

TOWARDS A GLOBAL PACT FOR THE ENVIRONMENT

"We must act through law. Because the law is essential both for adapting to the new world and for this new world to adapt. This is the aim of the Global Pact for the Environment, necessary both for our planet and for humanity".

Laurent Fabius, President of the Constitutional Court of the French Republic, former President of the COP21, and President of the Group of Experts for the Pact (GEP)



The Genesis of the Pact Project



▲ Working meeting of a part of the GEP on June 23rd 2017

The adoption of the Paris Agreement on Climate Change and the Sustainable Development Goals (SDGs) in 2015 created a momentum for protecting the planet. At the same time, the seriousness of environmental harms reinforces the need to move forward.

It is now time to take a decisive step forward with the adoption of a global environmental pact. This international

treaty aims to cluster in a single document with legal force the major principles that guide environmental actions.

The Global Pact for the Environment project has been developed through an international network of over one hundred leading experts who represent every continent. This "Group of Experts for the Pact" (GEP) is chaired by Laurent Fabius, President of the French Constitutional Court and former President of the COP21, and mobilized by the Environment Commission of the *Club des Juristes*, the first legal think tank in France.

On June 24, 2017, the Pact project was introduced in Paris at an international event organized by the *Club des juristes* in the Grand Amphithéâtre of the Sorbonne, with many personalities committed to the protection of the planet attending, including Laurent Fabius, Ban Ki-moon, Arnold Schwarzenegger, Mary Robinson, Anne Hidalgo, Laurence Tubiana, Manuel Pulgar-Vidal and Nicolas Hulot.

Emmanuel Macron, President of the French Republic, committed on this occasion to introducing the Global Pact for the Environment project to the United Nations General Assembly. The project is presented to the UN on September 2017.

This international event was realized with the support of the following partners:



Why a Global Pact for the Environment?

Over the last thirty years, the international community of jurists has called for the adoption of a global environmental pact. The Stockholm Declaration (1972) and the Rio Declaration (1992) recognize the major general principles of environmental law, which have been agreed on over time. But even though these declarations have a significant symbolic impact, they do not have legal force.



▲ Laurent Fabius, presenting the Pact on June 24th 2017 at the Sorbonne

The Global Pact for the Environment is designed to become the cornerstone of international environmental law. It would strengthen the coherence of global environmental governance within a context of fragmented international institutions and a multiplicity of environmental norms both technical and sectoral.

The Pact supplements the legal framework of fundamental norms: Following the two international covenants of 1966 – one related to civil and political rights, the other related to economic, social and cultural rights – **this new pact would establishes a third generation of fundamental rights, the rights related to environmental protection.**

As a living document, the Pact is designed to trigger a legislative and jurisprudential dynamic in each State Party, inspiring the actions of national lawmakers and courts. It will contribute to the emergence of a global legal framework that is more protective of the environment.

The Content of the Pact Project

The Pact project drafted by the GEP members is structured around a **Preamble and twenty principles** and supplemented by six articles as final provisions. It relies on two source principles, one a right and one a duty: **the right to a healthy environment and the duty to take care of the environment**.

This results in a series of derived principles which have been broadly recognized over time: **duties of prevention and remediation** of environmental damage, the **right to information and participation** in environmental decision-making, and the right of access to environmental justice.

The Pact project also proposes several innovations: official recognition of the role of civil society for the protection of the environment and the **non-regression principle**, which globally prohibits any backward steps in environmental law.

Finally, the Pact project would provide a follow-up mechanism to ensure the Pact's effectiveness. The Compliance Committee should be a space for States to have exchanges on their experiences and make useful recommendations in light of best national practices.



▲ Delivery of the project of the Global Pact for the environment to Emmanuel Macron, President of the French Republic, on June 24th 2017

The Objectives of the Pact Project

For States:

- ✓ **Continue** to pursue and strengthen their actions for the protection of the environment, thereby sending a **strong signal** to the international community.
- ✓ Contribute to the creation of a framework of reference, global and consensus-based, and thereby reinforcing the coherence of global environmental governance.
- ✓ Consolidate **cooperation between States** on environmental topics, taking into account their respective capabilities and the **diversity of national situations**.

For citizens:

- ✓ **Benefit from reinforced and harmonized environmental rights.**
- ✓ **Encourage and ensure that States comply with their commitments to the environment.**
- ✓ Ensure that the actors in society be **guided by clear and strong environmental principles** and build responsible projects upon these common principles at the local, regional, and international level.

For companies:

- ✓ Reinforce their commitments to a **responsible approach** and actively contribute to **sustainable development**.
- ✓ Benefit from increased legal certainty, due to a **clear document gathering legal principles already existing** under international law, as well as under the national laws and constitutions of many States.
- ✓ Commit to a world economy within the framework of **unified, predictable and more transparent** environmental rules, thereby contributing to reducing the risk of environmental dumping.

The Future of the Pact Project



The Global Pact for the Environment is expected to be adopted by the United Nations General Assembly. Following the development of the project by legal experts, a **political and diplomatic phase** has commenced. It is now the responsibility of States to build an intergovernmental coalition to push the project through international institutions.

In addition, the members of the GEP are supporting the Global Pact project by organizing **many conferences and events** across the world to supplement the diplomatic efforts in view of facilitating the adoption of the project by the United Nations.

Finally, the Pact Project is also supported by many actors in the civil society committed to the protection of the environment.

For further information, in particular to explore the **conferences, coming events, and publications around the Pact project, as well as the list of GEP members**, take a look at our website: <http://www.pactenvironment.org/>.

PRELIMINARY DRAFT GLOBAL PACT FOR THE ENVIRONMENT

Preamble

The Parties to the present Pact,

Acknowledging the growing threats to the environment and the need to act in an ambitious and concerted manner at the global level to better ensure its protection,

Reaffirming the Declaration of the United Nations Conference on the Human Environment, adopted in Stockholm on 16 June 1972, the World Charter for Nature adopted on 28 October 1982 and the Declaration of the United Nations Conference on Environment and Development, adopted in Rio on 14 June 1992,

Recalling their commitment to the Sustainable Development Goals adopted by the General Assembly of the United Nations on 25 September 2015,

Considering in particular the urgency to tackle climate change and recalling the objectives set by the United Nations Framework Convention on Climate Change adopted in New York on 9 May 1992 and the Paris Agreement of 12 December 2015,

Observing that the planet is facing an unprecedented loss of its biodiversity requiring urgent action,

Reaffirming the need to ensure, while using natural resources, that ecosystems are resilient and continue to provide essential services, thereby preserving the diversity of life on Earth, and contribute to human well-being and the eradication of poverty,

Acknowledging that the global nature of threats to the Earth's community of life requires that all States cooperate as closely as possible and participate in an international, effective and appropriate action according to their common but differentiated responsibilities and respective capabilities, in light of their different national circumstances,

Determined to promote a sustainable development that allows each generation to satisfy its needs without compromising the capability of future generation to meet theirs, while respecting the balance and integrity of the Earth's ecosystem,

Emphasizing the vital role of women in sustainable development matters and the need to promote gender equality and the empowerment of women,

Conscious of the need to respect, promote and consider their respective obligations on human rights, the right to health, the rights and knowledge of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situation, under their jurisdiction,

Welcoming the vital role of non State actors, including civil society, economic actors, cities, regions and other subnational authorities in the protection of the environment,

Stressing the fundamental importance of science and education for sustainable development, Mindful of conducting actions guided by intragenerational and intergenerational equity,

Affirming the need to adopt a common position and principles that will inspire and guide the efforts of all to protect and preserve the environment,

Have agreed as follows:

Article 1

Right to an ecologically sound environment

Every person has the right to live in an ecologically sound environment adequate for their health, well-being, dignity, culture and fulfilment.

Article 2

Duty to take care of the environment

Every State or international institution, every person, natural or legal, public or private, has the duty to take care of the environment. To this end, everyone contributes at their own levels to the conservation, protection and restoration of the integrity of the Earth's ecosystem.

Article 3

Integration and sustainable development

Parties shall integrate the requirements of environmental protection into the planning and implementation of their policies and national and international activities, especially in order to promote the fight against climate change, the protection of oceans and the maintenance of biodiversity.

They shall pursue sustainable development. To this end, they shall ensure the promotion of public support policies, patterns of production and consumption both sustainable and respectful of the environment.

Article 4

Intergenerational Equity

Intergenerational equity shall guide decisions that may have an impact on the environment.

Present generations shall ensure that their decisions and actions do not compromise the ability of future generations to meet their own needs.

Article 5

Prevention

The necessary measures shall be taken to prevent environmental harm.

The Parties have the duty to ensure that activities under their jurisdiction or control do not cause damage to the environments of other Parties or in areas beyond the limits of their national jurisdiction.

They shall take the necessary measures to ensure that an environmental impact assessment is conducted prior to any decision made to authorise or engage in a project, an activity, a plan, or a program that is likely to have a significant adverse impact on the environment.

In particular, States shall keep under surveillance the effect of an above-mentioned project, activity, plan, or program which they authorise or engage in, in view of their obligation of due diligence.

Article 6

Precaution

Where there is a risk of serious or irreversible damage, lack of scientific certainty shall not be used as a reason for postponing the adoption of effective and proportionate measures to prevent environmental degradation.

Article 7

Environmental Damages

The necessary measures shall be taken to ensure an adequate remediation of environmental damages.

Parties shall immediately notify other States of any natural disasters or other emergencies that are likely to produce sudden harmful effects on the environment of those States. Parties shall promptly cooperate to help concerned States.

Article 8

Polluter-Pays

Parties shall ensure that prevention, mitigation and remediation costs for pollution, and other environmental disruptions and degradation are, to the greatest possible extent, borne by their originator.

Article 9

Access to information

Every person, without being required to state an interest, has a right of access to environmental information held by public authorities.

Public authorities shall, within the framework of their national legislations, collect and make available to the public relevant environmental information.

Article 10

Public participation

Every person has the right to participate, at an appropriate stage and while options are still open, to the preparation of decisions, measures, plans, programmes, activities, policies and normative instruments of public authorities that may have a significant effect on the environment.

Article 11

Access to environmental justice

Parties shall ensure the right of effective and affordable access to administrative and judicial procedures, including redress and remedies, to challenge acts or omissions of public authorities or private persons which contravene environmental law, taking into consideration the provisions of the present Pact.

Article 12

Education and training

The Parties shall ensure that environmental education, to the greatest possible extent, is taught to members of the younger generation as well as to adults, in order to inspire in everyone a responsible conduct in protecting and improving the environment.

The Parties shall ensure the protection of freedom of expression and information in environmental matters. They support the dissemination by mass media of information of an educational nature on ecosystems and on the need to protect and preserve the environment.

Article 13

Research and innovation

The Parties shall promote, to the best of their ability, the improvement of scientific knowledge of ecosystems and the impact of human activities. They shall cooperate through exchanges of scientific and technological knowledge and by enhancing the development, adaptation, dissemination and transfer of technologies respectful of the environment, including innovative technologies.

Article 14
Role of non-State actors and subnational entities

The Parties shall take the necessary measures to encourage the implementation of this Pact by non- State actors and subnational entities, including civil society, economic actors, cities and regions taking into account their vital role in the protection of the environment.

Article 15
Effectiveness of environmental norms

The Parties have the duty to adopt effective environmental laws, and to ensure their effective and fair implementation and enforcement.

Article 16
Resilience

The Parties shall take necessary measures to maintain and restore the diversity and capacity of ecosystems and human communities to withstand environmental disruptions and degradation and to recover and adapt.

Article 17
Non-regression

The Parties and their sub-national entities refrain from allowing activities or adopting norms that have the effect of reducing the global level of environmental protection guaranteed by current law.

Article 18
Cooperation

In order to conserve, protect and restore the integrity of the Earth's ecosystem and community of life, Parties shall cooperate in good faith and in a spirit of global partnership for the implementation of the provisions of the present Pact.

Article 19

Armed conflicts

States shall take pursuant to their obligations under international law all feasible measures to protect the environment in relation to armed conflicts.

Article 20

Diversity of national situations

The special situation and needs of developing countries, particularly the least developed and those most environmentally vulnerable, shall be given special attention.

Account shall be taken, where appropriate, of the Parties' common but differentiated responsibilities and respective capabilities, in light of different national circumstances.

Article 21

Monitoring of the implementation of the Pact

A compliance mechanism to facilitate implementation of, and to promote compliance with, the provisions of the present Pact is hereby established.

This mechanism consists of a Committee of independent experts and focuses on facilitation. It operates in a transparent, non-adversarial and non-punitive manner. The committee shall pay particular attention to the respective national circumstances and capabilities of the Parties.

One year after the entry into force of the present Pact, the Depositary shall convene a meeting of the Parties which will establish the modalities and procedures by which the Committee shall exercise its functions.

Two years after the Committee takes office, and at a frequency to be determined by the meeting of the Parties, not exceeding four years, each Party shall report to the Committee on its progress in implementing the provisions of the Pact.

Article 22

Secretariat

The Secretariat of the present Pact shall be provided by the Secretary-General of the United Nations [or the Executive Director of the United Nations Environment Program].

The Secretary-General [or the Executive Director of the United Nations Environment Program] convenes in as much as necessary meeting of Parties.

Article 23

Signature, ratification, acceptance, approval, accession

The present Pact shall be open for signature and subject to ratification, acceptance or approval by States and international organizations. It shall be open for signature at the United Nations Headquarters in New York from XXX to XXX and shall be open for accession from the day following the date on which it shall cease to be open for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 24

Coming into force

The present Pact shall enter into force three months after the date of deposit with the Secretary- General of the United Nations of the XX instrument of ratification, approval, acceptance or accession.

For each State and international organization ratifying, approving, accepting or acceding to the present Pact after the deposit of the XX instrument of ratification or accession, the Pact shall enter into force three months after the date of deposit by that State of its instrument of ratification or accession.

Article 25 **Denunciation**

On the expiry of a period of three years from the date of entry into force of this Treaty in respect of a Party, that Party may at any time denounce it by written notification to the Depositary. Such denunciation shall take effect on the expiry of a period of one year from the date of receipt by the Depositary of such notification, or on such later date as may be specified in such notification.

Article 26 **Depositary**

The original of this Treaty, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.



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