

Convention on Biological Diversity

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This document was prepared in June 2024 to support preparations for the
CBD COP16 in Cali, Colombia.

It is intended to be used as an introductory report, particularly for
Indigenous Peoples, and is written from a human rights perspective.

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What is the CBD?

The Convention on Biological Diversity is an international treaty under the United Nations and adopted at the Rio Earth Summit in 1992.

One of three 'sister conventions' from that Summit:

- Biological Diversity
- Climate Change
- Desertification

The Biodiversity convention (the CBD) is the only one of these conventions that mentions Indigenous Peoples' rights (in the language of the time, 'indigenous and local communities'). It does this directly in two ways:

- Recognising the right to maintain and transmit traditional knowledge - Article 8(j)
- Recognising the right to customary sustainable use - Article 10(c)

Also recognises local action:

- Supports local populations to engage in restoration where biodiversity is degraded - Article 10(d)



**Convention on
Biological Diversity**



Why Indigenous Peoples and Local communities?

From the adoption of the Convention, decisions related to Indigenous Peoples referred to “indigenous and local communities” which is still the language in the convention itself. This term is defined as communities “embodying traditional lifestyles” (in Article 8(j)).

In 2014, the Parties agreed to stop using this phrase after long advocacy by Indigenous Peoples, and change to use instead “Indigenous Peoples and local communities”. This is still the agreed language in all COP decisions now, although this has become very controversial recently. The UN bodies that work on Indigenous Peoples’ rights (in particular the United Nations Permanent Forum on Indigenous Issues (UNPFII), the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) and the United Nations Special Rapporteur on the Rights of Indigenous Peoples (UNSR on IPR)) have objected to its use (in 2023) and asked for a separation between references to Indigenous Peoples and references to local communities. This remains in discussion and for now, “Indigenous Peoples and local communities” is the language of all decisions.

In Mexico, the Caribbean and some Central and South American countries there are also Afro-descendant peoples and communities that claim their rights at the national level. This term is not present in the Convention and is not used in any of its decisions. The Colombian government can continue to challenge this omission at COP16.

Indigenous Peoples have engaged in the Convention since the Rio Earth Summit, and the International Indigenous Forum on Biodiversity (IIFB) was recognised as an observer caucus in 1998. The IIFB has attended every COP since.

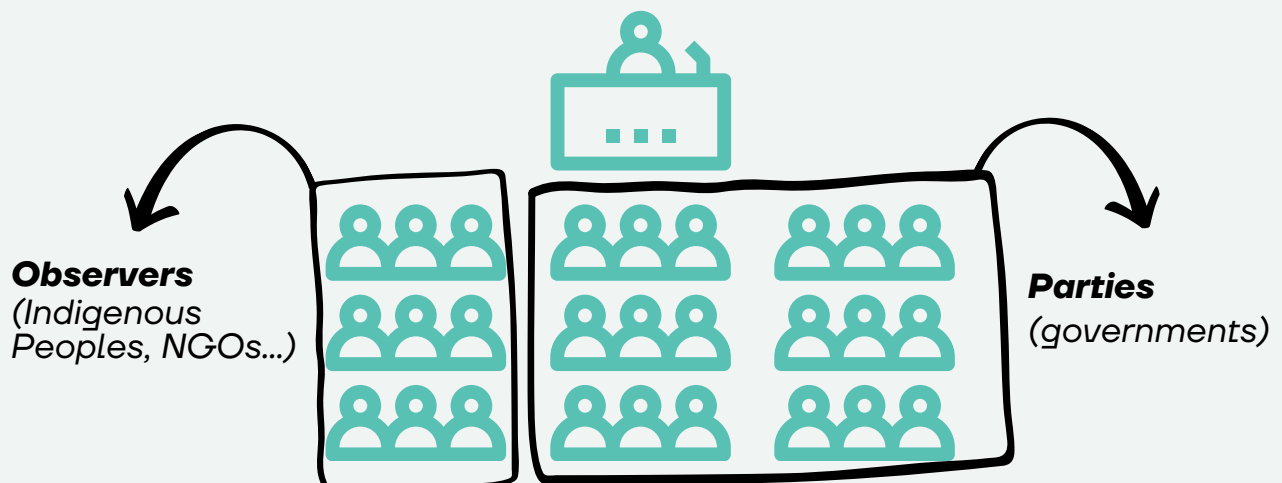




How does the Convention work?

Every national government that has signed and ratified the Convention is called a 'State Party' to the Convention. They attend and can speak at the 'Conferences of the Parties' to the Conventions which meet regularly. These intergovernmental meetings are called 'COPs'.

Governments speak as (contracting) 'Parties' to the Convention, and Indigenous Peoples speak as an 'observer' major group. This different status means they have different times to intervene, and that Indigenous Peoples speak as a single collective and not individually.



The Climate COP meets every year (this year is COP29) while the Biodiversity and Desertification Conventions meet every 2 years (this year is COP16 for both).

The decisions of these COPs are binding on all the Parties to the conventions. The biodiversity convention is ratified by (and binds) all countries in the world except the United States of America, which never signed on.



How are decisions made?

While the COP is where decisions are adopted and agreed, and where they will be negotiated, most are developed as draft decisions in other bodies, called 'subsidiary bodies'.

The Convention initially established three institutions:

- The Conference of the Parties (COP) (described above)
- The Secretariat (staff who service the convention and the Parties)
- The Subsidiary Body on Scientific Technical and Technological Advice (SBSTTA)

And added a fourth:

- The Subsidiary Body on Implementation (SBI)

Both SBSTTA and SBI meet between the COPs and negotiate and discuss things that are needed to support the implementation of the Convention. The results of these "inter-sessional" negotiations, including the Working Group talks, set out the points to be negotiated at the next COP.

These four are the permanent institutions, and the two permanent subsidiary bodies.

If the Parties decide it is necessary, the COP can also establish other ad-hoc bodies, such as working groups, expert groups and committees. The COP decides how often these bodies will meet, what they will work on and for how long. These Working Groups are temporary bodies that serve very specific purposes. Several Working Groups were created in the CBD but currently only the Ad-Hoc Working Group on Article 8(j) is active.



What is the Ad-Hoc Working Group on Article 8(j)?

This is an ad hoc (not permanent) working group established in 1998 to support the implementation of Article 8(j) and related provisions of the Convention.

This means that it has a mandate to support work on Article 8(j) and all other provisions in the convention that relate to Indigenous Peoples and local communities (with traditional lifestyles), and to support participation by Indigenous Peoples and by local community representatives in other work under the Convention.

The Working Group meets between the COPs and all its meetings are co-chaired by a government representative and an Indigenous representative.

Right now, there are on-going discussions about a proposed new programme of work for the Working Group on 8(j), which includes a significant question regarding its format: should the working group on 8(j) become a permanent body?

And if yes, what would its mandate be?

At the end of 2023 a draft programme of work was negotiated in Geneva and it will be considered by COP16 in Colombia. However the controversy over the terminology of “Indigenous Peoples and local communities” meant that the programme of work is not yet agreed.

Article 8(j) (see above) is one of the most important provisions for Indigenous Peoples and for local communities embodying traditional lifestyles, because it contains important language to ensure that the knowledge, innovations, and practices of Indigenous Peoples and local communities that are relevant to the conservation and sustainable use of biodiversity are respected, preserved, and maintained.



ANYTHING ELSE TO KNOW?

There is always more to know about the Convention, but one important thing to look at quickly is how the Convention is (or how it should be) implemented at a national level, and how we can find out if the governments are doing what they should be doing.



National Biodiversity Strategy and Action Plans

The first instrument to know about is the NBSAP - the national biodiversity strategy and action plan.

This can be called many different terms at the national level, but all of them are intended to give the policy framework to implement the convention and are updated every five years or so. This means that Parties have to carry out national biodiversity planning, taking into account specific targets and plans to bring their international commitments to national level.

The NBSAP should be integrated into national policies, plans and programmes, including the updating of national laws and regulations, and allocating national budgets. All NBSAPs should be developed and implemented in a meaningful participatory way ensuring participation by Indigenous Peoples, local communities, women's groups, youth, NGOs and other civil society actors.

This year, new NBSAPs should be submitted before COP16. Some reports indicate that some governments (State Parties) have been rushing to finalise their NBSAPS before October, raising questions about the quality of Indigenous and other actors' participation.



Towards COP16

National reports



In order to ensure that the Convention is being implemented following the NBSAPs, frequent monitoring and review of progress is essential.



As stated in Article 26 of the Convention, all Parties are obliged to submit National Reports on the measures that they have taken to implement the Convention on a “frequent basis”. These National Reports are public and a key tool to track the level of implementation by Parties. Coordinated with the Strategic Plans, the COP has requested parties to submit National Reports every four to five years: One towards the middle of a Strategic Plan period and one towards the end.



The next one is scheduled for February 2026, so it is expected to be developed during 2025.



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Why is this Convention important for Indigenous Peoples?

This is the first international environmental treaty that refers to the rights of Indigenous Peoples.

From the 4th COP (in 1998), Indigenous Peoples have been recognized as observers with the right to speak on all agenda items. The Working Group on 8(j) has provided a space for negotiations and discussions where Indigenous Peoples and governments are on similar footing and the work of Indigenous Peoples, including via the IIFB, has had a strong impact on the decisions of the COPs in the past. The references to the rights and the roles and contributions of Indigenous Peoples and local communities in the Global Biodiversity Framework is one example of this influence.