operative provisions should include a set of enforceable obligations necessary to implement and achieve such objective.
- 2. A pathway to assess the effectiveness of the convention in achieving its objective(s)** (i.e., effectiveness evaluation). This is different from evaluating each party's effective implementation of the convention. Periodic review of an MEA's effectiveness can help ensure it is meeting or moving toward its desired goals. Some indicators assess whether countries are doing what they committed to (i.e., are parties fulfilling their obligations?). Others assess whether these actions are producing real results (i.e., whether the MEA is having the intended impact). Even if the evaluation demonstrates that States are doing everything they said they would, this might not be enough, and environmental conditions continue to degrade. In this instance, the MEA may need to be amended to take more stringent measures, or annexes may need to be adapted, or parties may need to adopt subsequent agreements to broaden the scope of action.
- 3. A procedural path to enable normative evolution over time** — namely, through amendment procedures and the adoption or revision of annexes and protocols. To give full effect to this dynamic structure, the COP must be expressly empowered to adopt binding decisions, including treaty amendments and relevant annexes and/or protocols. Where consensus cannot be achieved, the treaty should provide for decision-making by vote as a procedural safeguard, both for COP decisions and for amendment procedures, thereby ensuring that ambition can continue to be collectively strengthened.

The key to its success is to ensure that:

- There is a **systematic assessment of the effectiveness** of the treaty at **regular intervals**, as well as the **monitoring of implementation**, and
- The COP has the power to **adopt measures to address both implementation gaps and effectiveness shortcomings**.

Differentiating a Start-and-Strengthen Approach from a Bottom-Up Model

Importantly, the “start-and-strengthen” approach should not be confused with a purely “bottom-up” model. While both emphasize flexibility and progressive ambition, the start-and-strengthen approach seeks to operate within a collectively agreed framework that evolves toward more comprehensive and/or stronger obligations.

A key added value of the start-and-strengthen approach lies in its capacity to build trust among parties by coupling progressive ambition with common, predictable, and coordinated implementation efforts. By contrast, a bottom-up approach generally relies on nationally determined or voluntary measures that may evolve toward stronger international coordination but are likely to create regulatory fragmentation and the risk of collective shortcomings.

Evaluating Design Options for the Future Global Plastics Treaty

In terms of binding obligations, the plastics treaty is to be designed to fulfill the mandate of the United Nations Environment Assembly (UNEA) Resolution 5/14, ensuring it can deliver on its objective to end plastic pollution.

Since the start of negotiations, proposals tabled by delegations have reflected divergent approaches to fulfill the mandate. Some proposals align more closely with a convention and annexes model, embedding core obligations while deferring specific elements to annexes (e.g., a proposal on Article 3 put forward by Mexico and Switzerland on behalf of 85 countries during INC-5.2),⁶ aligning with a start-and-strengthen approach. Others, by contrast, reflect a more bottom-up or non-legally binding model that relies primarily on national action plans and voluntary commitments.⁷

⁶ Mexico and Switzerland on behalf of a group of 85 countries, “Further development of Article 3 on Plastic Products,” August 10, 2025, https://resolutions.unep.org/incres/uploads/mex-swi_proposal_on_art_3_plastic_products_1.pdf.

⁷ See as an example, the Kingdom of Saudi Arabia’s Submission on Behalf of The 22 Members of The Arab Group on plastic product design [starting https://resolutions.unep.org/incres/uploads/article_5_-_plastic_product_design_submission_the_kingdom_of_saudi_arabia_on_behalf_of_the_22_members_of_the_arab_group.pdf](https://resolutions.unep.org/incres/uploads/article_5_-_plastic_product_design_submission_the_kingdom_of_saudi_arabia_on_behalf_of_the_22_members_of_the_arab_group.pdf).

Legal and Practical Considerations for the Global Plastics Treaty

UNEA Resolution 5/14 stresses that the instrument “could include both binding and voluntary approaches.” However, several delegations have largely drawn on voluntary elements while invoking the start-and-strengthen rationale, assuming that such a structure could evolve into a more binding and ambitious regime. Those have given rise to several questions:

1. Can language included in the preamble of a treaty create binding legal obligations for States?

Including language in the preamble can help set the context and guide the interpretation of the treaty. However, preambular text does not create binding obligations on its own — it explains the purpose or context of the treaty, including preexisting legal obligations that may inform the interpretation of treaty provisions. New legal obligations are established by operative provisions (often starting with “Each Party shall...”).

The preamble sets the scene and explains why and in what context countries are acting, but it does not create binding obligations. This means that while preambular language can inform interpretation and future ambition, it cannot by itself mandate concrete action. The effective impact of the treaty is driven by including operative provisions that lay out clear obligations for States' behavior across all key dimensions of the treaty, thereby effectively operationalizing the dimensions listed in the preamble.

2. What are the risks of relying on a bottom-up model for the plastics treaty?

Voluntary or nationally determined measures tend to result in compilations of national actions, with no guarantee that the aggregation of these national efforts is adequate to meet the ambition required to achieve the treaty's objective. For example, leaving the adoption of measures to formulations such as “if appropriate” or “within its capabilities” weakens the predictability of collective action. In bottom-up frameworks, States also define their commitments without knowing, *ex ante*, the level of ambition others are willing to undertake. This creates incentives for States to hedge their commitments and put forward measures below their maximum ambition, particularly in the absence of assurances that peers will act at a comparable level.

Together, these dynamics risk creating a fragmented landscape of uneven national measures, potentially undermining the effectiveness and coherence of global plastics governance and leading to legal and trade inconsistencies. It may also limit the availability of predictable and equitable financial support for developing countries, as financial mechanisms may be tied to the implementation of binding obligations.

3. Are National Action Plans (NAPs) sufficient on their own, or are additional structural elements within the treaty necessary to make them effective?

When NAPs are grounded in clear global obligations and embedded in regular cycles of review with the necessary political ambition, supported by inclusive stakeholder and rights holder participation and robust scientific evidence, they can serve as powerful instruments to advance

national implementation, enhance transparency and accountability, and help ensure that the treaty effectively achieves its objectives.

- a) However, NAPs risk losing much of their effectiveness when the treaty:
- b) Does not clearly articulate shared objectives and binding commitments,
- c) Does not require Parties to submit and periodically update, and implement their plans according to an agreed timeline,
- d) Does not provide for adequate financial resources, capacity-building, and technical support to enable their development and implementation,
- e) Does not mandate full transparency and stakeholder and rights holder participation in the elaboration and updating of the plans, and
- f) Lacks mechanisms to review those plans and ensure their progressive implementation and strengthening over time.

4. What is the role of decision-making mechanisms?

Without a well-defined framework for COP decision-making — including a) the ability to adopt new annexes and/or to launch negotiations for additional protocols, and b) where consensus proves impossible, the option to take decisions by vote — the treaty risks finding itself in a legal and operational limbo, unable to evolve or respond effectively to emerging challenges.

Importantly, while COP decisions can be key for the establishment of annexes and protocols, formal amendments to MEAs or their protocols cannot acquire binding force through COP decisions alone; they will require formal acceptance by the parties under the treaty's amendment procedures, which can require time or may never take effect, making the strengthening of a treaty far from guaranteed. For example, Decision II/12 of COP-2 under the Basel Convention, which banned the export of hazardous waste from OECD to non-OECD countries (often referred to as “the Basel Ban” amendment), took roughly 24 years to enter into force.

Having clarified these conceptual and legal foundations, it becomes possible to assess the extent to which current treaty draft proposals presented by the Chair have the necessary mechanisms for a start-and-strengthen framework under the plastics treaty.

The following comparative table examines certain key aspects of the three latest drafts used or proposed to structure recent negotiations—providing examples of where they align with or diverge from the legal architecture required for progressive strengthening.

		Chair’s Text of December 1, 2024 (INC-5.1)⁸	Chair’s Draft Text Proposal August 13, 2025 (INC 5.2)⁹	Chair’s Revised Text Proposal August , 15 2025 (INC 5.2)¹⁰	Additional proposals presented that respond positively to the questions
Legal obligations	Are there global legally binding obligations ?	<p>While the text still contains many brackets, several articles already include global legally binding obligations — for example, Article 7 on releases and leakages. The level of obligation in other provisions will depend on which wording options Member States ultimately choose. Under Article 3 on plastic products, for instance, the commitment could become quite robust if certain formulations are retained, or significantly weaker if others prevail. Language that could lead to fragmentation through implementation includes “as appropriate” or “in accordance with its national circumstances, capacities, capabilities and socioeconomic considerations”.</p> <p>Similarly, Article 6 could either establish a strong legal obligation under option two or disappear entirely under option one.</p>	<p>Mostly no. This draft contains very few global legally binding obligations. The only solid legal obligation is under Article 7 on waste management. Even in places where the word “shall” is used, it is either weakened by the operational verb following it, such as “shall endeavour to,” or diluted by modifying phrases such as “as appropriate,” “within its capabilities,” or “taking into account its national circumstances and capabilities.” These phrases give the impression of a legal obligation but in practice facilitate a bottom-up approach which may limit the treaty’s ability to fully achieve its objectives or even foster a coordinated global governance of plastics.</p>	<p>While generally, this draft treaty increases the clarity of legal obligation compared to the text of August 13, the text largely relies on formulations such as “shall take appropriate measures” or “in accordance with its national circumstances”. As an example, under Article 4 on plastic products, the formulation “Each Party [should][shall] take measures, as appropriate...” already creates a qualified obligation, but fragmentation is further amplified by the way the criteria are drafted. Parties may act on one of the listed criteria, rather than being required to address all or a minimum set of them, and the choice is again conditioned by national circumstances and capabilities.</p>	<p>Several proposals are drafted in a way that makes the global legal obligations much clearer and a much better base for an effective start-and-strengthen approach. For example, the proposal from Mexico and Switzerland on behalf of a group of countries of August 10, 2025¹¹ (and supported by more than 85 countries) sets up a clear legally binding obligation for parties to reduce and not allow the manufacture of certain plastic products.</p>

⁸ Chair of the Intergovernmental Negotiating Committee to develop an international legally binding instrument on plastic pollution, including in the marine environment, “Chair’s Text,” December 1, 2024, https://wedocs.unep.org/bitstream/handle/20.500.11822/46710/Chairs_Text.pdf.

⁹ Chair of the Intergovernmental Negotiating Committee to develop an international legally binding instrument on plastic pollution, including in the marine environment, “Chair’s Text,” August 13, 2025 https://resolutions.unep.org/incres/uploads/chairs_draft_text_proposal_13_august_2025_14.48.pdf.

¹⁰ Chair of the Intergovernmental Negotiating Committee to develop an international legally binding instrument on plastic pollution, including in the marine environment, “Chair’s Text,” August 15, 2025 https://resolutions.unep.org/incres/uploads/chairs_revised_draft_text_proposal_-_15.08.25_at_00.482.pdf.

¹¹ Mexico and Switzerland on behalf of a group of 85 countries, “Further development of Article 3 on Plastic Products,” August 10, 2025, https://resolutions.unep.org/incres/uploads/mex-swi_proposal_on_art_3_plastic_products_1.pdf.

		<p>Some articles, however, are drafted in terms that do not establish clear global legally binding obligations. For example, provisions framed around phrases such as “taking into account national circumstances and capabilities” and “take appropriate measures to improve plastic product design” and to “minimize releases of plastic during the product life cycle”, under Article 5 on plastic product design leave parties with significant discretion regarding the nature and extent of the actions they must undertake. The combination of flexible language and broad qualifiers means the provision is unlikely to function as a concrete, enforceable global obligation, and instead relies heavily on national interpretation and voluntary efforts, which in addition to making them ineffective risk creating major regulatory fragmentation.</p> <p>It is also worth noting that this treaty draft contains no reference to a mechanism or pathway for adopting additional global obligations (e.g., through a protocol to the convention).</p>	<p>It is also worth noting that this treaty draft contains no reference to a mechanism or pathway for adopting additional global obligations (e.g., through a protocol to the convention).</p>	<p>This flexibility, while politically expedient, risks perpetuating widely divergent regulatory approaches and an inconsistent level of ambition across jurisdictions. The cumulative effect is a patchwork of measures that may fall short of delivering coherent, coordinated global action on problematic plastic products.</p>	<p>The proposal from Panama on behalf of a group of States of August 6, 2025¹² sets up a clear legally binding obligation for parties to take measures to achieve a global target for reduction of the production of primary plastic polymers.</p>
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¹² Panama on behalf of 89 countries, “Context regarding the work on Article 6,” November 28, 2024, https://resolutions.unep.org/incres/uploads/panama_article_6_sustainable_production.pdf

	<p>Can the measures proposed be strengthened over time without a treaty amendment? If so, what is the pathway for strengthening?</p>	<p>The degree to which obligations can be strengthened over time depends on which options parties ultimately select. Several provisions already contain built-in mechanisms for increasing ambition. For example, under Article 3 (Plastic Products), obligations could be reinforced by expanding the list of covered products in the annex. Similarly, Article 6 (Supply) could be enhanced by updating the annex to include a global target at the first meeting of the COP.</p> <p>In other parts of the treaty, the COP is either asked to adopt or has the option to develop guidance to support implementation of specific articles. While such guidance can improve coherence and help parties take stronger action, it does not in itself provide a mechanism to start and progressively strengthen the core obligations over time.</p>	<p>Most obligations under this treaty draft are not mandatory and have limited options to be strengthened over time without formal treaty amendments.</p> <p>In theory, there is a mechanism within Article 4(3) on Plastic Products that could allow the treaty to be strengthened over time, as parties may submit proposals to introduce measures on specific plastic products. However, because the substantive obligations in paragraph 1 are framed as discretionary (“as appropriate, and in accordance with national circumstances and capabilities”), in practice this is likely to result primarily in a compilation of voluntary measures rather than legally binding commitments that progressively tighten over time.”</p>	<p>Some articles in this draft can be strengthened over time. Article 4 paras 3 and 4 on Plastic Products introduce a procedure through which any Party may propose new measures for specific plastic products. This structure resembles listing or amendment procedures under other MEAs and, in principle, could enable the treaty to strengthen its scope over time.</p> <p>However, when combined with the flexible operative language in Article 4(1), there is a real risk that measures adopted through this process will reflect divergent national approaches rather than converging toward harmonized global standards. This could limit the mechanism’s ability to drive necessary coordinated global action.</p>	<p>The proposal from Mexico and Switzerland on behalf of a group of countries of August 10, 2025¹³ (and supported by more than 85 countries) would allow the article on Plastic Products to be strengthened over time, with a clear pathway for adding products to the list in an annex.</p> <p>The proposal from Panama on behalf of a group of States of August 6, 2025¹⁴ similarly would allow for strengthening by putting a global target in an annex which could be updated and strengthened every five years after a scientific and economic study by a COP subsidiary body.</p>
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¹³ Mexico and Switzerland on behalf of a group of 85 countries, “Further development of Article 3 on Plastic Products,” August 10, 2025, https://resolutions.unep.org/incres/uploads/mex-swi_proposal_on_art_3_plastic_products_1.pdf.

¹⁴ Panama on behalf of 89 countries, “Context regarding the work on Article 6,” November 28, 2024, https://resolutions.unep.org/incres/uploads/panama_article_6_sustainable_production.pdf

			In some articles, the COP is either invited or allowed to develop guidance to assist parties with implementation. This would support implementation, but it is not per se a mechanism to legally strengthen the treaty.	In some articles, the COP is either invited or allowed to develop guidance to assist parties with implementation. This would strengthen implementation, but it is not per se a mechanism to legally strengthen the treaty.	
Effectiveness evaluation	Does the treaty require periodic review of treaty implementation from parties ?	Yes. This treaty draft requires periodic review of implementation through Article 15 on reporting, which requires each party to submit reports to the COP on measures taken to implement the convention, based on their national plans. The COP sets the format and periodicity of these reports, allowing for structured, recurring assessment of parties' implementation efforts.	Yes, under Article 14, Each Party is required to report to the COP on measures taken to implement the convention, the effectiveness of those measures, and any challenges in achieving the treaty's objectives. The COP determines the format and periodicity of reporting, while the Secretariat monitors submissions and makes reports publicly available, ensuring structured and recurring assessment of parties' implementation efforts.	Yes. Article 14 establishes a requirement for parties to report regularly to the Conference of the Parties on the measures they have taken to implement the convention. The COP is tasked with setting the format, periodicity, and modalities for these reports, ensuring a structured and recurring review of implementation.	The proposal from Panama on behalf of a group of States of 6th August 2025 ¹⁵ would require the COP to specifically review progress on the implementation of the article on Supply every five years.

¹⁵ Panama on behalf of 89 countries, "Context regarding the work on Article 6," November 28, 2024, https://resolutions.unep.org/incres/uploads/panama_article_6_sustainable_production.pdf

		<p>In addition to the reporting obligations, Article 20 provides that the COP is tasked with keeping the implementation of the convention under continuous review. To that end, it may establish subsidiary bodies as needed, cooperate with relevant international and intergovernmental organizations, review and adopt decisions related to implementation. This continuous review function complements the parties' periodic reporting obligations and provides a procedural mechanism for the COP to monitor progress, identify challenges, and guide implementation, although it does not in itself create a formal requirement for the COP to act on the effectiveness of measures, as seen in other MEAs.</p>	<p>Under Article 18 (5) the Conference of the Parties shall keep the implementation of the convention under continuous review. To fulfill this mandate, the COP may establish subsidiary bodies as necessary, cooperate with competent international and intergovernmental organizations, adopt decisions related to implementation, and undertake other functions identified in the Convention or required for its implementation. This provision grants the COP procedural authority to oversee and coordinate implementation and provides flexibility for the COP to respond to implementation needs as they arise.</p>	<p>Under Article 18(7) the COP shall maintain continuous oversight of implementation. The COP may establish subsidiary bodies, cooperate with relevant organizations, adopt implementation-related decisions, and perform other functions necessary under the convention. This provision provides procedural authority to the COP to coordinate and review implementation.</p>	
	<p>Does the treaty include a provision requiring the Conference of the Parties to evaluate the effectiveness of the convention in meetings its objectives?</p>	<p>Yes. Article 16 requires an effectiveness evaluation, the first of which is to be conducted no later than six years after entry into force.</p>	<p>Yes. Article 15 explicitly requires the Conference of the Parties to regularly evaluate the effectiveness of the convention. The first evaluation must take place no later than six years after entry into force, with subsequent evaluations at intervals determined by the COP.</p>	<p>Yes. Article 15 requires the Conference of the Parties to regularly evaluate the effectiveness of the convention in achieving its objectives. The first evaluation must take place no later than six years after entry into force, with subsequent evaluations at intervals decided by the COP.</p>	

<p>Mechanisms to strengthen obligations</p>	<p>Does the COP have the authority to act upon the findings of effectiveness evaluations?</p>	<p>No. There is no specific provision for taking action on the outcomes in the article on effectiveness evaluation (Article 16).</p> <p>However, under Article 20 on the Conference of the Parties, the COP is mandated to keep the treaty under continuous review and is given the authority to undertake functions that may be required for the treaty’s implementation.</p> <p>Some MEAs specifically empower the COP to “[c]onsider and undertake any additional action that may be required for the achievement of the objectives of the Convention” (e.g. Stockholm Convention, Article 19 (d); Basel Convention, Article 15 (c)). Adding similar language could be used to adopt a broad range of actions on the basis of the effectiveness evaluation of the treaty and strengthen the treaty’s effectiveness over time.</p>	<p>No. There is no specific provision for taking action on the outcomes in the article on effectiveness evaluation (Article 15).</p> <p>However, under Article 18 on the Conference of the Parties, the COP is mandated to keep the treaty under continuous review, and it is given the authority to undertake functions that may be required for the treaty’s implementation.</p> <p>Some MEAs specifically empower the COP to “[c]onsider and undertake any additional action that may be required for the achievement of the objectives of the Convention” (e.g. Stockholm Convention, Article 19 (d); Basel Convention, Article 15 (c)). Adding similar language could be used to adopt a broad range of actions on the basis of the effectiveness evaluation of the treaty and strengthen the treaty’s effectiveness over time.</p>	<p>Yes. The COP is empowered to consider the outcomes of the evaluation and take action to enhance the treaty’s effectiveness (Article 15).</p> <p>In addition, each party is encouraged to consider “as appropriate” the outcomes when reviewing and updating their own national plans (Article 15).</p> <p>Under Article 18 on the Conference of the Parties, the COP is mandated to keep the treaty under continuous review, and it is given the authority to perform functions that may be required for the treaty’s implementation.</p>	<p>Switzerland’s proposal of August 8, 2025¹⁶ would give the COP the authority to “consider and take any action necessary to achieve the objectives of the Convention, including adopting procedures or requirements in additional annexes.”</p> <p>Japan’s proposal of the August 8, 2025 on effectiveness evaluation¹⁷ gives the COP the authority to “determine measures required to enhance the effectiveness of the Convention.”</p>
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¹⁶ Switzerland, “Proposal from Switzerland, Art. 20 – Conference of the Parties,” August 8, 2025, https://resolutions.unep.org/incres/uploads/switzerland_proposal_on_art.20_and_21_0.pdf

¹⁷ Japan, “INC-5.2 Proposal of Japan on ARTICLE 16 EFFECTIVENESS EVALUATION,” August 8, 2025, https://resolutions.unep.org/incres/uploads/jp_proposal_on_article_16_0.pdf

	<p>Does the treaty permit voting when a consensus cannot be reached to avoid deadlocks?</p>	<p>On treaty amendments: Article 23 includes an option under brackets to allow for an amendment to be adopted by a 3/4 majority vote of the parties present and voting at the meeting.</p> <p>On the adoption of annexes: additional annexes adopted after the entry into force of this convention are restricted to procedural, scientific, technical or administrative matters and follows the procedure laid down for amendments to the convention which includes a 3/4 majority vote under brackets.</p> <p>Decisions of the COP: Article 20 does not itself set out a decision-making rule (e.g., consensus vs. voting). Instead, it establishes that at COP-1, parties “shall by consensus” adopt the rules of procedure, including the provisions that will govern how decisions are taken thereafter. (Article 20 (4)). Experience has shown that this usually leads to COP decision on substance being constrained by consensus decision-making only.</p>	<p>On treaty amendments: Yes. As a last resort, amendments to the convention can be adopted by a 3/4 majority vote of the parties present and voting at the meeting (Article 22).</p> <p>On the adoption of annexes: yes. The procedure for the proposal, adoption and entry into force of annexes follows the provision on treaty amendments (Article 23 (3) (a)).</p> <p>Decisions of the COP: Article 18 does not itself set out a decision-making rule (e.g., consensus vs. voting). Instead, it establishes that at COP-1, parties “shall by consensus” adopt the rules of procedure, including the provisions that will govern how decisions are taken thereafter (Art. 18(4)). Experience has shown that this usually leads to COP decision on substance being constrained by consensus decision-making only.</p>	<p>On treaty amendments: yes. If consensus is not reached, the amendment shall, as a last resort, be adopted by a 3/4 majority vote of the parties present and voting at the meeting (Article 22).</p> <p>On the adoption of annexes: yes. The procedure for the proposal, adoption and entry into force of annexes follows the provision on treaty amendments (Article 23 (3) (a)).</p> <p>On COP decisions: yes and no. Article 18 does allow the possibility for decisions on matters of substance to be taken by a three-quarters majority, but first, the COP would decide by a two-thirds majority that all efforts to reach consensus have been exhausted. On procedural matters decisions may be taken by a majority of the parties who are present and voting. Any matters related to the implementation of the financial mechanism are only to be taken by consensus.</p>	<p>The proposal from Colombia on behalf of a group of States on the Conferences of the Parties of 5th August 2025 on COP decision-making is clearer and more practical than the provision of the Chair’s text of the 15th of August. It maintains the primacy of consensus but simplifies fallback rules, specifying that procedural questions are decided by a simple majority and substantive questions by a two-thirds majority if consensus cannot be reached. It avoids complex multi-step procedures for determining when voting thresholds apply and integrates the COP’s ongoing review and implementation functions directly into the article.</p>
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