
RESEARCH ARTICLE

The Existence of International Agreements on National and Regional Legislation Related to Handling Marine Plastic Waste in Indonesia

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ABSTRACT

Indonesia has ratified international environmental agreements such as the *Marine Pollution Convention (MARPOL) 1973/1978*, the *United Nations Convention on the Law of the Sea (UNCLOS) 1982*, the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel) 1989*, *United Nations Convention on Biological Diversity (UNCBD) 1992*, *United Nations Framework Convention on Climate Change (UNFCCC) 1992*, *Persistent Organic Pollutants (POPs) Convention, 2001* and several other international agreements. The international agreement has also laid down norms related to plastic waste in the ocean, although they are very limited. For Indonesia, after the ratification of the international agreement, follow-up steps are needed from legislative, administrative, and institutional aspects to funding through laws and regulations. On the other hand, the process of negotiating international agreements regarding plastic waste in the sea is still ongoing. Therefore, it will also be seen how Indonesia's role and the relationship between the draft zero draft international plastic waste agreement and existing international agreements. This article aims to find out and examine the existence of existing and future international agreements and how they affect the national and regional levels, especially those related to plastic waste in the sea. Therefore, various ratification processes, the formation of laws and regulations, institutions, administration, funding, and other actions related to the issue of plastic waste in the sea in Indonesia will be studied. In general, this article has shown that in Indonesia, there are already regulations to implement international agreements both ratified and synchronized with the draft Global Plastic Treaty that is being made. The conclusion shows that the Government of Indonesia has a strong commitment to the existence of international agreements related to plastic waste in the sea. The recommendation or suggestion is that existing or ongoing international agreements should be able to provide benefits for the welfare of the Indonesian people.

KEYWORDS

International Treaties, Global Plastic Treaty, Zero Draft Marine Litter Treaty, Indonesian; Ratification.

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1. Introduction

One of the sources of international law is international treaties, as stated in Article 38 (1) of the Statute of the International Court of Justice, which confirms the existence of sources of international law.¹ The position of international agreements, both *soft law* and *hard law*, is very important today because it has laid legal norms for the international community.² Currently, more than 560 multilateral international agreements have been designed to relate to the themes of human rights, disarmament, and

¹ Malcolm N Shaw. 2021. *International Law*, Cambridge University Press. See also Andreas Pramudianto. 2017. *International Environmental Law*, CV Rajawali, Depok.

² Anthony Aust. 2007. *Modern Treaty Law and Practice*, Cambridge University Press.

environmental protection.³ Environmental protection is a growing global issue today. But of the ⁴ number of international agreements that exist, only a very few provisions deal with plastic waste in the ocean. Because the dangers of plastic waste have threatened marine ecosystems and humans for future generations, it is currently in the process of achieving the Global Plastic Treaty.⁵

For Indonesia, involvement in the process of forming international agreements has been carried out since the days before independence. Affirmation of the importance of international agreements after Indonesian independence is stated in the constitution of the Republic of Indonesia, namely the 1945 Constitution (4th Amendment), in Article 11, paragraph 3. The provisions of this article confirm that international agreements will be governed by law.⁶ To better adapt to developing conditions, in 2000, Law Number 24 of 2000 concerning International Agreements was issued (State Gazette of 2000 Number 185; Supplement to the Government Gazette No. 4012).

With this law, the procedures, criteria, procedures, and implementation of international agreements have been regulated. Indeed, before the birth of this law, international agreements were still legally regulated through the Presidential Letter of the Republic of Indonesia No. 2826 / HK / 1960 dated August 22, 1960, concerning making agreements with other states. With the enactment of this Law, the Presidential Letter is declared invalid, as stated in the explanation of this Law.⁷

Indonesia has been involved in the negotiation process for international environmental treaties. Indonesia also signed and ratified other actions, such as the accession to these international treaties. For example, Indonesia ratified the *United Nations Convention on the Law of the Sea (UNCLOS)* in 1982 through Law Number 17 of 1985.⁸

After ratification, follow-up is needed in the form of implementation of the ratification of various international agreements both nationally and regionally. National follow-up must include establishing a more operational set of laws and regulations under Indonesian conditions to implement the articles in the international agreement. This follow-up must also be carried out in the regions so that international commitments that have been expressly stated by Indonesia can also be implemented properly. For example, with the ratification of UNCLOS 1982 from the point of view of marine territory, Law Number 32 of 2014 concerning Marine Affairs (LN 294; TLN. In the explanatory part of this Law, it confirms that Indonesia has ratified UNCLOS 1982. Likewise, with the ratification of the International Convention for the Prevention of Pollution from Ships 1973, Protocol Relating to the Convention for the Prevention of Pollution from Ships 1978 through national legal products in the form of Presidential Decree Number 46 of 1986 concerning the Ratification of the International Convention for the Prevention of Pollution from Ships, 1973, along with the Protocol (The Protocol of 1978 Relating to the International Convention for the Prevention of Pollution From Ships, 1973) dated September 9, 1986. In addition to Indonesia's actions in ratifying and implementing an international treaty, this research will also look at the development of the Global Plastic Treaty negotiation process in which Indonesia also plays a role.

The objectives of this research are to (1) know the existence of international agreements in general (2) explore international agreements ratified by Indonesia (3) know the development of the negotiation process of international treaties on plastic waste in the sea; (3) look at Indonesia's process and commitment in an international agreement. (4) Analyze the extent of Indonesia's legal action against both ratified and drafted international treaties. This research provides some understanding of how the Indonesian government implements international treaties on plastic waste in the ocean. This information will be valuable because it will look like Indonesia's commitment to international agreements will be known.

2. Research Methods

This research uses qualitative methods, but mixed methods are more emphasized, including using literature research methods. The data obtained comes from secondary data available in various libraries, both online and offline. From these data, data sorting is carried out by adjusting to the purpose of the research. After that, these data become material for analysis by researchers to answer the purpose of the research.

³ <https://treaties.un.org/>

⁴ Phillipe Sands. 1995. Principles of International Environmental Law : Framework, Standards and Implementation, Vol I. Manchester University Press, London. Lihat juga Patricia Bernie W and Alan E Boyle. 1992. International Law and the Environment, Clarendon Press, Oxford.

⁵ The Intergovernmental Negotiation Committee (INC) has been formed, and the negotiation process is currently underway. The committee has reached INC-3, indicating that the zero draft of the Global Plastic Treaty has been achieved. The establishment of the INC is based on UNEA Resolution 5/14.

⁶ <https://www.dpr.go.id/jdih/uu1945>.

⁷ Law Number 24 of 2000 concerning International Treaties (LN Number 185; TLN 4012).

⁸ Law of the Republic of Indonesia Number 17 of the Year 1985 concerning the Ratification of the United Nations Convention on the Law of the Sea (United Nations Convention on the Law of the Sea) (State Gazette Number 75 and Supplement to the State Gazette Number 3319).

The limits of this research are based on the research of international treaties, especially related to the presence of plastic waste in the sea and the commitment to handle it through international agreements. In addition, Indonesia's perspective on implementing international agreements and Indonesia's participation in the process of negotiating global agreements on plastic waste in the sea will also be seen. This review is not intended to be comprehensive and, therefore, only to obtain preliminary findings, which can then be tested and further investigated in more depth and detail.

3. Results of Research and Discussion

3.1 Forms of Instruments in an International Treaty

International agreements vary in variety. However, international agreements have, in principle, been regulated through the Vienna Convention on the Law of Treaty (VCLT) in 1969. The characteristics of international agreements from the aspect of using names have various names. The names of these international treaties have binding legal force. In Indonesia, it is known by one term, namely international agreements, but it has various characteristics, each of which is the name of each international agreement. Myers mentions more than 30 names of international treaties⁹ :

- a. International Treaty/Treaty
- b. Convention
- c. Piagam (Charter)
- d. Agreement
- e. Arrangement
- f. Akord (Agreement)
- g. Statute (Statute)
- h. Protocol
- i. Final Act
- j. Agreed minutes and Summary Record
- k. Modus Vivendi
- l. Verbal Process

Meanwhile, the instruments regulated in a treaty contain at least some provisions that generally refer to the Vienna Convention on the 1986 Agreement. Instruments that are usually contained in an international agreement, such as provisions regarding definitions, terms, aims and objectives, principles, scope, imposition of rights and obligations, international cooperation, communication and information, funding, conferences of the parties, secretariat, voting rights, reservations, linkages with other international agreements, signing, ratification, accession, acceptance, amendment, entry into force of international agreements, dispute resolution, depository, resignation, original manuscript, appendix or annex.¹⁰ Generally, these instruments develop and depend on the needs and agreements of each party in an international agreement. The current zero draft of the Global Plastic Treaty is also an instrument based on the general prevalence of the development of an international treaty with the adjustments characteristics and needs of the Global Plastic Treaty.¹¹

3.2 Definition Of International Agreements, Ratification And Implementation

The position of international treaties in international law has been regulated through the Vienna Convention on the Law of Treaties 1969 or the Vienna Convention on the Law of Treaties. Article 2 Part 1 point a of the Vienna Convention on the Law of Treaties

⁹ DP Myers, "The Names and Scope of Treaties", *American Journal of International Law*, Vol. 51 Num. 3, 1957: 574-60

¹⁰ Lawrence E. Susskind, Saleem H. Ali, and Foreword by Zakri Abdul Hamid. 2014. *Environmental Diplomacy : Negotiating More Effective Global Agreements*, Oxford University Press.

¹¹ As an example in the zero draft of the Global Plastic Treaty, particularly in Section I, Article 2, which provides alternatives or choices as follows:

Option 1:

1. The purpose of this instrument* is to end plastic pollution, including in the marine environment, and to protect human health and the environment.

Option 2:

1. The purpose of this instrument* is to protect human health and the environment from plastic pollution, including in the marine environment, [...]

Option 2, sub-options that may be considered relevant for the end of the paragraph:

1.1 by ending plastic pollution.

1.2 based on a comprehensive approach addressing the entire life cycle of plastic.

1.3 through prevention, progressive reduction, and elimination of plastic pollution throughout the plastic life cycle by 2040.

1.4 through, among other things, managing the use of plastic and plastic waste, contributing to sustainable development goals]

1969 defines an international agreement as an agreement between states in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation).¹²

From this definition, it can be stated that international agreements, according to this convention, apply to states only. In addition, any international treaty that is made or formed can be one or more instruments. International agreements formed or made generally have specific objectives according to the wishes of the parties and will result in certain effects under international law for the signatory parties.¹³

A country, after signing an international treaty, then wishes to enforce it into national law requires a subsequent process known as approval or ratification. Indeed, not all international agreements affirm the existence of this provision, as in bilateral international agreements that can take effect immediately after being signed by the parties. Ratification is often referred to by other words such as acceptance or accession and is generally a national constitutional process. Many theories and doctrines were used in the ratification process, such as dualism theory, monism, incorporation doctrine, doctrine transformation, and so on.¹⁴

But in principle, the instrument of ratification or whatever the way and form becomes very important to affirm the attachment of a country to the signed international treaty, which further processes the submission of the ratification charter. After ratification, if the international treaty is then entered into force, States as parties to the international treaty are obliged to implement or implement the international treaty into national law. Implementation is the enactment of international law into national law.¹⁵ Thus, implementation can be said to be an effort to implement an international agreement into national law, including through the implementation of the establishment of follow-up laws and regulations, both in the form of national legislation from sectors and regions, regulatory devices, institutional systems or funding institutions that handle and implement these international agreements, as well as judicial practices and decisions that state: The existence of international documents or agreements that are confirmed through the results of their decisions.¹⁶

Therefore, when an international treaty is in the process of negotiation, the governing instruments or provisions must be applicable. In the negotiation process of the Global Plastic Treaty, the instruments and provisions made are generally based on practices that have occurred in countries so far. In addition, it is expected that after becoming an international agreement, these various provisions can be implemented in member countries of the Global Plastic Treaty. For example, Extended Produce Responsibility (EPR), which has generally been implemented in several countries, is expected to be a definite provision so that it will be easy to implement and implement when the Global Plastic Treaty is successfully agreed.¹⁷

¹² Robert Kolb. 2023. *The Law of Treaties : An Introduction*, 2nd edition, Principles of international law series, Edward Elgar Publishing, See also Syahmin, AK. 1985. *International Treaty Law According to the Vienna Convention of 1969*, Armico, Bandung. See Kusumohamidjojo, Budiono. 1986. *Vienna Convention of 1969 on International Treaty Law*, Binacipta, Bandung.

¹³ Parthiana, I Wayan. 2002. *International Treaty Law : Part 1*, CV Mandar Maju, Bandung. Pratomo, Eddy. 2010. *International Treaty Law: Definition, Legal Status and Ratification*, Alumni, Bandung.

¹⁴ Suryono, Edy. 1984. *Praktek Ratifikasi Perjanjian Internasional di Indonesia*, CV Remaja Karya, Bandung dan Agusman, Damos D. 2010. *Hukum Perjanjian Internasional :Kajian Teori dan Praktek Indonesia*, PT Refika Aditama, Bandung.

¹⁵ Siswanto, D. 2001. *Implementation of International Law into National Law*, Faculty of Law Diponegoro University, Semarang.

¹⁶ Andreas Pramudianto. 2014. *International Environmental Treaty Law: Implementation of International Environmental Treaty Law*, Setara Press, Malang.

¹⁷ These provisions are outlined in Section 7 of the Global Plastic Treaty zero draft, as follows::

Option 1

1. Each Party shall establish and operate Extended Producer Responsibility (EPR) systems, including based on the modalities contained in annex D,38 to incentivize increased recyclability, promote higher recycling rates, and enhance the accountability of producers and importers for safe and environmentally sound management, of plastics and plastic products throughout their life cycle and across international supply chains.

2. Parties shall, in implementing this provision, take into account how the measures taken would contribute to a just transition. These measures shall be reflected in the national plan communicated pursuant to [part IV.1 on national plans].

Option 2

1. Each Party is encouraged to establish and operate Extended Producer Responsibility (EPR) systems, including, where relevant, on a sectoral basis, to incentivize increased recyclability, promote higher recycling rates, and enhance the accountability of producers and importers for safe and environmentally sound management, of plastics and plastic products throughout their life cycle and across international supply chains.

2.The governing body shall, at its first session, adopt modalities to inform the establishment of national EPR systems and define their essential features, and to support their harmonization, taking into account the objective of ensuring a just transition.*

3.2 Development of International Agreements

The existence of international treaties, in a broad sense, apparently has existed since 3000 years BC (BC), as found in the Treaty between Lagash and Umma around 3100 BC. This tract is enshrined in a stone (*stele*) and uses the Sumerian language.¹⁸ Lagash and Umma were two areas with disputes over the use of the river that were eventually resolved by treaty agreements. The existence of this treaty shows that international agreements can be used as legal instruments to resolve disputes effectively.

International treaties have historically generally set state boundaries concerning land, ocean, and air space boundaries and their contents, which can be natural resources within them. Examples are international agreements regarding the division of territorial waters or other forms of international agreements related to the division of certain natural resources, which are often a tool for resolving state boundary disputes. Even these instruments can be improved by cooperation in protection, preservation and management, institutional development, finance, and other forms. A clear example is the Convention for the Regulation of Whaling in 1931, which was later renewed in 1937 through the International Agreement for the Regulation of Whaling and renewed again through the International Convention for the Regulation of Whaling in 1946. This international agreement is the first multilateral agreement on animal trade, especially marine animals, namely whale mammals.¹⁹ IWC 1946 is still in force despite various problems, such as the withdrawal of several member states: Canada, Egypt, Greece, Jamaica, Mauritius, the Philippines, Seychelles, Venezuela, and even Japan, which is one of the most important countries in global whaling. Related to plastic waste in the sea, recently reported several whales were found dead; in their bodies, there was some plastic waste ingested.²⁰ Therefore, at the 68th meeting, the members of the International Whaling Commission succeeded in agreeing on Resolution 2022-1. The resolution affirms that the IWC Secretariat should seek ways to enhance collaboration and cooperation with relevant international organizations and bodies to share information that contributes to the development of effective measures to prevent or mitigate the impact of marine plastic pollution and the Scientific Committee to develop an up-to-date approach and assessment of knowledge on the impact of marine plastic pollution on whale mammals.²¹ Although Indonesia is not a member of the International Whaling Commission, the impact of plastic waste on whale mammals was also found in dead whales in Wakatobi District, Indonesia.²²

Selanjutnya beberapa perjanjian internasional lainnya juga telah disepakati hingga menjelang Konferensi Stockholom 1972 di Swedia seperti *Convention Relative to the Preservation of Fauna and Flora in Their Natural State (1933)*, *International Convention for the Protection of Birds (1950)*, *Convention on Civil Liability for Nuclear Damage (1963)*, *Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Damage (1969)*, *International Convention on Civil Liability for Oil Pollution Damage (1969)* dan *Benelux Convention on the Hunting and Protection of Birds (1970)*, *Ramsar Convention (1971)*, *ILO Benzene Convention (1971)*, *Oil Pollution Fund Convention (1971)* yang khusus mengenai pendanaan jika terjadi pencemaran minyak.²³

The holding of the United Nations Conference on Human Environment (UNCHE) in *Stockholm, Sweden, in 1972, which raised environmental issues into the international political agenda, and the establishment of the United Nations Environment Programme (UNEP)* has encouraged the improvement of international agreements both bilateral, multilateral, global and regional (Sands: 1995). After that were born several international agreements such as *the London Dumping Convention (1972)*, *the Convention International Trade in Endangered Species Wild of Fauna and Flora / CITES (1973)*, *the Marine Pollution Convention or MARPOL Convention (1973)*, *the Polar Bears Agreement (1973)*, *Nordic Environmental Convention (1974)*, *Paris Land-Based Sources Convention (1974)*, and several other conventions.²⁴

UNEP's role as a catalyst has supported some of the above international agreements and has begun to play an important role by encouraging the formation of international agreement models known as *soft law* and *hard law approaches*.²⁵ UNEP also established

¹⁸ Simone, Peter et al., 2013. *The Oxford Handbook of the History of International Law*, Oxford University Press. See Arthur Nussbaum and Sam Suhaedi. 1978. *History of International Law*, Alumni Publishers, Bandung.

¹⁹ Alexander Kiss. 1974. *Current Status Survey International Environmental Law Treaty*, WWF, Glands, Switzerland. See also Munajat Danusaputro. 1982. *Environmental Law : Global*, Binacipta, Bandung.

²⁰ van der Hoop, J., Corkeron, P., & Moore, M. (2016). 'Entanglement is a costly life-history stage in large whales', *Ecology and Evolution* 7(1) pp. 92-106 <https://doi.org/10.1002/ece3.261>. Lihat Fossi, M. et al., (2018) Impacts of Marine Litter on Cetaceans. A focus on plastic pollution. Chapter 6 in *Marine Mammal Ecotoxicology*. Lihat juga <https://www.nationalgeographic.com/environment/article/whale-dies-88-pounds-plastic-philippines>, <https://www.worldwildlife.org/magazine/issues/fall-2019/articles/how-tagging-whales-can-help-us-understand-ocean-pollution>, <https://www.vox.com/2019/5/24/18635543/plastic-pollution-bags-whale-stomach-beached>

²¹ Resolution 2022-1 on Marine Plastic Pollution, Resolution Adopted at the 68th Meeting in 2022.

²² <https://www.cnnindonesia.com/nasional/20181120120416-20-347861/paus-mati-di-wakatobi-makan-sampah-59-kilogram>

²³ UNEP. 2005. *Register of International Treaties and Other Agreements in the Field of the Environment*, UNEP/Env.Law/2005/3, Division of Policy Development and Law Environmental Law Branch, United Nations Environment Programme

²⁴ <https://wedocs.unep.org/bitstream/handle/>

²⁵ Munajat Danusaputro. 1982. *Environmental Law : Global*, Bina Cipta Publishers, Bandung.

the *Regional Seas Programme*, which resulted in several international agreements such as the *Barcelona Convention (1976)*, *AIPA Convention (1976)*, *Kuwait Convention (1978)*, *Abidjan Convention (1981)*, *Lima Convention (1981)*, *Jedah Convention (1982)*, *Cartagena Convention (1983)*.²⁶ Several other international treaties that fall outside UNEP's marine program include the *Convention on the Conservation of Migratory Species of Wild Animals (1979)*, the *Convention on the Protection of the Ozone Layer (1985)*, the *Montreal Protocol (1987)*, the *Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal (1989)*. The 1992 Earth Summit or the *United Nations Conference on Environment and Development (UNCED)*, has encouraged UNEP to prepare three international agreements, including the *Combat Desertification Convention (UNCCD)*, the *Climate Change Convention (UNFCCC)*, and the *Biological Diversity Convention (UNCBD)*.²⁷

At the 1992 Earth Summit, only two important international agreements were finally agreed, namely the *United Nations Framework Convention on Climate Change (UNFCCC)* and the *United Nations Convention on Biological Diversity (UNCBD)*. The *United Nations Combat Desertification Convention (UNCCD)* was temporarily postponed, which was then signed in Paris, France, in 1994.²⁸

However, after the 1992 *Earth Summit (UNCED)*, the focus began to shift to efforts to encourage the coordination of various international agreements. Several international agreements, such as the *1989 Basel Convention*, the *1998 Rotterdam Convention*, and the 2001 *Stockholm Convention*, have agreed to establish secretariats and meetings simultaneously.²⁹ In addition, existing environmental treaties known as *Multilateral Environmental Agreements (MEAs)* were coordinated through the establishment of the MEAs Secretariat.³⁰

After the Earth Summit in 1992 was held, several important documents were produced, including the *Rio Declaration and Agenda 21*, which is a blueprint for 21st-century development. Meanwhile, to focus more on sustainable development, in 2000, the *Millennium Summit* was held, which produced the *Millennium Development Goals (MDGs)* document. Furthermore, to strengthen the concept of sustainable development, ten years later, *Rio Plus 10* was held, which was hereinafter called the *Sustainable Development Summit* in Johannesburg, South Africa, in 2002. This summit did not produce an international agreement but produced a form of soft law, namely the *Johannesburg Declaration and the Implementation of Johannesburg*. Then, to evaluate the 20 years of the 1992 Earth Summit, *Rio Plus 20* was held in 2012 in Rio De Janeiro, Brazil, which is only a commemoration of the Earth Summit, but *Rio Plus 20* also produced a document called the *Rio Outcome* which is the basis of the *Sustainable Development Goals (SDGs)* agreed in 2015 at the *UN General Assembly Resolution*.

The encouragement of these various summits further strengthens the role of MEAs who try to coordinate various international agreements that share the same topics, such as the *Basel Convention*, *Rotterdam Convention*, and *Stockholm Convention*. So, in several meetings of the parties through the *Conference of the Parties (COP)* and *Meeting of the Parties (MOP)*, as well as meetings of other technical bodies in these three conventions, there will be a joint COP.³¹

3.3 The History of The Development of The Discussion of Plastic Waste In the Sea

In the 5th session of the *United Nations Environmental Assembly (UNEA)* in Nairobi, Kenya, on March 2, 2022, a Resolution succeeded in issuing a Resolution affirming the formation of international agreements in dealing with plastic waste in the sea.³² This resolution also builds on several previous resolutions that pushed for global attention to the presence of plastic waste in the ocean.³³

The resolution achieved is inseparable through a fairly long process. In 2011, the *International Whaling Commission* created a program for bound whales aimed at addressing the then-growing problem of how many whales were involved or trapped in fishing gear and marine debris.³⁴ The 10th *Conference of the Parties (COP)* of the *Convention on the Conservation of Migratory Species of Wild Animals* held in Bonn, Germany, on 20-25 November 2011, has produced an important resolution related to plastic waste

²⁶ <https://www.unep.org/explore-topics/oceans-seas/what-we-do/regional-seas-programme>

²⁷ Brian Keeble. *Reflections on the Earth Summit, Medicine and War*, Vol. 9, No. 1 (January-March 1993), pp. 18-23 (6 pages), Published By: Taylor & Francis, Ltd.

²⁸ <https://www.unccd.int/convention/history-unccd>

²⁹ <https://www.un.org/regularprocess/content/secretariat-basel-rotterdam-and-stockholm-conventions-brsmeas>.

³⁰ <https://www.unep.org/about-un-environment/why-does-un-environment-matter/secretariats-and-conventions>

³¹ <http://www.brsmeas.org/20212022COPs/Overview/tabid/8395/language/en-US/Default.aspx>

³² UNEA Resolution 5/14 entitled "End plastic pollution: Towards an international legally binding instrument"

³³ UNEA Resolution on marine plastic debris and microplastics (1/6), marine plastic litter and microplastics (2/11, 4/6), marine litter and microplastics (3/7), environmentally sound management of waste (4/7) and addressing single-use plastic products pollution (4/9).

³⁴ https://www.un.org/depts/los/general_assembly/contributions_2021/IWC.pdf

in the sea, namely Resolution 10.4.³⁵ In the same year, MARPOL 1973/1978 agreed on Annex V regarding the provisions for the disposal of waste from ships at sea.³⁶ In 2012, the existence of plastic waste in the sea was also discussed, especially during the discussion of the Future We Want document as a document for Sustainable Development Goals (SDGs). Declaration on Furthering the Implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities adopted at the 3rd Meeting of the Intergovernmental Review Meeting on the Implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities.³⁷ The meeting is also closely related to Honolulu's Strategy Commitments and Recommendations.³⁸ The 11th COP of the United Nations Convention on Biological Diversity (UNCBD) in 2012 resulted in decision Number XI/18. Furthermore, on the 20th Anniversary of the Rio Summit in Rio de Janeiro, Brazil, in June 2012, the Global Partnership on Marine Litter was formed, which then held its first Partnership meeting in 2013.³⁹ In addition, the 18th meeting of the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention) in Istanbul, Turkey, on December 3-6, 2013, agreed on the Regional Action Plan on Marine Litter Management, which is the first action plan in the world.

UN General Assembly Resolution 70/235 of 23 December 2015 on the oceans and the law of the sea affirmed its concern about the negative impacts of marine debris and microplastics and urged countries to take action.⁴⁰ In 2017, the United Nations Environment Programme conducted its first assessment of the Global Ocean through its report Marine plastic debris and Microplastics: Global Lessons and research to inspire action and guide policy change. In 2017, several sea conferences were held in Washington D.C., Valparaiso, Chile, and Valletta, Malta. Meanwhile, the G-20 summit also agreed on the Action Plan on Marine Litter adopted in 2017. Recommendations of the Open Working Group at the 14th COP of the 1989 Basel Convention to consider further options under the Convention, including establishing partnerships in the field of plastic waste. Meanwhile, the International Maritime Organization Marine (IMO), through the Environment Protection Committee supported by the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972) and the Protocol thereto, seeks to reduce plastic waste from ships.⁴¹ The next impetus was at the 1989 Basel Convention COP and the 2001 Stockholm Convention, affirming the importance of regulating plastic waste through the formation of small groups to deal with plastic waste and microplastics.⁴² At the 14th COP, the Basel Convention was agreed to handle plastic waste and microplastics.⁴³ In 2019, at the regional level, ASEAN agreed to the Bangkok Declaration on Combating Marine Debris in the ASEAN Region and the ASEAN Framework on Marine Debris, which was then held as a Special ASEAN Ministerial Meeting on Marine Debris (SAMM-MD). In 2021, ASEAN launched the ASEAN Regional Action Plan for Combating Marine Debris in the ASEAN Member States (2021-2025).⁴⁴ In 2021, UNEA began forming an expert group to deal with plastic waste in the ocean. Then, it was proposed to form an Intergovernmental Negotiating Group, which UNEA finally approved. In 2022, an important Resolution was issued to establish an International Agreement under which the INC team began work.⁴⁵

The existence of these negotiations is important because it will affect international norms and rules that apply globally. International norms, which are still scattered in various international agreements, still do not show the priority of handling plastic waste in the sea. Strong international cooperation, especially in the form of regional international agreements, will greatly help in handling plastic waste in the region. Generally, it is still done through rules in the form of general norms. Technical rules to action

³⁵ One part of the Resolution reiterates concerns that marine debris negatively impacts large numbers of marine wild-migratory wildlife, including many endangered species of birds, turtles, sharks and marine mammals. <https://www.cms.int/en/document/overview-cms-and-its-structure-relation-cop-10>

³⁶ Gabriela Argüello. 2019. Marine Pollution, Shipping Waste and International Law, Routledge, London

³⁷ This meeting was held in Manila, Philippines from 25-27 January 2012 to review the results of the Intergovernmental Panel on Global Programme Land Based Activities. One in this declaration confirms

"Resolve to work with all relevant stakeholders to find innovative solutions and initiatives to the marine debris problem, including by sharing best practices and technical information on capacity building, and legal, policy, community-based, economic and market-based means of preventing, reducing and managing marine debris, and recommending the establishment of a global treaty of partnership in the field of marine debris."

³⁸ The Honolulu Strategy is one of the key outcomes of The Fifth International Marine Debris Conference, in March 2011, held by UNEP and the National Oceanic and Atmospheric Administration (NOAA), USA.

³⁹ Thomas Maes and Fiona Preston-Whyte, Editors. 2023. The African Marine Litter Outlook, Springer, Switzerland.

⁴⁰ Melanie Bergmann, Lars Gutow, Michael Klages. Editors. Marine Anthropogenic Litter, Springer, NY.

⁴¹ Paragraph 4 of Annex I specifies persistent plastics and other synthetic materials (e.g. nettings and ropes), which might float or remain in suspension in the sea in a manner that could interfere with fishing, navigation, or other legitimate uses of the sea.

⁴² UNEP/CHW.13/INF/29/Rev1 and POPS/COP.8/INF/26/Rev 1

⁴³ UNEP/CHW.14/11

⁴⁴ <https://asean.org/book/asean-regional-action-plan-for-combating-marine-debris-in-the-asean-member-states-2021-2025-2/>

⁴⁵ Resolusi UNEA Nomor 5/14 ini menegaskan :

"1. Requests the Executive Director to convene an intergovernmental negotiating committee, to begin its work during the second half of 2022, with the ambition of completing its work by the end of 2024;"

plans and more tangible programs. Rules in the form of general and technical norms can be legally binding (legally binding) or non-legally binding (non-legally binding). However, most countries, especially UNEA member states, agree to deal with plastic waste. Since before the first negotiations for the Plastic Treaty in Punta Del Este, Nicaragua, there have been sharp differences in the management of marine waste between countries that are members of the European Union and with the United States and Saudi Arabia.⁴⁶ Various proposals were submitted by several countries and other stakeholders in both INC-1 in Uruguay and INC-2 in France to provide input to the norms in the Plastics Agreement. At this last meeting, zero draft of the Global Plastic Treaty was achieved.⁴⁷

3.4 Indonesia And Ratified International Treaties

Many international agreements have been ratified by the government of the Republic of Indonesia. Below are examples of several international agreements that will relate to the importance and efforts to handle plastic waste in the sea that have been ratified by the Indonesian government can be seen in the table below:

Table 1. List of International Agreements that Indonesia has ratified that will relate to efforts to deal with plastic waste in the sea

No	International Treaty Name	Ratification	Regulated issues
1	<i>Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) 1973</i>	Presidential Decree No. 43/1978 December 15, 1978	The setting will relate to rare species in the ocean that are heavily exposed to plastic debris.
2	<i>United Nations Convention on Law Of The Sea (UNCLOS) 1982</i>	Law No. 17/1985 December 31, 1985	The arrangement will relate to plastic waste from land, sea, and watercraft.
3	<i>International Convention for the Prevention of Pollution by Ships 1973, Protocol Relating to the Convention for the Prevention of Pollution from Ships 1978.</i>	Presidential Decree No. 46/1986 9 September 1986	Arrangements that will relate to the prevention of plastic waste pollution from ships.
4	<i>Amandement 1979 of CITES 1973</i>	Presidential Decree No. 1/1987 January 14, 1987	Arrangements that will relate to the provision of financial mechanisms for animals that must be handled due to plastic waste
5	<i>Convention for the Protection of the World Cultural and Natural Heritage 1972</i>	Presidential Decree No. 26/1989 May 30, 1989	Arrangements that will relate to Cultural Heritage and World Natural Heritage, especially in the sea affected by plastic waste
6	<i>Convention on Wetlands of International Importance, Especially as Waterfowl Habitat 1971</i>	Presidential Decree No. 48/1991 December 9, 1991	Arrangements that will relate to migratory birds, wetlands, and coastal habitats that can be affected by plastic spills in the sea.
7	<i>Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal 1989</i>	Presidential Decree No. 61/1993 July 12, 1993	Arrangements that will relate to the supervision of transportation and disposal of B3 waste, especially the transportation of plastic waste at sea.
8	<i>United Nations Convention on Biological Diversity 1992</i>	Law No. 5 of 1994 August 1, 1994	Arrangements that will relate to the presence of biodiversity in plastic-affected oceans
10	<i>Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982</i>	Presidential Decree No. 178/1999 December 30, 1999	Regulation of the implementation of Article 11 of UNCLOS, which will also relate to the use of plastic fishing nets.
11	<i>Amendment of the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal 1989</i>	Presidential Regulation No. 47 of 2005 July 10, 2005	Tightening and international cooperation on the transboundary movement of B3 waste, which will also be related to plastic waste

⁴⁶ <https://www.reuters.com/business/environment/countries-split-plastics-treaty-focus-un-talks-close-2022-12-03>.

⁴⁷ UNEP/PP/INC.3/4

12	<i>Stockholm Convention on Persistent Organic Pollutants 2001</i>	Law No. 19 of 2009 June 11th, 2009	Regulate, limit, and prohibit the use of POPs materials, especially those containing plastics/polymers, which will also be related to the presence of waste in the sea.
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Source: Research Results (Pramudianto: 2015 and 2023) and modifications.

Once an international treaty is ratified, it does not mean that it is considered complete. Such international agreements must be implemented in various forms and ways. Several international agreements are then implemented through various means, such as:

1. Forming laws and regulations with various legal products.
2. Establish national and regional institutions to handle international agreements.
3. Establish special funding for implementing international agreements.
4. Establish guidelines and various other forms so that international agreements can be implemented.
5. Establish procedures, procedures and mechanisms for implementing the rules in international agreements.

3.5 Laws and Regulations In Indonesia As Implementation Of International Agreements

Law Number 24 of 2000 concerning International Treaties, especially Article 3, states that the Government of the Republic of Indonesia binds itself to international agreements through signing, ratifying, and exchanging treaty documents / diplomatic notes and other means as agreed by the parties to international agreements. Meanwhile, Article 10 states that the ratification of international agreements is carried out by law when it relates to political, peace, defense, and security issues of the state; changes in territory or delimitation of the territory of the Republic of Indonesia; sovereignty or sovereign rights of states; human rights and the environment; establishment of new legal rules and foreign loans and/or grants.

With these two articles, the Indonesian government has a binding mechanism for an international and environmental treaty, including ratification, which must be carried out through legal products of laws and presidential regulations. Before the birth of this law, many international environmental agreements were ratified through the legal product of a Presidential Decree (Keppres).

Regulations for the implementation of international agreements have been formed by the central and local governments, ranging from legal products to regional regulations. Among them is the Convention for the Prevention of Oil Pollution from Ship (MARPOL 73/78 Annex I-II) 1973/1978, where Indonesia has ratified the Convention for the Prevention of Oil Pollution from Ship (MARPOL 73/78 Annex I-II) through Presidential Decree No. 46 of 1986. The purpose of ratifying this convention is to prevent marine pollution and demand further action so that the precautionary principle as one of the principles of sustainable development can be applied. Therefore, at the national level, it is implemented through the Decree of the Minister of Transportation Number KM 86 of 1990 concerning the Prevention of Pollution by Oil from Ships and the handling of waste and garbage has been issued Regulation of the Minister of Environment Number 05 of 2009 concerning Waste Management at Ports.

Handling waste in the sea in Indonesia is carried out based on Presidential Regulation Number 83 of 2018 concerning Marine Debris Handling. Although this presidential regulation does not implement an international agreement directly, and indeed international agreements on marine plastic waste at the global level are still in the process of negotiation, Indonesia has been strongly committed from the beginning to support the reduction of marine waste, especially plastic waste globally. This Presidential Regulation was then implemented through the establishment of an Implementation Team for the National Action Plan for Marine Debris Management based on the Decree of the coordinating minister for Maritime Affairs of the Republic of Indonesia Number 69 of 2019 concerning the Implementation Team of the National Action Plan for Marine Debris Handling. Meanwhile, Indonesia's commitment to the zero draft Global Plastic Treaty is also under national policies such as Part 7, which regulates Extended Producer Responsibility (EPR). Indonesia also has regulations on EPR, namely the Regulation of the Minister of Environment and Forestry of the Republic of Indonesia Number P.75/Menlhk/Setjen/Kum.1/10/2019 concerning the Roadmap for Waste Reduction by Producers. Thus, Indonesia has also actively participated in and implemented the dynamics of international policies that have developed since the beginning until now, which also supports the formation of the Global Plastic Treaty.

Since the reform era, the status and position of regions, both provincial, regency, and city, have become very important. Through Law Number 23 of 2014 jo Law Number 2 of 2015 concerning Regional Government, several provisions regarding international agreements have been regulated. Article 101 of this law states that the DPRD has the duty and authority to provide opinions and considerations to provincial and regional governments on international treaty plans in provincial regions. Meanwhile, in the explanatory article, what is meant by "international agreements in provincial regions" in this provision is an agreement between the Central Government and foreign parties relating to the interests of provincial regions.

Regarding the issue of plastic waste, local governments, both provincial, district, and city, can handle waste problems based on the authority given by law, namely Law Number 18 of 2008 concerning Waste Management (LN Number 69 TLN Number 4851). In addition, several regions have affirmed and committed to national and international frameworks to implement so as not to dump garbage in the sea. One of them is as stipulated in Ternate City Regional Regulation Number 1 of 2013 concerning Waste Management.⁴⁸ Regarding waste management around the coast and sea, in Lampung, Lampung Provincial Regulation Number 9 of 2021 concerning Waste Management has been issued.⁴⁹ At lower levels, such as in districts, efforts to prohibit the disposal of garbage into the sea are also regulated in Tanjungpinang City Regional Regulation Number 14 of 2009 concerning the Waste Management System. Meanwhile, the handling of plastic waste is also carried out as regulated through the Regulation of the Regent of Kulon Progo Number 35 of 2019 concerning Control of Plastic Waste in Tourist Attractions.

The establishment of legal instruments at the regional level is important in supporting the formation of international agreements. On the other hand, it is also necessary to have regional institutional tools and funding for the capacity of human and technical resources to be developed. This tool is important for the implementation of the commitment to handling plastic waste in the sea at the global, national, and regional levels. These tools will all be one measure of success in handling global plastic waste, including the targets to be achieved. Thus, Indonesia's commitment, both at the central and regional levels, will also be part of the success of the global target for handling waste at sea.

4. Conclusion

International agreements, especially related to handling plastic waste in the sea, are currently in the process of negotiation but have been implemented in Indonesia, especially in the implementation of existing and ratified international agreements. For Indonesia, it is also important to make a commitment to the international community to eliminate plastic waste in the sea. For international treaties that have been ratified, it is not a decoration or statement on paper but must be implemented in various forms. Likewise, international agreements are in the process of negotiation where experience and input from Indonesia are needed to be under national interests. So, international agreements, both ratified and under negotiation, must be able to provide benefits for the country and the people of Indonesia. These benefits can be in the form of increased international cooperation, exchange of experts and interested communities, technology transfer, funding, and other benefits. On the other hand, information, knowledge, understanding, and awareness of the existence and importance of international agreements are needed to provide real benefits for all Indonesian people.

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References

- [1] Agusman, Damos D. (2010). *Hukum Perjanjian Internasional :Kajian Teori dan Praktek Indonesia*, PT Refika Aditama, Bandung.
- [2] Alexandre K. (1974). *Survey of Current Developments in International Environmental Law*, IUCN-FUST, Switzerland.
- [3] Andreas P (2014). *Hukum Perjanjian Lingkungan Internasional: Implementasi Hukum Perjanjian Internasional Bidang Lingkungan Hidup*, Setara Press, Malang
- [4] _____ (2017). *Hukum Lingkungan internasional*, CV Rajawali, Depok.
- [5] Anthony A. (2007). *Modern Treaty Law and Practice*, Cambridge University Press.
- [6] Arthur N dan Sam S. (1978). *Sejarah Hukum Internasional*, Penerbit Alumni, Bandung.
- [7] Asean (2021). <https://asean.org/book/asean-regional-action-plan-for-combating-marine-debris-in-the-asean-member-states-2021-2025-/>

⁴⁸ The Second Part of Article 21 prohibition states:

"Local governments, communities, waste management service providers, and business actors and/or activities in waste management are prohibited:

1. disposing of garbage on beaches/seas, lakes, rivers, ditches, irrigation canals, drainage canals, city parks, open places, public facilities, and roads or unspecified places;"
2."

⁴⁹ Article 36 of the Tenth Section of Coastal Waters states:

(1) Waste Management in coastal waters as referred to in Article 12 paragraph (21) letter e is carried out by the provincial government through UPTD.

(2) Waste management in coastal waters as referred to in paragraph (1) shall be carried out in coastal waters as far as 0-12 miles of coastline when high tide occurs.

(3) Waste management in coastal waters as referred to in paragraph (2) shall be carried out through coordination and cooperation with the central government, provincial officials, district/city governments, and third parties.

(4) Further provisions regarding Waste Management in coastal waters shall be regulated in the Governor's Regulation.

- [8] Brsmeas (2022) <http://www.brsmeas.org/20212022COPs/Overview/tabid/8395/language/en-US/Default.aspx>
- [9] Brian K. (1993) Reflections on the Earth Summit, *Medicine and War*, 9,1 (January-March 1993), pp. 18-23 (6 pages), Published By: Taylor & Francis, Ltd.
- [10] Budiono K, (1986) *Konvensi Wina Tahun 1969 tentang Hukum Perjanjian Internasional*, Binacipta, Bandung.
- [11] CNN Indonesia (2018) <https://www.cnnindonesia.com/nasional/20181120120416-20-347861/paus-mati-di-wakatobi-makan-sampah-59-kilogram>
- [12] Dpr (1945) <https://www.dpr.go.id/jdih/Undang-Undang1945>
- [13] Eddy P (2010) *Hukum Perjanjian Internasional : Pengertian, Status Hukum dan ratifikasi*, Alumni, Bandung.
- [14] Fossi, M. et al., (2018) Impacts of Marine Litter on Cetaceans. A focus on plastic pollution. Chapter 6 in *Marine Mammal Ecotoxicology*.
- [15] Gabriela A (2019) *Marine Pollution, Shipping Waste and International Law*, Routledge, London
- [16] Malcom N S. (2021). *International Law.*, Cambridge University Press, UK.
- [17] Melanie B (n.d), Lars Gutow, Michael Klages. Editors. *Marine Anthropogenic Litter*, Springer, NY.
- [18] Munro, RD dan Lammers, JG. (1997) *Environmental Protection and Sustainable Development: Legal Principles and Recommendations*, Graham and Trotman, London.
- [19] Myers DP (1957) The Names and Scope of Treaties, *American Journal of International Law*, 513, 1957: 574-60
- [20] National geographic (n.d) <https://www.nationalgeographic.com/environment/article/whale-dies-88-pounds-plastic-philippines>,
- [21] Patricia B W and Alan E B (1992). *International Law and the Environment*, Clarendon Press, Oxford.
- [22] Phillipe S (1995) *Principles of International Environmental Law: Framework, Standards and Implementation*, I. Manchester University Press, London.
- [23] Reuters (2022) <https://www.reuters.com/business/environment/countries-split-plastics-treaty-focus-un-talks-close-2022-12-03>
- [24] Simone P, Anne P, Daniel H (2013) *The Oxford Handbook of the History of International Law*, Oxford University Press.
- [25] Siswanto, D. (2010) *Implementasi Hukum Internasional ke Dalam hukum Nasional*, FH Universitas Diponegoro, Semarang.
- [26] St Munajat Danusaputro. (1982). *Hukum Lingkungan, Buku IV: Global, Bina Cipta*, Bandung.
- [27] Suryono, E. (1984) *Praktek Ratifikasi Perjanjian Internasional di Indonesia*, CV Remaja Karya, Bandung.
- [28] Susskind, L.E. (1994) *Environmental Diplomacy: Negotiating More Effective Global Agreement*, MIT Publisher.
- [29] Thomas M and Fiona Preston-Whyte, Editors. (2023) *The African Marine Litter Outlook*, Springer, Switzerland.
- [30] Treaties (n.d) <https://treaties.un.org/>
- [31] UNEP (n.d) <https://wedocs.unep.org/bitstream/handle/>
- [32] UNEP (n.d) <https://www.unep.org/explore-topics/oceans-seas/what-we-do/regional-seas-programme>
- [33] UNCCD (n.d) <https://www.unccd.int/convention/history-unccd>
- [34] UN (n.d) <https://www.un.org/regularprocess/content/secretariat-basel-rotterdam-and-stockholm-conventions-brsmeas>
- [35] UNEP (n.d) <https://www.unep.org/about-un-environment/why-does-un-environment-matter/secretariats-and-conventions>
- [36] UN (n.d) https://www.un.org/depts/los/general_assembly/contributions_2021/IWC.pdf
- [37] Vox (2019) <https://www.vox.com/2019/5/24/18635543/plastic-pollution-bags-whale-stomach-beached>
- [38] Van der Hoop, J., Corkeron, P., & Moore, M. (2016). 'Entanglement is a costly life-history stage in large whales', *Ecology and Evolution* 7(1) 92-106 <https://doi.org/10.1002/ece3.261>
- [39] Wayan P I. (2002). *Hukum Perjanjian Internasional : Bagian 1*, CV Mandar Maju, Bandung.
- [40] Worldwildlife (2019) <https://www.worldwildlife.org/magazine/issues/fall-2019/articles/how-tagging-whales-can-help-us-understand-ocean-pollution>