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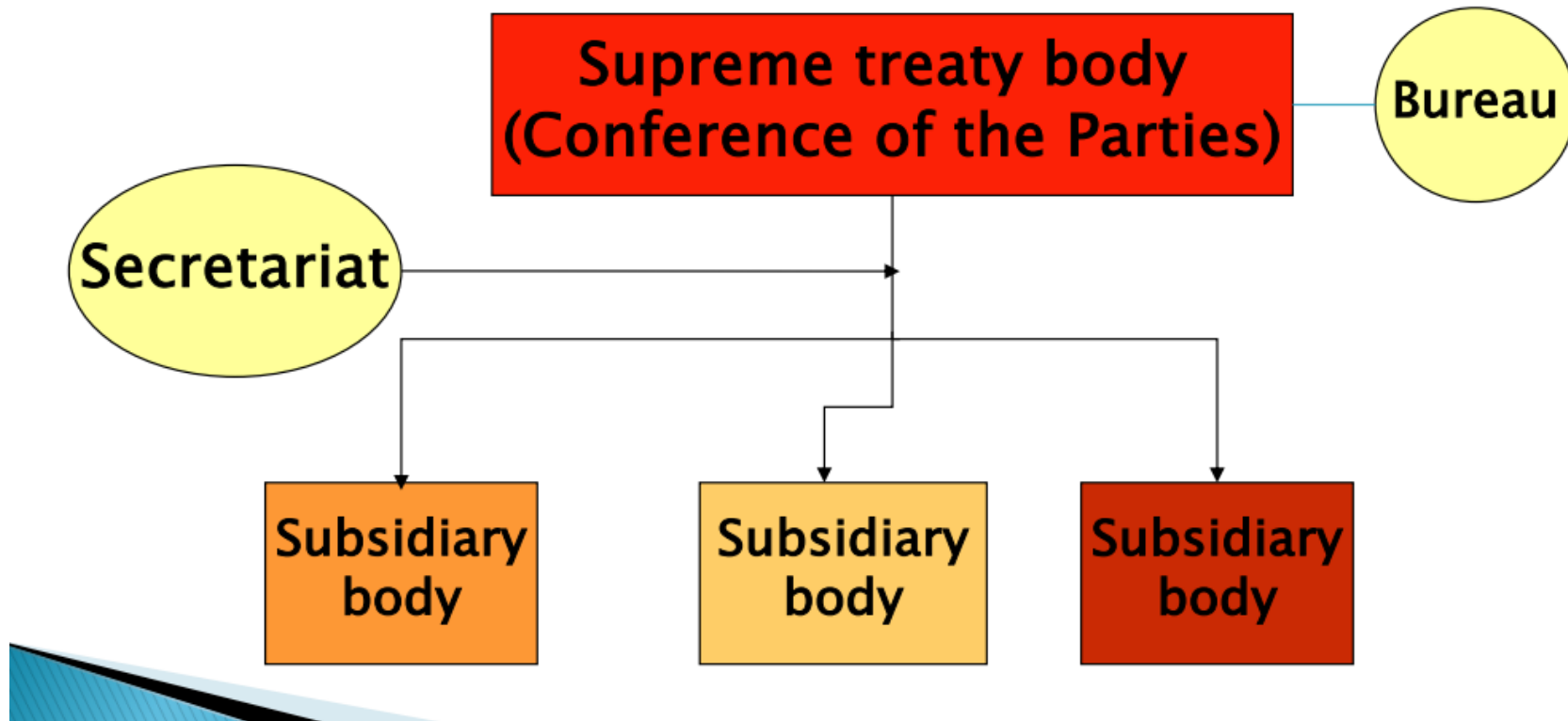
Treaty features for possible consideration in a future pandemic treaty

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Typical structure of a modern treaty

- 1. Introductory part: Preamble, objectives, definitions, scope
- 2. General provisions: Guiding principles, general obligations, national plans & strategies
- 3. Special provisions: Core substantive obligations
- 4. Sharing of information, technology & resources:
 - International cooperation, information exchange, technical assistance, technology transfer, capacity building, funding
- 5. Institutional & legal provisions: Treaty bodies, financial mechanism, compliance, dispute settlement, relationship with other treaties
- 6. Procedural provisions: Adoption of protocols, amendments, right to vote, signature, ratification, entry into force, reservations, withdrawal
- 7. Annexes: Detail regulation of technical and procedural issues

Institutions of a modern international treaty



Legal and institutional links between treaties

Legally linked treaties share certain institutional & procedural features

- Examples;
 - Paris Agreement uses institutions of UNFCCC (e.g. COP, Secretariat, Financial Mechanism, Subsidiary Bodies for Scientific/Technological Advice & Implementation) and processes (e.g. dispute settlement) ◦
 - Protocols use institutions and processes of the “parent” treaty (e.g. WHO FCTC & illicit trade protocol, ozone convention & protocol, biodiversity convention & protocols

Treaty features discussed:

- 1. Notification of incidents
- 2. International cooperation & information sharing
- 3. Mutual assistance
- 4. Financing treaty administration
- 5. Financial mechanisms
- 6. National reporting & review
- 7. Compliance monitoring
- 8. Verification
- 9. Inspection
- 10. Dispute settlement

3. Mutual assistance

- Assistance related to treaty implementation & capacity building (developed to developing countries): financial & technical assistance, training, technology transfer
 - Examples: All MEAs; UNFCCC & Paris Agreement; WHO FCTC & Protocol on illicit trade }
- Assistance in accident response (all Parties)
 - Example: IAEA Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency

4. Financing treaty administration

- Purpose: funding of treaty operations (secretariat, meetings of subsidiary bodies) Cooperation on early warning systems, emergency preparedness, risk assessment/management
- Method: Scale of assessment established by the supreme treaty body (“voluntary assessed” or “assessed” contributions) Examples: Cartagena & Nagoya Protocols to biodiversity convention; UNFCCC & Paris Agreement }
- Support to developing countries for attendance of meetings (fully voluntary)
 - Examples: All MEAs, UNFCCC & Paris Agreement, WHO FCTC & Illicit trade protocol

5. Financial mechanisms

International body that finances projects in eligible countries. Relevant types:

- Financial mechanisms established under a treaty
 - Example: Ozone Fund (established under the Montreal Protocol)
- Independent financial mechanism with institutional link to a treaty
 - Example: Global Environment Facility (GEF), serving treaties on climate change, biodiversity, chemicals
- Independent financial mechanisms with no current link to a treaty ->
Option of a future institutional link to the prospective pandemic treaty?
 - Global Fund to Fight AIDS, Tuberculosis & Malaria (currently funding COVID-related projects at country level)
 - GAVI Vaccine Fund (co-leading COVAX and currently funding COVID-related projects at country level)

6. National reporting & review

- Regular submission to the supreme treaty body of detailed reports on national data, implementation measures & problems encountered
 - Examples: All MEAs, UNFCCC & Paris Agreement, WHO FCTC & Illicit trade protocol, Convention Against Torture, London Convention & Protocol on dumping at sea
- Special review sessions of the supreme body
 - Examples: IAEA Convention on Nuclear Safety, IAEA Joint Convention on the safety of spent fuel and radioactive waste management
- Special mechanism for national reporting
 - Example: Paris Agreement Enhanced Transparency Framework

7. Compliance Monitoring

- MEA compliance mechanisms: Specialized subsidiary body that may consider cases and make recommendations (generally advisory only)
 - Stronger examples
 - Kyoto Protocol to UNFCCC: Facilitative and Enforcement Branches
 - Montreal Protocol: Fund to assist in achieving compliance
- Human rights complaints procedures: Treaty body that may consider human rights violations
 - Example: Committee of Optional Protocol to Convention on Rights of Persons with Disabilities – may launch investigations

8. Verification

- Assessment of state compliance by a treaty body, based on compilation & analysis of information; this may include monitoring, fact-finding, and inspections. Often large specialized organizations.
 - Examples:
 - International Atomic Energy Agency (IAEA),
 - Organisation for the Prohibition of Chemical Weapons (OPCW)
 - Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO)
 - International Narcotics Control Board

9. Inspection

- Physical inspection of facilities by a specialized treaty body or an individual Party
 - Examples:
 - Optional Protocol to the Convention against Torture: International inspection system for places of detention
 - Fisheries treaties (e.g. FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing: Inspection of fishing vessels by port authorities
 - International Convention for the Prevention of Marine Pollution from Ships (MARPOL) & Protocol: Inspection of ships by port authorities
 - Nuclear Non-Proliferation Treaty, Comprehensive Nuclear Test Ban Treaty: Inspection of facilities by a verification body

10. Dispute settlement

- Process by which disputes are brought before an international tribunal or similar body
 - Examples:
 - Dispute settlement mechanisms of MEAs & WHO FCTC:
 - Negotiation or other peaceful means
 - Arbitration or ICJ (if accepted upon ratification)
 - Dispute settlement mechanism of WTO:
 - Negotiation
 - Panel
 - Appellate Body (binding final decision)



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