Global climate change is a topic of continuously growing interest. As more international treaties come into force, media coverage has increased and many universities are now starting to conduct courses specifically on climate change laws and policies. This textbook provides a survey of the international law on climate change, explaining how significant international agreements have sought to promote compliance with general norms of international law. Benoit Mayer provides an account of the rules agreed upon through lengthy negotiations under the United Nations Framework Convention on Climate Change (UNFCCC) and multiple other forums on mitigation, geoengineering, adaptation, loss and damage, and international support. *The International Law on Climate Change* is suitable for undergraduate and graduate students studying climate, environmental or international law. It is supported by a suite of online resources, available at www.internationalclimatelaw.com, featuring regularly updated lists of complementary materials, weblinks and regular updates for each chapter.

Benoit Mayer is an assistant professor in the Faculty of Law at The Chinese University of Hong Kong, where he teaches international law and climate law. His research on the international law on climate change has been published in leading journals including the *European Journal of International Law*, the *Asian Journal of International Law*, *Transnational Environmental Law*, *Climate Law* and *Climatic Change*.
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Climate change is one of the greatest concerns of our time. For more than a quarter of a century, efforts have been made to mobilize international law as a tool to tackle climate change. Through the outcomes of protracted international negotiations and extensive doctrinal research, a new field of study has gradually emerged in international law. The international law on climate change is a system of State obligations to tackle climate change. It seeks to protect not only the sovereign rights of every State, but also the effective enjoyment of human rights, the interests of future generations and humankind as a whole, as well as other forms of life on Earth. The task is a formidable one: an attempt at altering the way we are changing our world. Some of the most complex negotiations ever undertaken have only touched the surface of the problem. The challenges are daunting, but the stakes are high and failure is not an option. It is hardly an overstatement that the fate of humankind depends on the international law on climate change.

As a field of study, the international law on climate change has largely focused on current developments, at the expense of laying the foundations of a new discipline. Toward the end of each year, the representatives of virtually every State meet for a session of the Conference of the Parties to the 1992 UN Framework Convention on Climate Change (UNFCCC). Agreements are regularly concluded, like, most recently, the Paris Agreement of 2015. This ritual event, heavily reported by the international media, set the cadence in the field. The need to report on the latest outcomes of international negotiations and to analyze them has impeded the conduct of a more systematic and comprehensive inquiry into the international law on climate change.

Rules agreed by States through dedicated negotiations parts of a joint effort to address climate change – the UNFCCC regime – are an important component of the international law on climate change, but the latter is not confined to the former. Another component of the international law on climate change relates to relevant rules adopted in diverse other international regimes, for instance, under the Convention on International Civil Aviation of 1944 or the Montreal Protocol on Substances that Deplete the Ozone Layer of 1987. Overall, the general and abstract norms and principles that States have accepted as general international law, such as the no-harm principle and the law on State responsibility, form the last component of the international law on climate change.

These components differ in terms of their origin and significance. The rules dedicated to tackle climate change, adopted through international negotiations, are likely to reflect the interests of powerful nations, often through a complacent approach to their excessive levels
of greenhouse gas emissions. By contrast, the norms reflected in the general practice of States that they have historically accepted as law impose fairer principles and, typically, far more demanding obligations on States, including on the most powerful ones. As explained throughout this book, States have never agreed, either explicitly or tacitly, that international climate agreements would set aside the principles of general international law. Instead, the UNFCCC regime should be approached as a regime which seeks to promote compliance with general international law. It does so, in particular, by defining collective objectives and national commitments over specified periods.

This book seeks to provide what could be the first comprehensive account of the international law on climate change as a discipline. As such, although this book contains a detailed presentation of the rules agreed upon by States within the UNFCCC regime and beyond, it does not stop there. There is little doubt that, if an international court or tribunal were to determine the obligations of States in relation to climate change, it would recognize obligations rooted in general international law. Therefore, this book also contains a detailed analysis of the relevant norms of general international law. Thus, it seeks to bring all the components of the international law on climate change together in a unique, comprehensive and coherent account of what international law has to say about climate change.

As a full-fledged discipline rather than a mere field of study, the international law on climate change would not only analyze ongoing developments, but would also contribute more actively to these developments. It would situate international climate agreements in the broader context of its two other components, with due consideration in particular to the relevant norms of general international law. A more consistent understanding of the international law on climate change could facilitate international negotiations by determining a benchmark for reasonable expectations of a fair and equitable outcome. It would help municipal courts decide cases based not just on the commitments specifically agreed upon by national governments, but also, beyond, on customary international law. One day, an international court or tribunal could engage with this discipline in a contentious or advisory case. Beyond climate change, this would help fulfill the promise of international law of promoting justice in international relations.

This book has been designed to be readily accessible by undergraduate and postgraduate students in law with or without any background in international or environmental law. If used as a teaching material, it should offer a number of opportunities for students to engage in debates. Thus, while this book could help train professionals and researchers in the field, it could also serve as a meaningful case study in a field of law to foster a critical intellectual engagement with the law more generally. In addition, it is hoped that this first attempt at a comprehensive presentation of the international law on climate change as a whole may also be useful to legal scholars or anyone else interested in how international law addresses one of the defining problems of our time.

Benoit Mayer
Acknowledgments

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## Abbreviations and Acronyms

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<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>AAU</td>
<td>Assigned Amount Unit</td>
</tr>
<tr>
<td>AOSIS</td>
<td>Alliance of Small Island States</td>
</tr>
<tr>
<td>ATS</td>
<td>Australian Treaty Series</td>
</tr>
<tr>
<td>AWG-KP</td>
<td>Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol</td>
</tr>
<tr>
<td>AWG-LCA</td>
<td>Ad Hoc Working Group on Long-Term Cooperative Action under the Convention</td>
</tr>
<tr>
<td>AWG-PA</td>
<td>Ad Hoc Working Group on the Paris Agreement</td>
</tr>
<tr>
<td>BECCS</td>
<td>Bioenergy with Carbon Capture and Storage</td>
</tr>
<tr>
<td>BINGOs</td>
<td>Business and Industry NGOs</td>
</tr>
<tr>
<td>C2ES</td>
<td>Center for Climate and Energy Solutions</td>
</tr>
<tr>
<td>CAIT</td>
<td>Climate Analysis Indicators Tool</td>
</tr>
<tr>
<td>CBD</td>
<td>United Nations Convention on Biological Diversity</td>
</tr>
<tr>
<td>CCS</td>
<td>Carbon Capture and Storage</td>
</tr>
<tr>
<td>CDM</td>
<td>Clean Development Mechanism</td>
</tr>
<tr>
<td>CDP</td>
<td>Carbon Disclosure Project</td>
</tr>
<tr>
<td>CER</td>
<td>Certified Emission Reduction</td>
</tr>
<tr>
<td>CESC</td>
<td>Committee on Economic, Social and Cultural Rights</td>
</tr>
<tr>
<td>CFCs</td>
<td>Chlorofluorocarbons</td>
</tr>
<tr>
<td>CIFOR</td>
<td>Center for International Forestry Research</td>
</tr>
<tr>
<td>CMA</td>
<td>Conference of the Parties Serving as the Meeting of the Parties to the Paris Agreement</td>
</tr>
<tr>
<td>CMP</td>
<td>Conference of the Parties Serving as the Meeting of the Parties to the Kyoto Protocol</td>
</tr>
<tr>
<td>COP</td>
<td>Conference of the Parties</td>
</tr>
<tr>
<td>CORSIA</td>
<td>Carbon Offsetting and Reduction Scheme for International Aviation</td>
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<tr>
<td>CPI</td>
<td>Climate Policy Initiative</td>
</tr>
<tr>
<td>DSB</td>
<td>Dispute Settlement Body</td>
</tr>
<tr>
<td>ECJ</td>
<td>European Court of Justice</td>
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<tr>
<td>ECHR</td>
<td>European Court of Human Rights</td>
</tr>
<tr>
<td>EECC</td>
<td>Erithreat-Ethiopia Claims Commission</td>
</tr>
<tr>
<td>EEDI</td>
<td>Energy Efficiency Design Index</td>
</tr>
<tr>
<td>EIA</td>
<td>Environmental Impact Assessment</td>
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<tr>
<td>ENGOs</td>
<td>Environmental NGOs</td>
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<tr>
<td>EPA</td>
<td>Environmental Protection Agency</td>
</tr>
<tr>
<td>ERT</td>
<td>Expert Review Team</td>
</tr>
<tr>
<td>ERU</td>
<td>Emission Reduction Unit</td>
</tr>
<tr>
<td>ETS</td>
<td>Emission Trading Scheme</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>GATT</td>
<td>General Agreement on Tariffs and Trade</td>
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<tr>
<td>GCF</td>
<td>Green Climate Fund</td>
</tr>
<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
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<tr>
<td>GEF</td>
<td>Global Environment Facility</td>
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<tr>
<td>GHG</td>
<td>Greenhouse Gas</td>
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<td>HBCs</td>
<td>Hydrobromofluorocarbons</td>
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<tr>
<td>HCFCs</td>
<td>Halomethane</td>
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<tr>
<td>HFCs</td>
<td>Hydrofluorocarbons</td>
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<tr>
<td>HRC</td>
<td>Human Rights Council</td>
</tr>
<tr>
<td>IACA</td>
<td>Inter-American Court of Human Rights</td>
</tr>
<tr>
<td>IAR</td>
<td>International Assessment and Review</td>
</tr>
<tr>
<td>ICA</td>
<td>International Consultation and Analysis</td>
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<tr>
<td>ICAO</td>
<td>International Civil Aviation Organization</td>
</tr>
<tr>
<td>IAC</td>
<td>International Court of Justice</td>
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<tr>
<td>IEA</td>
<td>International Energy Agency</td>
</tr>
<tr>
<td>IGES</td>
<td>Institute for Global Environmental Strategies</td>
</tr>
<tr>
<td>IISD</td>
<td>International Institute for Sustainable Development</td>
</tr>
<tr>
<td>ILA</td>
<td>International Law Association</td>
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<td>ILC</td>
<td>International Law Commission</td>
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<tr>
<td>ILM</td>
<td>International Legal Materials</td>
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<td>IMO</td>
<td>International Maritime Organization</td>
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</tbody>
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### Abbreviations and Acronyms

<table>
<thead>
<tr>
<th>INC/ FCCC</th>
<th>Intergovernmental Negotiating Committee for a Framework Convention on Climate Change</th>
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<tbody>
<tr>
<td>INDC</td>
<td>Intended Nationally Determined Contribution</td>
</tr>
<tr>
<td>IPCC</td>
<td>Intergovernmental Panel on Climate Change</td>
</tr>
<tr>
<td>IPOs</td>
<td>Indigenous Peoples Organizations</td>
</tr>
<tr>
<td>IRENA</td>
<td>International Renewable Energy Agency</td>
</tr>
<tr>
<td>ISO</td>
<td>International Standardization Organization</td>
</tr>
<tr>
<td>ITLOS</td>
<td>International Tribunal for the Law of the Sea</td>
</tr>
<tr>
<td>JI/KP</td>
<td>Joint Implementation under the Kyoto Protocol</td>
</tr>
<tr>
<td>JI/UNFCCC</td>
<td>Joint Implementation under the United Nations Framework Convention on Climate Change</td>
</tr>
<tr>
<td>LGMA</td>
<td>Local Government and Municipal Authorities</td>
</tr>
<tr>
<td>LULUCF</td>
<td>Land Use, Land-Use Change and Forestry</td>
</tr>
<tr>
<td>MARPOL</td>
<td>International Convention for the Prevention of Pollution from Ships</td>
</tr>
<tr>
<td>MEF</td>
<td>Major Economies Forum on Energy and Climate</td>
</tr>
<tr>
<td>MRV</td>
<td>Measurement, reporting and verification</td>
</tr>
<tr>
<td>NAZCA</td>
<td>Non-State Actor Zone for Climate Action</td>
</tr>
<tr>
<td>NDC</td>
<td>Nationally Determined Contribution</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Governmental Organization</td>
</tr>
<tr>
<td>OCHA</td>
<td>Office for the Coordination of Humanitarian Affairs</td>
</tr>
<tr>
<td>OECD</td>
<td>Organization for Economic Co-operation and Development</td>
</tr>
<tr>
<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
</tr>
<tr>
<td>OSPAR Convention</td>
<td>Convention for the Protection of the Marine Environment of the North-East Atlantic</td>
</tr>
</tbody>
</table>
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TREATIES

1940s
Convention on International Civil Aviation, December 7, 1944, 15 UNTS 295.
Charter of the United Nations, June 26, 1945, 1 UNTS XVI.
Statute of the International Court of Justice, June 26, 1945, 3 Bevans 1179.
General Agreement on Tariffs and Trade, October 30, 1947, 55 UNTS 194.

1950s

1960s

1970s
Convention on Wetlands of International Importance Especially as Waterfowl Habitat, February 2, 1971, 996 UNTS 246.
Convention for the Protection of the World Cultural and Natural Heritage, November 16, 1972, 1037 UNTS 151.
Table of Authorities

Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, December 10, 1976, 1108 *UNTS* 151.


Agreement on Technical Barriers to Trade, April 12, 1979, 1868 *UNTS* 120.


1980s


Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, December 10, 1984, 1465 *UNTS* 85.

Vienna Convention for the Protection of the Ozone Layer, March 22, 1985, 1513 *UNTS* 293.

Montreal Protocol on Substances that Deplete the Ozone Layer, September 16, 1987, 1522 *UNTS* 3.


1990s

International Convention on the Rights of all Migrant Workers and Members of their Families, December 18, 1990, 2220 *UNTS* 3.


General Agreement on Trade-Related Aspects of Intellectual Property, April 15, 1994, 1869 *UNTS* 299.


2000s


2010s

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Paris Agreement, December 12, 2015, in the annex of decision 1/CP.21.

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DECISIONS ADOPTED BY THE PARTIES TO INTERNATIONAL CONVENTIONS

UN General Assembly (UN Charter of June 26, 1945)

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