History and Development of International Environmental Law and Organizations (up to 2002)

Md. Mokarrom Hossan
Registration No: 79
Session: 1998-99

Academic Supervisor:
Dr. A B M Mahmood
Professor
Department of History
University of Dhaka

This thesis is submitted to the Department of History, University of Dhaka for the Degree of Master of Philosophy (M. Phil.).
November, 2005.

M. Phil

ফোন : ৮৮০-২-৯৬৬১৯০০-৭৩/৪৩৩০
Phone : 880-2-9661900-73/4330
ফ্যাক্স : ৮৮০-২-৮৬১৫৫৮৩
Fax : 880-2-8615583
E-mail : duregstr@bangla.net

ইতিহাস বিভাগ, ঢাকা বিশ্ববিদ্যালয়, ঢাকা-১০০০, বাংলাদেশ
Department of History, University of Dhaka, Dhaka-1000, Bangladesh

Declaration

This is to certify that Md. Mokarrom Hossan has written the thesis titled "History and Development of International Environmental Law and Organizations (Up to 2002)" under my direct supervision. He has written the thesis of his M. Phil. degree on History.

I further affirm that the work reported in this thesis is original and no part or whole of the dissertation has been submitted to, any form in any other University or institution for any degree.

Supervisor

Dr. A B M Mahmood
Professor
Department of History
University of Dhaka

Dated: 07/12/2005

Preface

Environment has become one of the main global issues in the contemporary world. Sustainable existence of human civilization in the world is very much dependent on the protection of environment. The advancement of science over nature and its impacts in the present time is significant. This advancement has also caused environmental degradation of the world to a large extent.

Now a day, serious environmental problems such as the loss of biological diversity, ozone depletion, fishery collapse, and global warming threaten all countries and regions, and international cooperation is needed to solve them. Many international conventions, treaties and protocols evolved the protection of the world environment. Environmental law is one of the most rapidly expanding areas of law.

At present, more than 180 environmental treaties are existent and many UN bodies have launched environmental programs leading to significant developments. In this thesis, it has been attempted to describe the gradual development of international environmental law and organizations. Major international environmental treaties and conventions with their important objectives and key provisions have also been depicted.

International Environmental Law has evolved over at least **four distinct periods**, reflecting developments in scientific knowledge, the application of new technologies and an understanding of their impacts, changes in political consciousness and the changing structure of the international legal order and institutions.

The **first period** (from early to creation of the UN in 1945) began with bilateral fisheries treaties in the nineteenth century and concluded with the creation of the new international

organizations in 1945. During this period peoples and nations began to understand that the process of industrialization and development required limitations on the exploitation of certain natural resources (flora and fauna) and the adoption of appropriate legal instruments. The **second period** (1945 to 1972) commenced with the creation of the UN and culminated with the UN Conference on the Human Environment, held in Stockholm in June 1972. Over this period a range of international organizations with competence in environmental matters were created, and legal instruments were adopted, both at the regional and global level, which addressed particular sources of pollution and the conservation of general and particular environmental resources, such as oil pollution, nuclear testing, wetlands, the marine environment and its living resources, the quality of freshwaters, and the dumping of waste at sea. The **third period** (1972 to 1992) ran from the 1972 Stockholm Conference and concluded with UNCED in June 1992. During this period the UN tried to put in place a system for coordinating responses to international environmental issues, regional and global conventions were adopted, and for the first time the production, consumption and international trade in certain products was banned at the global level. The **fourth period** (1992 to 2002) began 1992 Rio de Janeiro earth summit and concluded with 2002 Johannesburg summit.

For proper understanding of modern principles and rules of international environmental law requires a historic sense of earlier scientific, political and legal developments. The development of principles and rules of international environmental law through treaties, other international acts and custom has tended to react to events or incidents or the availability of scientific evidence, rather than anticipate general or particular environmental threats and put in place an anticipatory legal framework. Second,

development of science and technology has played a significant catalytic role: without the availability of scientific evidence new rules of law are unlikely to be put in place. Finally, as is reflected throughout this work, the principles and rules of international law have developed as a result of a complex interplay between governments, non-governmental actors and international organizations. The extent to which a particular area is subject to legal rules will depend upon pressure being imposed by non-governmental actors, the existence of appropriate institutional forum in which rules can be developed, and sufficient will on the part of states to transform scientific evidence and political pressures into legal obligations.

Many international organizations and regional organizations adopted environmental policy and enforce it's through their activities. Present more than 146 countries incorporated their constitution "Environment".

Acknowledgements

I acknowledge my sincere gratitude to my supervisor, Professor Dr. A B M Mahmood, for his advice, guidance and supervision. His kind cooperation and encouragement has enabled me to complete this thesis, and to bring about a happy conclusion to my studies at the University of Dhaka.

I am also grateful to Syeda Rizwana Hasan, director (Programme) of BELA (Bangladesh Environmental Lawyer's Association) for allowing me to use the enriched resources of BELA's library.

I would also like to thank other Professors and non-academic staffs of the department of history who were always helpful to me for pursuing my studies. I am deeply indebted to Professor Dr. A. H. Shibly of Rajshahi University and Professor Dr. M. Shah Alam of Chittagong University, who inspired me to undertake an M. Phil degree on international environmental law.

Finally, I acknowledge the kind cooperation of Ms. Sabina Akther, Librarian of BELA for keeping me update about latest books and information. Thanks my wife, Erina Afrin Tasrin, who encouraged me to submit the thesis paper.

To my beloved parents

Contents

Chapter 5
From Rio to Jonesburg 1992-2002

Chapter 6
Popular International Environmental Conventions, Treaties & its key provisions

Chapter 7
Environment related International organizations and their developing activities

United Nations Specialized agencies and related organizations

Acronyms and Abbreviations

ADB : Asian Development Bank.

AOSIS : Alliance of Small Island States

ASEAN : Association of South East Asian Nations.

BEMP : Bangladesh Environment Management Project.

CFC : Chlorofluorocarbon.

CITES : Convention on International Trade in Endangered Species.

CO : Carbon monoxide.

CO_2 : Carbon dioxide

CSD : Commission on Sustainable Development.

EC : European Communities.

ECE : Economic Commission for Europe

ECOSOC : Economic and Social Council

EDF : Environmental Defense Fund.

EEC : European Economic Community.

EIA : Environmental Impact Assessment

ENDS : Environment Data Service Reports.

ENMOD : Convention on the Prohibition of Military or Any other Hostile Use of Environmental Modification Techniques.

EPA : Environmental Protection Agency (US)

ESCAP : UN Economic and Social Commission on Asia and the Pacific.

EU : European Union.

EURATOM : European Atomic Energy Agency.

FAO : Food and Agriculture Organization.

FIELD : Foundation for International Environmental Law and Development.

FTA : Free Trade Agreement.

G77 : Group of Seventy-seven (developing countries).

GATT : General Agreement on Tariffs and Trade.

GEF : Global Environmental Facility.

GEMS : Global Environmental Monitoring System.

GET : Global Environmental Trust Fund.

GHG : Greenhouse Gas.

HCFC : hydro chlorofluorocarbon.

IAEA : International Atomic Energy Agency.

IBRD : International Bank for Reconstruction and Development.

ICAO : International Civil Aviation Organization.

ICJ : International Court of Justice.

ICRP : International Commission on Radiological Protection.

ICSID : International Centre for the Settlement of Investment Disputes.

ICTP : International Convention, Treaty and Protocol.

IDA : International Development Agency.

IDI : Institute de Droit International.

IELMT : International Environmental Legal Materials and Treaties.

IFC : International Finance Corporation.

IIED : International Institute for Environment and Development.

IJC : International Joint Commission.

ILA : International Law Association.

ILC : International Law Commission.

ILO : International Labor Organization.

I.P.E. : B. Ruster and B. Simma, International Protection of the Environment : Treaties and Related Document (Vols. 1-xxxi, 1975-83)

IMO : International Maritime Organization.

INC/FCCC : Intergovernmental Negotiating Committee for a Framework Convention on Climate Change.

IPCC : Intergovernmental Panel on Climate Change.

ITTA : International Tropical Timber Agreement.

IUCN : International Union for the Conservation of Nature.

LDC : 1972 London Dumping Convention.

LDCs : Less Development Countries.

MIGA : Multilateral Investment Guarantee Agency.

MTO : Multilateral Trading Organization.

NAFTA : North American Free Trade Agreement.

NAMMCO : North Atlantic Marine Mammal Conservation Organization.

NGO : Non-governmental Organization.

OECD : Organization for Economic Co-operation and Development.

ODS : Ozone Depleting Substance.

OPOL : Offshore Pollution Liability Agreement.

OSCOM : Commission, 1972 Oslo Convention for the Prevention of Marine Pollution by Dumping From Ships and Aircraft.

OSPAR : 1992 Convention for the Protection of the Marine Environment of the North-East Atlantic.

PARCOM : Commission, 1974 Paris Convention for the Prevention of Marine Pollution from Land-based Sources Land.

SAARC : South Asian Association for Regional Co-operation.

SO_2 : sulphur dioxide.

SPA : specially protected areas.

UK : United Kingdom.

UN : United Nations.

UNCCUR : United Nations Conference on the Conservation and Utilization of Resources

UNCED : United Nations Conference on Environment and Development.

UNCLOS : United Nations Convention on the Law of the Sea.

UNCTAD : United Nations Conference on Trade and Development.

UNDHR : United Nations Declaration of Human Rights.

UNDP : United Nations Development Programme.

UNEP : United Nations Environment Programme.

UNESCO : United Nations Educational Scientific and Cultural Organization.

UNCED : United Nations Conference on Environment and Development.

UNGA : Untied Nations General Assembly.

UNSCCUR : United Nations Scientific Conference on the Conservation and Utilization of Resources.

UNSCEAR : United Nations Scientific Committee on the Effects of Atomic Radiation.

US	: United States.
USSR	: Union of Soviet Socialist Republic.
WCED	: World Commission on Environment and Development
WHO	: World Health Organization.
WICEM	: World Industry Conference on Environmental Management.
WMO	: World Meteorological Organization.
WWF	: World Wide Fund for Nature.

I. Introduction

World environment today faces a grave crisis. Grossly polluted environment tends to create threat to human existence. Without collective efforts undertaken by the states worldwide, this crisis would be difficult to overcome. Appropriate laws both at national and at international levels are necessary to protect the environment. It encourage that environmental consciousness is increasing day by day and the states at large are adopting laws and concluding treaties to prevent environment from falling into disaster.[1]

Scientific research and study of the sixties and seventies decade of twentieth century have discovered that world environment is fast losing its natural qualities and its balance is being seriously impaired. This trend must stop to keep our planet habitable. The environment has been harmfully affected through pollution of the atmosphere and of maritime, coastal and inland waters, through degradation of rural, through destruction of ecological[2] balance of natural areas, through the effect of biocides upon animal and plant life, and through the uncontrolled depletion and ravaging of the world's natural resources, partly by reason of the explosive growth of human populations and partly as a result of the demands of industrial technology.[3]

The problems involved in the environmental crisis, and the various causes and factors which brought it about were analyzed in detail more than thirty five years ago by the

---

[1] Dr. M Shah Alam, 'Environment, Environmental Law and Justice' *Law Vision* issue: 8, December 2002-2003, Chittagong University.

[2] The English word 'ecology' is taken from the Greek *oikos*, meaning house, the immediate human environment. In 1870, the German Zoologist Ernst Haeckel first gave the word its broader meaning, the study of the natural environment and of the relations of organizations to each other and to their surroundings. General use of the word came only in the late 1800s, When European and American scientists began to call themselves ecologists. The first societies and journals explicitly devoted to ecology appeared in the early decades of this century. Since that time, ecology has under gone immense devoting their professional lives to ecology now number in the tens of thousands. With the dual crises of rapid growth of human population and accelerating deterioration of the earth's environment, ecology has taken on the utmost importance to everyone. Man is an integral part of the ecology of the world. Pressure of population and reduce of the forest and ecological component led to an ecologically unsound decision and to an economic, social and environmental disaster. Local forests are being cut rapidly for firewood. See for details, Robert E. Ricklefs, *Ecology* Third Edition, and Published 1990; W. H. Freeman & Company- New York. Page-3

[3] Dr. M Shah Alam, 'Environment, Environmental Law and Justice' *Law Vision* issue: 8, December 2002-2003, Chittagong University.

Secretary-General of the United Nations in a Report on the Problems of the Human Environment, dated 26 May 1969, prepared in relation to the summoning of the Stockholm Conference of June 1972 on the Human Environment, pursuant to a Resolution of the United Nations General Assembly of 3 December 1968. It was the timely initiative of the United Nations that focused the world attention on the problem of environment. Since then, the United Nations has organized three conferences (1972, 1992 & 2002) which have made solemn declarations, proclaimed policies and principles, given guidelines, worked out action plans- all for the protection and preservation of environment. The United Nations has also initiated negotiations and conclusion of various environment related treaties amongst the states. All these have set the standards and norms of the emerging environmental law. This law seeks to provide for environmental justice between the individuals as well as between the communities and the states, rich or poor, developed or underdeveloped.[4]

The number of environmental treaties was six by 1940, eighteen in the 1950s and twenty-six in the 1960s. The figure jumped to forty-seven treaties in 1070s following the Stockholm Conference. In 1980s the increase reached to eighty-eight treaties.[5] In 2002 the environmental treaties reached 180.

It is now widely believed that the planet faces a diverse and growing range of environmental challenges, which can only be addressed through international co-operation. Acid rain, ozone depletion[6], climate change, loss of biodiversity, toxic and hazardous wastes, pollution of rivers and depletion of freshwater resources are some of the issues which international law is being called upon to address. In little more than a decade the early international legal developments, which addressed aspects of the conservation of natural resources, have crystallized into an important and growing part of

[4] Dr. M Shah Alam, 'Environment, Environmental Law and Justice' *Law Vision* issue: 8, December 2002-2003, Chittagong University.

[5] Mr. Liaquat A. Siddiqui *Implementation of Global Environmental Treaties in Bangladesh*, Volume 21 November 3, 2000 BIISS, Dhaka; See details, Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol. 1, Manchester University Press, 1995, p. 105.

[6] Ozone depletion- The process by which stratospheric ozone molecules are destroyed by man-made chemicals, leading to a reduction in its concentration.

public international law. The conditions which have contributed to the emergence of international environmental law are easily identified: environmental issues are accompanied by a recognition that ecological interdependence does not respect national boundaries and that issues previously considered to be matters of domestic, sovereign concern have international implications. The implications, which may be bilateral, sub-regional, regional or global, can frequently, only are addressed by international law and regulation.[7]

II. Research Objective

The earth has been compared to a spaceship: It is a complex and breakable unit in which everything is interdependent and interconnected. Air pollution often crosses national boundaries. If an "upriver" country pollutes an international river, the "downriver" country suffers the consequences. In the case of carbon dioxide build up in the atmosphere, the entire globe is, or soon will be, affected.

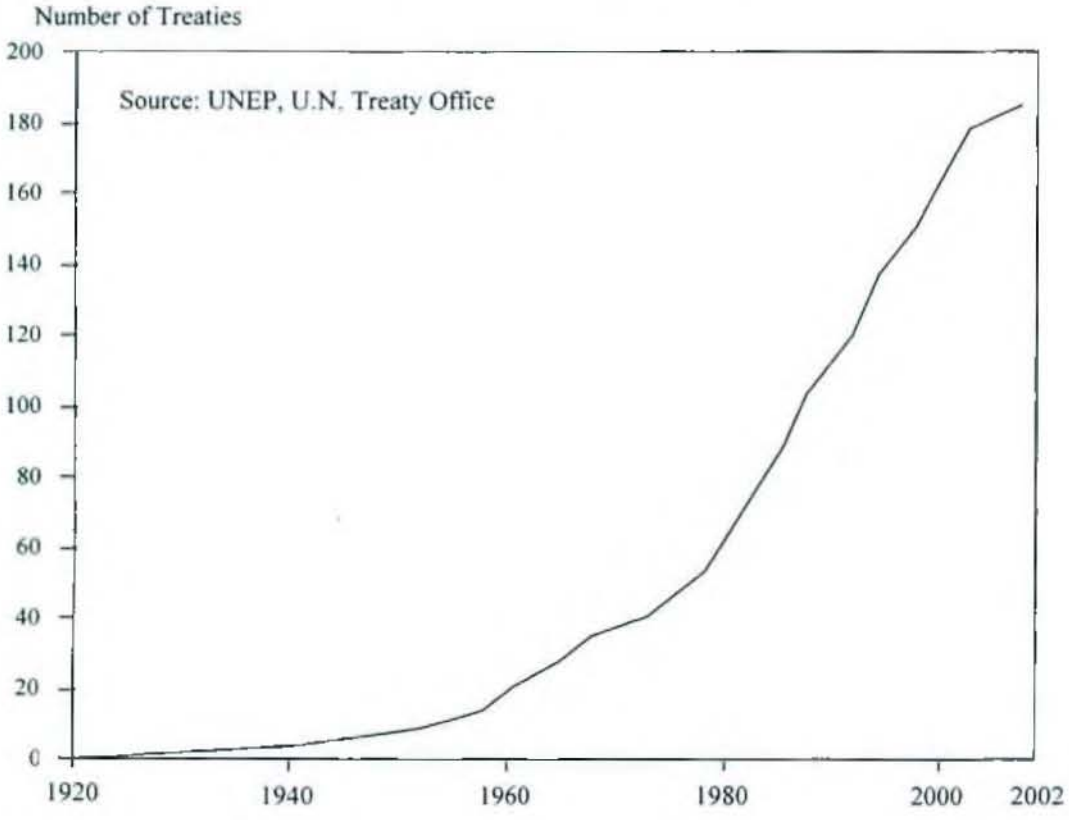
The international legal regime is not yet secure enough to deal with these global issues. Concerted international action is sometime possible through international treaties and agreements. The growth of international environmental issues is reflected in the large body of principles and rules of international environmental law which apply bilaterally, regionally as well as globally, and reflects international interdependence. At present, more than 180 environmental treaties are existent and many UN bodies have launched environmental programs leading to significant developments. In this thesis, it has been attempted to describe the gradual development of international environmental law and organizations. Major international environmental treaties and conventions with their important objectives and key provisions have also been depicted. Many international organizations created by the treaties, conventions and protocols. This paper also described the environmental related organizations history and key environmental issues

[7] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-9

of world (regional basis). International environmental law and their four distinct period and during their achievement is traced in this paper.

FIGURE 1

International Environmental Treaties, 1920-2002 (Cumulative)



III. Research Methodology

Using historical realist approach, this thesis builds upon international environmental treaties, conventions, protocols, several literatures, books and documents, which evolved and establishment of environmental law and institutional framework. About 180 environmental treaties exist in the world. Bangladesh has also singed many conventions, protocols and treaties.

Therefore, both primary and secondary data have been used for this research paper. In this regard statistical data related to the environment pollution have also been collected

from the reputed journals and UNEP annual report. Full use of relevant books, journals and related Internet sources is made in order make this research paper informative and meaningful. The environmental related conventions chronological arrange and period division has provided methodological basic for this research.

IV. Limitation of Research

Although it is an International Environmental Law's study, but it has some limitation. Owing to research title I have mentioned some laws and regulation. It is completely a historical development of international environmental law and organizations. Numerous international treaties and conventions were signed before 2002. All the treaties and conventions have not been described in this study. Only important and popular conventions, protocols objectives and key provisions have been described in this study, but not in details. Eventually it is written through historical methodology, not in legal perspective.

V. Contents and Structure of Thesis

This paper concentrates how to develop gradually international environmental law and organizations. It is not only historical survey of developing international environmental law but also time framework and institutional evolution. This paper comprises an introduction followed by eight chapters including conclusion.

The rest of the paper is structured as follows. The first chapter has described definition of environment and international environmental law as well as regional basis global key environmental issues; global environmental treaties and Bangladesh position. This chapter has also described chronological & categorical list of international treaties, which Bangladesh signed, ratified & accessed.

The second chapter begins from early to creation of United Nations, 1945. This chapter has described when and where the concept of environmental law was appeared, environmental deputes before 1945 and organizational or institutional development before 1945.

The third chapter (1945 to 1972) commenced with the creation of the UN and culminated with the UN Conference on the Human Environment, held in Stockholm in June 1972. This chapter has described how to develop of international environmental law through UN agencies and institutional development before 1972.

The fourth chapter (1972 to 1992) ran from the 1972 Stockholm Conference and concluded with UNCED in June 1992. This chapter has described principle of Stockholm Conference, post Stockholm treaties and other international acts, 1978 UNEP draft principles, 1982 World Charter for Nature.

The fifth chapter (1992 to 2002) began 1992 Rio de Janeiro earth summit and ended with 2002 Johannesburg summit. This chapter has described UNEP activities, Agenda 21, the Millennium Summit 2000, recommendation of Johannesburg Summit and how to meet development verses environment in the contemporary world.

The sixth chapter has described popular international environmental conventions, treaties & its key provisions.

The seventh chapter has described environment related international organizations and their developing activities. This chapter has also described united nations specialized organizations, which is related to environment.

The eighth chapter has described why needed for an international court of environment and conclusion remarks.

An appendix is furnished at the end of thesis paper. It is chronologically and categorically.

Chapter 1

1.1 Definition of Environment

According to the dictionary of Geography, environment is surroundings, whether of man or of any other living organism; includes physical, social and cultural conditions that affect the development of that organism or physical, chemical, biotic and cultural conditions, and their ramifications, collectively comprise 'the environment'.[8]

"Environment" includes water, air, land and physical properties and in inters relationship, which exists among and between them and human beings, other living beings, plants and micro organism.[9]

The legal definition of the 'environment' and related concepts is important at two levels. At a general level, it defines the scope of the legal subject and the competence of, say, international organizations. In 1974 the Norwegian Department of Natural Resources developed and introduced a system of natural resources accounting and budgeting which divided resources into two categories: material resources and environmental resources. Material resources included minerals (minerals, hydrocarbons, stone, gravel and sand), biological resources (in the air, water, on land and in the ground), and inflowing resources (solar radiation, hydrological cycle, wind, ocean currents). Environmental resources are air, water, soil and space.[10]

Legal definitions of the 'environment' reflect scientific categorizations and groupings, as well as political acts that incorporate cultural and economic considerations. A scientific approach will divide environmental issues into 'compartments'. These include the atmosphere, atmospheric deposition, soils and sediments, water quality, biology and humans. Scientific definitions are transformed by the political process into the legal definitions found in treaties; although 'environment' does not have a generally accepted

---

[8] Dr. R. M. Lodha , *Academic's Dictionary of Geography*, Published 1995 4th Edition.
[9] A Compilation of Environmental Laws administered by the Department of Environment- Edited by Emdadul Haq, Published by DoE & BEMP, October 2002.
[10] See D. Pearce *et al. Blueprint for a Green Economy* (1989).

usage as a term of art under international law, recent agreements have consistently identified the various media included in the term.[11]

1.2 What is Environmental Law?

Since the creation of the United Nations, international law has expanded in scope and undergone many significant changes. Among these changes is the development of a relatively new branch of international law, what we call international environment law. Spurred by two major United Nations conferences, held respectively in 1972 in Stockholm and in 1992 in Rio de Janeiro, this branch of international law has also undergone a progressive development from a purely environmental form to a more dynamic system, which seeks to advance the process of human development on the principle of sustainability.[12]

'Environmental Law', this is a difficult word to define. Its normal meaning relates to 'surroundings', but obviously that is a concept that is relative to whatever object it is which is surrounded. Used in that sense environmental law could include virtually anything; indeed, as Einstein once remarked, "The environment is everything that isn't me. How ever 'the environment' has now taken on a rather more specific meaning, thought still a very vague and general one, and may be treated as covering the physical surroundings that are common to all of us, including air, space, waters, land, plants and wildlife.

A definition of this nature is used in the Environmental Protection Act 1990 (EPA 1990), i.e., which defines the environment as consisting of 'all, or any, of the following media, namely, the air, water and land."[13]

---

[11] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995, chapter-1, page-18

[12] UNEP's New Way Forward: Environmental Law and Sustainable Development; Published by UNEP-1995. page-XIII.

[13] Stuart Bell & Donald McGillivray, *Environmental Law* Published by Universal Law Publishing Co. Pvt. Ltd. Fifth Edition-2000.

International environmental Law comprises those substantive, procedural and institutional rules of international law, which have as their primary objective the protection of the environment. Dictionaries define 'environment' as 'the objects or the region surrounding anything'.[14] Accordingly, it encompasses both the features and products of the natural world and those of human civilization. On this definition the environment is broader than, but includes, nature, which is concerned only with features of the world itself. 'Ecology', on the other hand, is a science related to the environment and to nature, which is concerned with animals and plants, and is 'that branch of biology which deals with the relations of living organisms to their surroundings, their habits and modes of life'. The 'ecosystem' is 'a unit of ecology[15] ... which includes the plants and animals occurring together plus that part of their environment over which they have an influence'.

[14] Compact Oxford English Dictionary, 523 (2nd ed., 1991)
[15] Supra- page 1

1.3 Regional basis global key environmental issues

	Land	Forests	Biodiversity	Freshwater	Coastal & Marine	Atmosphere	Urban Areas	Disasters
Africa	• Degradation & Desertification • Inappropriate & inequitable and tenure	• Deforestation • Loss of Forest quality	• Habitat Degradation and Loss • Bush meat trade	• Variability of water resources • Water Stress and Scarcity • Access to save water and sanitation • Deteriorating water quality • Wetlands loss	• Coastal Area erosion & Degradation • Pollution • Climate Change and See-Level rise	• Air quality • Climate Variability and Vulnerability to Climate Change • Floods & Drought	• Rapid Urbanization • Solid Waste • Water supply and sanitation • Air pollution	• Drought • Floods • Armed Conflict
Asia & the Pacific	• Land Degradation	• Forest Degradation	• Habitat Loss • Forest Loss &	• Water Scarcity • Pollution	• Degradation of Coastal and	• Air quality • Ozone Deplation	• Air Pollution	• Floods • Drought • Volcanoes

	on • Desertification • Land Use change	• Deforestation	Loss & degradation • Alien Species		and Marine Resources • Pollution due to mining & Coastal development	Depletion • Green House gas emissions & Climate change	• Waste management • Water supply and sanitation	• Earth quakes
Europe	• Land use • Soil degradation, sealing & Contamination • Soil	• Loss of Natural forests • Forest degradation • Sustainable forest	• Agricultural intensification • Genetically modified organisms	• Water quantity and quality • Policy and legislative framework	• Coastal erosion • Pollution	• Air Pollution • Stratospheric ozone depletion • Green house gas emissions	• Air quality • Noise pollution • Solid waste	• Storms and floods • Earthquakes • Human-caused disasters

	erosion	management						
West Asia	• Land Degradation • Rangeland deterioration	• Degradation • Overexploitation • Sustainable forest management	• Habitat degradation and loss • Overexploitation of species	• Increasing water demand • Overexploitation of groundwater • Water quality	• Coastal development & urbanization • Overexploitation of resources • Marine pollution	• Air pollution • Ozone-depleting substances • Climate change	• Land conversion • Solid waste	• Drought • Oil discharges • Armed conflict
North America	• Land degradation • Pesticides	• Forest health • Old growth forests	• Habitat destruction & degradation • Bio-invasion	• Ground water • Great Lakes water quality	• Conversion of fragile ecosystems • Overexploitation of marine	• Stratospheric ozone depletion • Greenhouse gases & climate change	• Urban sprawl • Ecological footprint	• Floods & climate change • Forest fires

					resources • Pollution			
Latin America & the Caribbean	• Land degradation • Land tenure	• Deforestation • Forest degradation	• Habitat loss & degradation • Overexploitation of resources & illegal trade	• Decreasing water available per capita • Water quality	• Habitat Conversion & destruction • Pollution • Overexploitation of fisheries	• Air pollution • Ozone depletion • Air quality	• Solid waste • Water supply & sanitation • Air quality	• Drought • Hurricanes • Floods • Earthquakes • Spills of hazardous Substances
Polar Regions	• Degradation • Erosion • Climate change	• Boreal forest issues • Threats to forest tundra	• Climate change • Ozone depletion • Overexploitation	• Alien species • Pollution	• Overexploitation of fisheries • Pollution • Climate change	• Stratospheric ozone depletion • Long-range air pollution • Climate change	• Sanitation & waste	• Floods • Oil discharges • Pest invasion

1.4 Global Environmental Treaties and Bangladesh Progress

The environment offers one of the clearest examples that all human activities on our planet are interconnected. Just as one person's depletion or degradation of a common resource, like water or forests, affects either the quality or quantity of what is left to others, so also one country's degradation of the global commons degrades the global environment for all countries. All of these problems have global consequences: Acid rain, depletion of the stratospheric ozone[16] layer, global warming (and eventual ocean level rising from the burning of coal and oil and the proliferation of greenhouse gases); the loss of the diversity of species; tropical deforestation (which contributes to species loss as well as global warming); and pollution of the world's oceans.

The international legal regime is not yet secure enough to deal with these global issues. Concerted international action is sometimes possible through international treaties and agreements, such as the Montreal Protocol, but the principal instrument for preventing global pollution and degradation is domestic law and policy. Accordingly, Bangladesh has a responsibility, along with all other nations, to adopt, implement and enforce policies that protect and restore the global commons.

Bangladesh is a party to the major environmental treaties like Ozone Convention, 1985[17]; Montreal Protocol, 1987; Climate Change Convention, 1992; Biodiversity Convention, 1992 etc. It has by now ratified/acceded to more than 44 multilateral environmental treaties, conventions and protocols.[18]

---

[16] Our planet EARTH'S atmospheric environment is unique in nature. Ozone layer and ozone hole is a minor but important part of this unique nature. Ozone was first discovered in 1839 by German scientist *Christian Friedrich Schonbein.* In fact, the term/name 'ozone' is derived from the Greek word 'OZEIN' which means 'to small'. Ozone is a relatively simple molecule that contains three atoms of oxygen bound together and thus has the formula O. It is a pale blue, relatively unstable molecule. High in the atmosphere about 15 miles (24 km) up ozone acts as a shield to protect Earth's surface from the sun's harmful ultraviolet radiation. Without this shield, we would be more susceptible to skin cancer, cataracts, and impaired immune systems. *The Daily Star*, Dhaka, Friday January 14, 2005.

[17] Bangladesh acceded to the Ozone Convention, 1985 and the Montreal Protocol, 1987 on 2nd August, 1990. It also ratified the London Amendment in March, 1994 and the Copenhagen Amendment in June 1996.

[18] M. Anwarul Islam, *An Inventory on International Conventions, Treaties and Protocols Related to Environment and The Bangladesh Context*. IUCN Bangladesh, 1996.

Bangladesh signed the Framework Convention at the Earth Summit in Rio de Janeiro, Brazil in June 1992 and ratified it in 1994. The people and the ecosystem of the South, particularly southern and coastal areas of Bangladesh are extremely vulnerable to adverse climate change and sea-level rise, threatening the survival of the very poor of this region. Further the northwestern Bangladesh is going to be more drought-prone due to temperature rise.[19]

Like all signatories, Bangladesh is committed to report on its actions under the Conventions on Climate Change and Biodiversity as the first steps. As already stated, Climate Change studies have made significant progress. Bangladesh has also shown some initiative and took a few concrete actions.

Bangladesh is a signatory and also has accessed to this protocol and the subsequent London Amendment of 1990. The Copenhagen amendment to the Montreal Protocol of 1992 is under consideration of accession, but has not been done yet. Bangladesh has already prepared an Inventory of Ozone Depleting Substances (ODS). Further it has completed the country phase-out plan under the Montreal Protocol in 1994. Before that an investigation survey of ODS use in Bangladesh was conducted in 1993. Some follow-up projects also, which include setting up of an Ozone cell, some industrial modification and training.[20]

Bangladesh also signed the Bio-diversity[21] Convention at Rio in 1992 and ratified it in 1994. This will help Bangladesh develop necessary programmes to conserve biodiversity and ensure their sustainable uses. It was agreed that all living species have a right to exist and biological diversity is as complex web of life and the biological diversities need to be conserved for the maintenance of the biosphere in a state that is supportive of human of life. The convention

---

[19] M. Anwarul Islam, *An Inventory on International Conventions, Treaties and Protocols Related to Environment and The Bangladesh Context*. IUCN Bangladesh, 1996.

[20] Udayan Barua & Dr. S. K. Purkayastha; Edited by Mohammad Reazuddin Green Trade for Protection of Ozone Layer: Bangladesh Profile, published 2004 Ozone Cell, DoE & MoEF.

[21] Biodiversity is defined by the 1992 Convention on Biological Diversity as "the variability among living organisms from all sources, including terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems." In other words, 'the diverse array of living organisms, whose species, the genetic diversity they comprise, and the ecosystems they constitute add up to what we call Biodiversity' : UNEP, *Global Biodiversity Assessment : Summary for Policy Makers*, Cambridge. 1995, p.6.

signatories considered the need for and modalities of a protocol setting out appropriate procedure for bio-safety.

Although Bangladesh has several significant wetlands of international importance, none of them have been included in the Ramsar Convention list of threatened wetlands of international significance. Bangladesh has some significant publications but is a minor player. Some sources mentioned that the Sunderbans, Tanguar Haor have been included as a Ramsar site.

As management, disposal and monitoring of industrial chemicals and wastes become more difficult and expensive; Basel Convention gets a greater emphasis. Transport of toxic pollutants can endanger both human and other species and ecosystems. Bangladesh has singed the Basel Convention and attended the follow-up meetings. Few direct actions have yet to be taken.[22]

The main actions taken by Bangladesh remain so far in the identifying problems and some institutional development. Bangladesh has institutionalized environment by forming the Ministry of Environment and Forest (MoEF) in 1989 and upgrading the Department of Environment (DoE) under a Director General. There are institutions and individuals who have the quality to undertake world-class research, advocacy, policy formulation, and some of the NGOs of Bangladesh are comparable with the best in the world. Which are IUCN, BCAS, BELA, BIDS, BUET, BUP etc.

While the Ministry of Environment (MoE) is the catalyst institution in the environmental policy formulation process, the Department of Environment (DoE) is mostly responsible for the enforcement of environmental laws and policies in Bangladesh. MoE, as a nodal agency, participates in international for an often assisted by the Ministry of Foreign Affairs. Both on external and internal matters, MoE plays an important role by maintaining close contact with the cabinet and foreign agencies.[23]

In addition to the programmes directed to address national environmental issues, the DoE has established separate administrative unites to act as focal points under the multilateral treaties on

---

[22] M. Anwarul Islam, *An Inventory on International Conventions, Treaties and Protocols Related to Environment and The Bangladesh Context*. IUCN Bangladesh, 1996.

[23] Mr. Liaquat A. Siddiqui *Implementation of Global Environmental Treaties in Bangladesh*, Volume 21, November 3, 2000 BIISS, Dhaka;

ozone depletion, climate change and biodiversity conservation. These units are responsible for maintaining communication with treaty secretariats and also for overseeing the implementation of treaty obligations in Bangladesh. They are to initiate polices and undertake programmes and projects for achieving short and long term national targets under the treaties.[24]

The Environment Conservation Act, 1995 is designed to achieve broad-based objectives. It provides 'for the conservation, improvement of environmental standard and control and mitigation of pollution of environment.'[25]

The Government started to take measures, drafted the National Conservation Strategy, adopted the National Environment Policy, 1992 and revised the old law by enacting the Bangladesh Environment Conservation Act, 1995 (Amendment 2000, 2002), Environment Conservation Rules-1997, Environment Court Act 2000 (Amendment-2002) which has also restructured the Department of Environment.

A research in the regulatory regime shows that there are about 185 laws, which have bearing on environment, directly, indirectly and causally. These laws provide for measures relevant for environment conservation, offer protection against various environmental offenses and by prescribing or prohibiting certain activities, lay down rights and duties.

Some laws have also become redundant since the situation for which they were enacted does not exist any more.

1.5 International Treaties signed, ratified & accessed by Bangladesh (Chronological & Categorical list)

Bangladesh like many other countries obligated itself as a Contracting Party (CP) by ratifying treaties or as a Signatory (S) by officially signing the treaties and agreeing to carry out provisions of various treaties. A Chronological and categorical list of international environmental

[24] Mr. Liaquat A. Siddiqui *Implementation of Global Environmental Treaties in Bangladesh*, Volume 21 November 3, 2000 BIISS, Dhaka;

[25] Mr. Liaquat A. Siddiqui *Implementation of Global Environmental Treaties in Bangladesh*, Volume 21 November 3, 2000 BIISS, Dhaka; see details Preamble of the Environment Conservation Act, 1995.

Convention, Treaty and Protocols (ICTPs) to which Bangladesh is a Party and national status thereof is given below:

Plant Protection

1. International Plant Protection Convention, 1951. (Entry into force on 03/04/1952)
2. International Plant Protection Convention (Revised), 1979 (Entered into force on 04/04/1991)
3. International Plant Protection Convention (Revised), 1997 (Entered into force)
4. Plant Protection Agreement for the South East Asia and Pacific Region (as amended), 1956 (adopted on 27/02/1956 and entered into force on 02/07/1956)
5. The International Treaty on Plant Genetic Resources for Food & Agriculture, 2001 (Entered into force on 29 June 2004)

Bangladesh is a Party to the Conventions by depositing "Adherence" and "Acceptance" on 01/09/1978, 11/01/1984 and 24/11/1998. Bangladesh has acceded to the Agreement on 04/12/1974 and ratified the treaty on 14.11.2003.

Oil Pollution

6. International Convention for the Prevention of Pollution of the Sea by oil, 1954.
7. The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating there to (MARPOL 73/78)
8. Protocol to the International Convention for the Prevention of Pollution from Ships (MARPOL Protocol, 1997).

Oil Pollution 1954 is still in force but has now been overtaken by MARPOL 73/78. Bangladesh is a party to MARPOL 73/78 and MARPOL protocol, 1997/ "Accession". Convention has entered into force for Bangladesh on 04/11/2002. MARPOL 73/78 was adopted on to November 1973 and 17 February 1978 and entered into force on 2 October 1983. Bangladesh has acceded to the Convention, Protocol and Annexes on 04/11/ 2002, which has entered into force for Bangladesh on 04/02/2003.

Disarmament

9. Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, 1925 (Known as 1925 Geneva Protocol).
10. Treaty on Principles Governing the Activities of States in the exploration and uses of Outer Space Including the Moon and Other Celestial Bodies, 1967
11. Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxic Weapons and on Their Destruction, 1972 (CBW)
12. Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, 1976.
13. Convention on Prohibition or Restriction on the use of certain conventional weapons which may be deemed to be Excessively Injurious or to Have Indiscriminate Effects, 1981 (CCWC).
14. Convention on Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, 1993 (CWC).
15. Convention on Prohibition of the Use, Stockpiling, Production and Transfer of Anti Personnel Mines and on their Destruction, 1997 (Mine Ban Treaty 1997)

Bangladesh is a party by depositing "Accession with reservation" on 20/05/1989 to the Geneva Protocol. Bangladesh has also acceded to the Outer Space Treaty on 14/01/1983, the CBW on 11/03/1985 (Convention has entered into force on 26/03/1975), the Environmental Modification

Convention on 03/10/1979 (Convention has entered into force on 05/10/1978) and the CCWC on 06/09/2000 (Convention has entered into force on 02/12/1983). Besides, Bangladesh has signed the CWC on 14/01/1993 and ratified that on 25/04/1997 and signed the Mine Ban Treaty on 07/05/1998 and ratified that on 06/09/2000 (Convention has entered into force for Bangladesh on 05/03/2001).

Wetland

16. Convention on Wetlands on International Importance especially as Waterfowl Habitat, 1971 (Ramsar Convention).
17. Protocol to Amend the RAMSAR Convention, 1982 (Paris Protocol).
18. Amendments of the RAMSAR Convention, 1987 (Regina Amendments).

Bangladesh has acceded to the Ramsar Convention, Paris Protocol and Regina Amendments on the same date on 21/05/1992. These ICTPs has entered into force for Bangladesh on 21/09/1992.

Law of the Sea

19. United Nations Convention on the Law of the Sea, 1982. (UNCLOS '82)
20. Agreement Relating to the Implementation of Part XI of the Convention
21. Agreement for the Implementation of the Provisions of the Convention Relating to the conservation and Management of Straddling fish stocks and Highly Migratory fish stocks.

Bangladesh is a Party to UNCLOS '82 by "Ratification with declaration". Bangladesh is also a party to the Agreement of Part XI but only signed the Agreement of Straddling and Migratory fish stocks.

Nuclear

22. Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water, 1963.

23. Treaty on the Non-Proliferation of Nuclear Weapons, 1968.

24. Convention on Early Notification of a Nuclear Accident, 1986.

25. Convention on Assistance in the Case of a Nuclear Accident of Radiological Emergency, 1986.

26. Convention on Nuclear Safety, 1994

27. The Comprehensive Nuclear-Test-Ban Treaty, 1996

Bangladesh has acceded to all Convention listed above in serial number 22 to 26 respectively on 11/03/1985 (date of entry into force for BD), 31/08/79, 07/01/88, 07/01/88 and 21/09/1995. Bangladesh has signed the CTBT on 24/10/96 and ratified that on 08/03/2000. However, the CTBT has not yet entered into force, as at 11th April 2005, 11 more ratification is needed to enforce it.

Ozone

28. Vienna Convention for the Protection of the Ozone Layer, Vienna, 1985.

29. Montreal Protocol on Substances that Deplete the Ozone Layer, Montreal 1987.

30. London Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, London, 1990.

31. Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer adopted by the Ninth Meeting of the Parties, 1997

Bangladesh is a Party to the Vienna Convention (1985) and Montreal Protocol (1987) by "Accession" both on 02/08/1990. Beside, Bangladesh has ratified the London Amendment on 18/03/1994 and accepted the Amendment to the Montreal Protocol on 27/07/2001.

Other

32. International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969. (Commonly known as "Intervention Convention").

Bangladesh is a Party to the convention by "Accession". The Convention has entered into force for Bangladesh on 04/02/1982.

33. Convention Concerning the Protection of the World Cultural and Natural Heritage, 1972.

Bangladesh is a Party to the Convention by "Ratification". The convention has entered into force for Bangladesh on 03.11.1983

34. Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973 (Popularly known as CITES).

Bangladesh is a Party to the Convention by "Ratification" on 20/11/1981 and the date of entry into force for Bangladesh is 18/02/1982.

35. Declaration and Article of Association on South Asian Environmental Programme, 1981

Bangladesh is a member State of the Programme. [The consultant had to communicate with the Secretariat of the Programme (Mr. Pradyumna Kumar Kotta, Project Coordinator, SENRIC, South Asia Co-operative Environment Programme, SACEP, # 10 Andersonroad, Colombo 5, Sri Lanka, Tel: + 941 596 443/ Fax: + 941 589 369) to collect the text of the Article of Association. This is a very comprehensive document to establish a regional programme for conservation and protection of environment amongst South Asian countries.]

36. Agreement on the Network of Agriculture Centre in Asia and the Pacific, 1988

Bangladesh is a Party to the Agreement, which has entered into force for Bangladesh on 15/05/1990. Bangladesh was also a participant of the conference.

37. Basal Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 1989 [Adopted on 22/03/1989 and entered into force on 05/05/1992]

38. Basal Protocol: The Basal Protocol on Liability and Compensation was adopted at the Fifth Conference of Parties (COP-5) on 10 December 1999. The Protocol talks began in 1993 in response to the concerns of developing countries about their lack of funds and technologies for coping with illegal dumping or accidental spills.

39. Basal Ban Amendments: At the Second Meeting of the Conference of the Parties (COP-2) in March 1994, Parties agreed to an immediate ban on the export from OECD to non-OECD countries of hazardous wastes intended for final disposal. The Amendment has not come into force yet.

Bangladesh is a Party to the Convention by "Accession" on 01/04/1993. However, Bangladesh has not yet been a party to the Ban Amendment and Protocol on Liability and Compensation to the Basal Convention.

The Convention was adopted on 22/03/1989 and entered into force on 05/05/1992. The Basal Protocol on Liability and Compensation was adopted on 10/12/1999. The Protocol talks began in 1993 in response to the concerns of developing countries about their lack of funds and technologies for coping with illegal dumping or accidental spills. At the Second Meeting of the Conference of the Parties in March 1994, Parties agreed to an immediate ban on the export from Organization of Economic Cooperation and Development (OECD) countries to non-OECD countries of hazardous wastes intended for final disposal. The Basal Ban was passed as a decision of the Basel Convention in 1994 and turned into an amendment to the treaty in 1995. It prohibits the export of hazardous wastes from developed to developing countries. The Amendment has not come into force yet.

Bangladesh is a party to the Convention by "Accession" on 01/04/1993. However, Bangladesh has not yet been a party to the Ban Amendment and Protocol on Liability and Compensation to the Basal Convention.

40. United Nations Framework Convention on Climate Change (UNFCC), 1992.

41. Kyoto Protocol to the UNFCC, 1997.

Bangladesh has signed and ratified the Convention on 09/06/1992 and 15/04/1994 respectively. The Convention has entered into force globally on 21/03/1994 and for Bangladesh on 14/07/1994. Bangladesh has acceded to the Kyoto Protocol on 22/10/2001.

42. Convention on Biological Diversity (CBD), 1992

43. Cartagena Protocol on Biosafety to CBD, 2000

Bangladesh has signed and ratified the Convention on 05/06/1992 and 03/05/1994 respectively. Bangladesh has signed the Cartagena Protocol on 24/05/2000. The Protocol will enter into force on 11/09/2003. The Cartagena Protocol on Bio-safety, evolved from the CBD, was ratified by Bangladesh in May 2004.

44. United Nations Convention to Combat Desertification (UNCCD), 1994.

Bangladesh has signed the Convention on 14/08/1994 and ratified on 26/01/1996. The Convention has entered into force for Bangladesh on 26/12/1996.

45. The Framework Convention on Tobacco Control, 2003

On May 21, 2003, the WHO Framework Convention on Tobacco Control was adopted. This framework convention is a binding international legal instrument, which establishes broad commitments and a general system of governance for an issue area. Bangladesh has signed the Convention on 16 June 2003 and ratified on 10 May 2004. This treaty is the first legal instrument designed to reduce tobacco-related deaths and disease around the world. The Convention has

entered into force on 27 February 2005. As on 7th April 2005, 61 countries have ratified the Convention.

Among its many measures, the treaty requires countries to impose restrictions on tobacco advertising, sponsorship and promotion; establish new packaging and labeling of tobacco products; establish clean indoor air controls; and strengthen legislation to clamp down on tobacco smuggling. The Convention redefines the role of international law in preventing disease and promoting health. The core demand reduction provisions in the Convention are contained in Articles 6-14, which detail the price, tax, and non-price measures necessary to reduce the demand for tobacco. The core supply reduction provisions are contained in Articles 15-17. Another novel feature of the Convention is the inclusion of a provision to address liability issues. This makes the Convention unique from other treaty. Mechanisms for scientific and technical cooperation and exchange of information are set out in Articles 20-22 (WHO undated).

46. The Ganges Water Sharing Agreement, 1996

Apart from the above, beside the Stockholm Convention, there is another international Convention related with chemical management namely the Rotterdam Convention. Bangladesh has not yet accessed that Convention.

Chapter 2

Environmental Law before the creation of United Nations (1945)

2.1 Environmental Law From early to creation of UN

The first period began with bilateral fisheries treaties in the nineteenth century and concluded with the creation of the new international organizations in 1945. During this period peoples and nations began to understand that the process of industrialization and development required limitations on the exploitation of certain natural resources (flora and fauna) and the adoption of appropriate legal instruments.[26]

Early attempts to develop international environmental rules focused on the conservation of wildlife (fisheries, birds and seals) and, to a limited extent, the protection of rivers and seas. International legal developments followed the research efforts of scientists in the late eighteenth and nineteenth centuries, including the work of *Count Buffon* which contrasted the appearance of inhabited life with uninhabited life; the studies by *Fabre* and *Surrell* of flooding, siltation, erosion and the division of watercourses brought about by deforestation in the Alps; and the conclusions of *de Saussure* and *von Humboldt* that deforestation had lowered water levels of lakes in the Alps and in Venezuela.[27] By the mid-eighteenth century the relationship between deforestation and the drying up of water basins was widely observed. In the island of Ascension,

[26] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-25, Chapter-2

[27]. A. Goudie, The Human Impact : Man's Role in Environmental Change (1981)

Concern for flora and fauna coincided with industrialization and use of mineral resources. This led to the adoption of early environmental legislation at the national level.[28]

The adoption of treaties was *ad hoc*, sporadic and limited in scope. Bilateral fisheries conventions were adopted in the mid-nineteenth century to halt over-exploitation. Examples include a convention to conserve oysters by prohibiting fishing outside certain dates,[29] and instruments to protect fisheries, usually in rivers or lakes in or around territorial waters, from over-exploitation. The first whaling convention was adopted in 1931.[30]

Migratory birds also required international co-operation to ensure their conservation. In 1872 Switzerland proposed an international regulatory commission for the protection of birds. This led to consideration of the matter by the non-governmental International Ornithological Congress and the creation in 1884 of an International Ornithological Committee, which formulated a treaty proposal,[31] and the adoption in 1902 of the Convention to Protect Birds Useful to Agriculture. The Convention relied upon regulatory techniques still used today, such as the grant of absolute protection to certain birds, a prohibition on their killing or the destruction or taking of their nets, eggs or breeding places, and the use of certain methods or means of capture or destruction. The 1902 Birds Convention allowed exceptions, such as scientific research and repopulation, which continue to be reflected in more modern instruments, such as the 1979 Berne Convention and the 1992 Biodiversity Convention. 1916 saw the adoption of the first bilateral treaty for the protection migratory birds.[32] The founding in 1922 of the International Committee (later Council) for Bird Protection (later Preservation) (ICBP) reflected the recognition that substantive rules needed to be accompanied by new institutional arrangements. The ICBP was created to strengthen links between American and European bird protection groups, and its aim of

---

[28] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-26, Chapter-2

[29] Convention between France and Great Britain relative to Fisheries, Art.xi, Paris, 11 Novembr 1867 xxi I.P.E 1.

[30] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-26, Chapter-2; See details Convention for the Regulation of Whaling, Geneva, 24 September 1931.

[31] L. k. Caldwell, International Environmental Policy (2nd ed, 1990), 32.

[32] Convention Between the United States and Great Britain for the Protection of Migratory Birds in the United States and Canada, Washington, 7 December 1916.

encouraging 'transnational co-ordination rater than international integration' reflected a reluctance to go too far in impinging upon the sovereignty of states.[33]

The First treaty aimed at the protection of wildlife in a particular region was the 1900 Convention Destinee a Assurer la Convention des Diverses Especes Animales Vivant a I'Etat Sauvage en Afrique qui sont Utiles a l'Homme ou Inoffensive.[34] It sought to ensure the conservation of wildlife in the African of European states, including the use of trade restrictions on the export of certain skins and furs, reflecting a desire to combine regulatory techniques with economic incentives.[35]

The 1900 Convention was replaced by the 1933 Convention on the Preservation of Fauna and Flora in their Natural State, which was it superseded by a new instrument in 1968 following the attainment of independence by these former colonial territories of Africa.[36] Like other early convention, the 1933 Convention did not create any institutional arrangements for administering its provisions, monitoring compliance or ensuring implementation. During this first period the only other region to adopt a treaty for the protection of wildlife was the Americas.[37]

Not only fisheries and wildlife and wildlife attracted the attentions of the international legislators. The 1909 Water Boundaries Treaty between the United States and Canada was the first to commit its parties to preventing pollution, and under the auspices of its International Joint commission a draft Treaty on Pollution Prevention was drawn up in 1920, but not adopted. Another draft instrument prepared in this period, also not adopted, sought to prevent oil pollution

---

[33] C. McCormick, Reclaiming Paradise (1989), 23.
[34] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-27, Chapter-2; See details London, 19 May 1900, IV *I.P.E.* 1607
[35] On trade and environmental Law see chapter 18, 685-712.
[36] See 1968 African Natural Convention, Chapter 10,388-9
[37] 1940 Western Hemisphere Convention, Chapter 10, 390-1.

of the seas.[38] Treaties were adopted to limit the spread of phylloxera[39] and epizootic diseases,[40] and to prevent damage from corrosive and poisonous substances.[41]

2.2 Environmental disputes before 1945

During this period two environmental disputes were submitted to international arbitration. Both awards set forth principles, which influenced subsequent developments and included regulatory provisions governing the conduct of future activities. In the *Pacific Fur Seal Arbitration* the dispute between the United States and Great Britain concerned the latter's alleged over-exploitation of fur seals in areas beyond national jurisdiction. The award rejected the argument that states had the right to assert jurisdiction over natural resources outside their jurisdiction to ensure their convention, and set forth regulations for the 'proper protection and preservation' of fur seals outside jurisdictional limits. The regulations reflected earlier treaty provisions,[42] and provided a basis for a convention prohibiting pelagic sealing in the North Pacific Ocean and the importation of sealskins.[43] The episode provided early evidence of the potential for disputes over valuable natural resources lying beyond the national jurisdiction of any state, as well as evidence of the role international law might play in resolving disputes and establishing a framework for the conduct of activities.

---

[38] Final Act and Draft Convention of the Preliminary Conference on Oil Pollution of Navigable Waters, Washington, June 1926, xix I.P.E. 9585; Draft Convention and Draft Final Act on Pollution of the Sea by Oil, 21 to 25 October 1935, xix I.P.E. 9597.

[39] International Phylloxera Convention, with a Final protocol, Berne, 23 June 1882 iv I. P. E. 1571.

[40] Convention Designed to Remove the Danger of Epizootic Diseases in the Territories of Austria-Hungary and Italy, Rome. 7 December 1887, iv I.P.E. 1586.

[41] Convention between the Riverine States of the Rhine Respecting Regulations Governing the Transport of Corrosive and Poisonous Substances, Mannheim, 11 May 1900, xxv I.P.E. 214.

[42] Agreement Between the Government of the United States of America and the Government of Her Britannic Majesty for a Modus Vivendi in Relation to Fur Seal Fisheries in the Bering Sea, Washington, 15 June 1891, viii I.P.E. 3655; Convention Between the Government of the United States of America and the Government of Her Britannic Majesty for the Renewal of the Existing Modus Vivendi in Bering Sea, Washington, 18 Aprial 1892, iv I.P.E. 3656.

[43] Convention between the United States of America, the United Kingdom of Great Britain and Northern Ireland, and Russia, for the Preservation and protection of Fur Seals, Washington, 7 July 1911, viii I.P.E. 3682 Arts I to III.

The second arbitral award of this period is better known. The *Trial Smelter* Case arose out of a dispute between the United States and Canada over the emission of sulphur fumes from a smelter situated in Canada that caused damage in the state of Washington. Emissions and damage had increased significantly after 1906, and again after 1925 and 1927, leading to the submission of the issue to the US-Canada International Joint Commission established under the 1909 Boundary Waters Treaty. In February 1931 the Commission adopted a unanimous report awarding the United States $350,000 in damages to compensate its interests for damage suffered in the period up to January 1932 and the use of equipment to reduce further sulphur emissions. In February 1933 the US complained that further damage was occurring, and in April 1935 the two countries signed a convention submitting the dispute to an arbitral tribunal composed of there arbitrators, assisted by two scientists designated, respectively, by the two countries.[44] The Tribunal held that under international law 'no state has the right to use or permit the use of its territory in such a manner as to cause injury by fumes in or to the territory of another or the properties or persons therein, when the case is of serious consequence and the injury is established by clear and convincing evidence'. The award of the Tribunal and its finding on the state of international law on air pollution in the 1930s has come to represent a crystallizing moment for international environmental law which has influenced subsequent developments in a manner which undoubtedly exceeds its true value as an authoritative legal determination.

These two arbitral awards, together with the treaties and organization, which were brought into being, established early foundations. Institutional arrangements to address environmental matters were limited, and were sparse both in terms of the subject matter they addressed and the regions they covered. However, there was a growing awareness that the exploitation of natural resources could not occur on an unlimited basis, that industrialization and technological developments

[44] Convention of the Final Settlement of the Difficulties Arising Through the Complaints of Damage Done in the State of Washington by Fumes discharged from the Smelter of the Consolidated Mining and Smelting Company, Trail, District Columbia, 15 April 1935 United States-Canada 162 LNTS 73.

brought with them pollution and associated problems, and that international measures were needed to address these matters.[45]

2.3 Organizational/Institutional Development before 1945

Developments relating to the creation of international environmental organizations were limited. The first international institution to address protection arose from the 1909 meeting of the International Congress for the Protection of Nature, in Paris, which proposed the creation of an international nature protection body. In 1913 an Act of Foundation of a Consultative Committee for the International Protection of Nature was signed in Berne by seventeen countries, with the task of collecting, classifying and publishing information on the international protection of nature. The outbreak of the First World War laid the Commission to rest. Rudimentary international organizations were created at this time to address locust infestation[46] and contagious animal diseases.[47]

It is evident that of the developments during this period were inspired by the efforts of private individuals, scientists and environmental organizations in Europe and the United States. Lawyers were also active; in 1911 the Institut Droit International[48], a private association of lawyers, adopted International Regulations Regarding the Use of International Watercourses for Purposes Other than Navigation. Although these were not binding, they declared that 'neither (riparian) state may, on its own territory, utilize or allow the utilization of the water in such a way as seriously to interfere with its utilization by the other state or by individuals, corporations, etc. thereof.[49]

---

[45] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995 page-29

[46] Convention Regarding the Organisation of the Campaign Against Locusts, Rome, 31 October 1920, iv I.P.E. 1642.

[47] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-28, Chapter-2; See details International Agreement for the Creation of an International Office for Dealing with Contagious Diseases of Animals, Paris, 25 January 1924 iv I.P.E. 1646.

[48] Infra- page 145

[49] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-28, Chapter-2

Chapter 3

The Creation of the United Nations to Stockholm: 1945-1972

The second phase in the development of international environmental law began with the creation of the UN and the specialized agencies in 1945.[50] It was a period characterized by two features: international organizations at the regional and global level began to address environmental issues, and the range of environmental concerns addressed by international regulatory activity broadened to include a focus on the causes of pollution resulting from certain ultra-hazardous activities. A third feature was the limited recognition of the relationship between economic development and environmental protection.[51]

3.1 World perspective after the creation of United Nations

The environment has always been critical to life but concerns over the balance between human life and the environment assumed international dimensions only during the 1950s. Paradigm-breaking books and articles such as Rachel Carson's *Silent Spring*[52] and Garrett Hardin's 'The Tragedy of Commons'[53] galvanized individual countries and the international community into action.

At the end of the 1960s, the voice of environmental concern was heard almost uniquely in the West. In the communist world, the relentless destruction of the environment in the name of industrialization continued unabated. In developing countries, environmental concerns were

[50] On the structure of the UN see Chapter 3, 69-86.
[51] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-30, Chapter-2
[52] Carson, R. (1962). Silent Spring. New York, Houghton Mifflin.
[53] 'The tragedy of the commons as a food basket is averted by private property, or something formally like it. But the air and waters surrounding as cannot readily be fenced, and so the tragedy of the commons as a cesspool must be prevented by different means, by coercive laws or taxing devices that make it cheaper for the polluter to treat his pollutants than to discharge them untreated.' Hardin, G (1968). *The Tragedy of the Commons. Science.* 162, 1243-48.

regarded as Western luxuries. 'Poverty is the worst form of pollution,' held India's Prime Minister, Indira Ghandi, who played a key role in orienting the agenda of the UN Conference on the Human Environment, held in Stockholm in 1972, towards the concerns of the developing countries.[54] 'We hold that of all things in the world, people are the most precious,' said Tang Ke, Leader of the Chinese delegation to the Stockholm Conference.[55]

In the early 1970s, attention was focused first on the biophysical environment, for example, on issues of wildlife management, soil conservation, water pollution, land degradation and desertification- and people were considered as the root cause of such problems. In the West, there were (and, to some extent, still are) two principal schools of thought about the causes of environmental degradation: one school blamed greed and the relentless pursuit of economic growth; the other blamed population growth. As one commentator put it, 'Unabated pollution and unstable population are real threats to our way of life and to life itself'.[56]

These views were encapsulated in the most famous study of the time, the Club of Rome's computer model of the global future, which attracted worldwide attention. The Club of Rome was a group of some 50 self-appointed 'wise men' (and women) who met regularly to try to put the world to rights, much as did the Pugwash group of scientists in relation to the Cold War. Published as *The Limits to Growth*, the Club of Rome model analyzed five variable- technology, population, nutrition, natural resources and environment. Its main conclusion was that, if current trends continued, the global system would 'overshoot' and collapse by the year 2000. If that were not to happen, both population and economic growth would have to cease.[57] Although *The Limits to Growth* has been heavily criticized, it publicized for the first time the concept of outer limits- the idea that development could be limited by the finite size of the Earth's resources.

---

[54] Strong, M. (1999). *Hunger, Poverty, Population and Environment. The Hunger Project Millennium Lecture*, 7 April 1999. Madras, India, The Hunger Project.

[55] Clark, R., and Timberlake, L. (1982). *Stockholm Plus Ten- Promises, Promises? The Decade Since the 1972 UN Environment Conference*. London, Earthscan.

[56] Stanley Foundation (1971). *Sixth Conference on the United Nations of the Next Decade*. Conference held 20-29 June 1971, Sianai, Romania

[57] Meadows, D. and Meadows, D. (1972). *The Limits to Growth: A Report for the Club of Rome's Project on the predicament of Mankind*. New York, Universe Books.

3.2 Organizational/Institutional Development before 1972

Despite attempts by certain individuals to push conservation on to the international agenda following the Second World War, the UN Charter did not include provisions on environmental protection or the conservation of natural resources. Nevertheless the UN's purposes include the achievement of international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and this has provided the basis for the subsequent environmental activities.[58] No environment or nature conservation body was established amongst the specialized agencies.

However, the constituent instruments of the Food and Agriculture Organization[59] (FAO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO)[60] included provisions with an environmental or conservational aspects, and the instrument establishing the General Agreement on Tariffs and Trade (GATT) permits certain measures relating to 'the conservation of exhaustible natural resources' as exceptions to the rules establishing free trade obligation.[61]

In October 1948 governments and non-governmental actors established the first major international organization to address environmental issues. A conference convened with the assistance of UNESCO, which was attended by representatives of eighteen governments, seven international organizations, and 107 national organizations, established the International Union for the Protection on Nature[62] (IUPN), to promote the preservation of wildlife and the natural environment, public knowledge, education, scientific research and legislation.[63] The IUCN is a unique organization whose members are governments and non-governmental actors, and which

---

[58] UN Charter, Sun Francisco, 26 June 1945, in force 24 October 1945 I UNTS xvi, Art. I (3); see Chapter 3, 69.
[59] Infra- page 131
[60] Infra- page 132
[61] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-81-82, Chapter-3.
[62] Infra- page 141
[63] 1977 Statutes, xviii I. P. E. 8960; on the creation of IUCN see J. McCormick, supra n 9, 31-6. In 1956 the IUPN was renamed the International Union for the Conservation of Nature and Natural Resources (IUCN).

has played an important role developing treaties to protect wildlife and conserve natural resources.[64]

3.3 UNCCUR

The seeds of intergovernmental environmental action were sown in 1947 by the UN, with the Environmental and Social Council (ECOSOC) resolution convening the 1949 United Nations Conference on the Conservation and Utilization of Resources (UNCCUR). The origins of this resolution have been traced to the initiative of President Franklin D. Roosevelt and Harry S. Truman. The resolution reflected an awareness of the need for international action to establish a balanced approach to the management and conservation of natural resources. The resolution emphasized the importance of the world's natural resources and their importance to the reconstruction of devastated areas; it also recognized the need for the 'continuous development and wide-spread application of the techniques of resource conservation and utilization.[65] The resolution determined the competence of the UN over environmental matters and ultimately resulted in the 1972 Stockholm Conference and the 1972 UNCED, as well as other United Nations action on the environment.

UNCCUR provided a modest start. It had a limited scope, having been convened to exchange information on 'techniques in this field, their economic costs and benefits, and their interrelations' and being devoted to the exchange of ideas and experience.[66]

It had no mandate to adopt any recommendations. Held from 17 August to 6 September 1949 in New York State, it was attended by over 1,000 individuals from more than fifty countries, some 500 having been selected by the UN Secretary General upon the nomination of governments, non-government organizations and the Preparatory Committee. UNCCUR addressed six issues:

---

[64] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-30, Chapter-2.
[65] ECOSOC Resolution 32 (iv) (1947), Preamble.
[66] Ibid.

minerals, fuels and energy, water, forests, land and wildlife and fish. The main topics addressed included:

- the world resource situation;
- a world review of critical shortages;
- the interdependence of resources;
- the use and conservation of resources;
- the development of new resources by applied technology;
- education for conservation;
- resource techniques for less developed countries; and
- the integrated development of river basins.[67]

If UNCCUR's activities were limited, the topics were similar to those addressed at UNCED nearly half of a century later. Even at this stage the relationship between conservation and development was a central theme, with discussions focusing on the relationship between conservation and use, on the need to develop standards to ensure conservation and on the relationship between conservation and development.[68]

3.4 Development of International Environmental Law through UN Agencies

Following the 1949 UNCCUR, environmental action by the UN and its specialized agencies addressed issues relating to the conservation of flora and fauna. In 1956 the General Assembly convened a major Conference on the Conservation of the Living Resources of the Sea,[69] which led to the conservation rules adopted in the 1958 Geneva Convention. The major new development was the attention given by the General Assembly to the effects of atmospheric nuclear tests and oil pollution. The fact that these subjects were debated, and resolutions adopted, signaled a shift in emphasis away from the protection of flora and fauna

[67] Ybk. UN (1948-9), 481-2. See also UNCCUR Proceedings, Vol. I : Plenary Meetings (E/Conf. 7/7).
[68] Ibid.
[69] See UNGA res. 900(ix) (1954). The Conference Report is at viii I. P. E. 3969

and towards international action addressing products and processes associated with industrial and military activity. With hindsight it is easy to see how significant these developments were, although at the time it was probably not foreseeable that the implications of intergovernmental environmental action would be far-reaching. In 1955 the General Assembly adopted the first of a number of resolutions on the use of atomic energy and the effects of atomic radiation, which led to the Test Ban Treaty in 1963,[70] and provided the political context for Australia and New Zealand to bring actions to the International Court of Justice calling on France to stop all atmospheric nuclear tests.[71]

In 1954, under the auspices of the International Maritime Organization (IMO), the first global convention for the prevention of oil pollution was adopted (building on the text of the earlier drafts of 1926 and 1935),[72] to be followed fifteen years later by treaties permitting intervention to combat the effects of oil pollution,[73] establishing rules of civil liability for oil pollution damage and creating an oil pollution compensation fund.[74] These were adopted in response to specific incidents resulting in large-scale oil pollution, which caused damage to the marine environment and to people and property. Other global conventions were the 1958 High Seas Fishing and Conservation Convention, which established innovative provisions on conservation of marine living resources, and the 1958 Convention on the High Seas, which committed contracting parties to preventing oil pollution and the dumping of radioactive wastes.[75] The 1971 Ramsar Convention was the first environment treaty to establish rules addressing the conservation of a particular type of ecosystem.[76]

---

[70] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995.. page-244, Chapter-7; Page 476-7 Chapter-11.
[71] Ibid.
[72] 1954 International Convention for the Prevention of Pollution of the Sea by Oil, London, 12 May 1954, in force 26 July 1958, 327 UNTS 3.
[73] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-333-4, Chapter-8.
[74] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-660-2, Chapter-17.
[75] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-292, Chapter-8.
[76] Ibid page-404-6, Chapter-10.

At this time notable regional developments were occurring to prohibit or regulate activities previously beyond the scope of international law. The 1959 Antarctic Treaty committed parties to peaceful activities in that region, and prohibited nuclear explosions or the disposal of radioactive waste.[77] The United Nations Economic Commission for Europe (UNECE) promulgated harmonizing regulations on emissions from motor vehicles,[78] and the Committee of Ministers of the Council of Europe adopted the first international act dealing with general aspects of air pollution.[79] In 1967 the European Community (EC) adopted its first environmental act, on the packaging and labeling of dangerous goods, despite the absence of express environmental provisions in the 1957 Treaty of Rome. In relation to wildlife conservation the 1968 African Nature Convention went beyond the limited approach to conservation of fauna and flora by aiming at the 'conservation, utilization and development of soil, water, flora and fauna resources in accordance with scientific principles and with due regard to the best interests of the people.[80] In early 1972, shortly before the Stockholm Conference, the Oslo Dumping Convention became the first treaty to prohibit the dumping of a wide range of hazardous substances at sea.[81] During this period treaties sought to protect the quality of rivers,[82] and, under the auspices of the International Labour Organization (ILO) the quality of the working environment.[83]

Other developments were remarkable. In 1949 the International Court of Justice (ICJ) confirmed 'every state's obligation not to allow knowing its territory to be used for acts contrary to the rights of other states', a dictum which was to contribute significantly to the emergence of Principle 21 of the Stockholm Conference. In 1957 the Lac Lanoux Arbitral Tribunal affirmed

---

[77] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-522, Chapter-13

[78] Ibid page-248, Chapter-7

[79] Resolution (66) 23 Air Pollution (1966), xv I. P. E. 7521.

[80] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-388-9, Chapter-10

[81] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-314-15, Chapter-8

[82] Protocol Concerning the Constitution of an International Commission for the Protection of the Mosel Against Pollution (Paris), 20 December 1961, in force July 1962 UNTS 940:211; Agreement Concerning the International Commission for the Protection of the Rhine Against Pollution (Berne), 29 April 1963, UNTS 914: 3.

[83] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-83 & 469-72, Chapter-3 & 11

some important principles concerning limitations on the right of states in their use of shared rivers.[84] However, the substantive commitments adopted in these treaties were not accompanied by the adoption of guiding principles of general application. What was looming, however, was the broader issue of the relationship between environment and development, which had been identified by the 1949 UNCCUR; in 1962 the General Assembly adopted a resolution on the relationship between economic development and environmental protection.

By 1972 there was, therefore, an emerging body of international environmental rules at the regional and global levels, and international organizations were addressing international environmental issues. Limitations on the right of states to treat their natural resources as they wished were being established. Nevertheless, these treaty and institutional developments were developing in a gradually fashion, and the lack of co-ordination hampered efforts to develop a coherent international environmental strategy. Moreover, no international organization had overall responsibility for co-coordinating international environmental policy and law, and few had a specific environmental mandate. International procedures for ensuring the implementation of and compliance with, international environmental standards were virtually non-existent. The regulatory techniques available for addressing a growing range of issues were limited, and no rules had yet been developed on procedural obligations, such as environmental impact assessment or the dissemination of and access to environmental information. The 1972 Stockholm Conference must be seen in this context.

CITES (The Convention on International Trade in Endangered Species of Wild Fauna and Flora) is an international agreement between Governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival.

Widespread information nowadays about the endangered status of many prominent species, such as the tiger and elephants, might make the need for such a convention seem obvious. But at the time when the ideas for CITES were first formed, in the 1960s, international discussion of the regulation of wildlife trade for conservation purposes was something relatively new. With

---

[84] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-348-9, Chapter-9

hindsight, the need for CITES is clear. Annually, international wildlife trade is estimated to be worth billions of dollars and to include hundreds of millions of plant and animal specimens. The trade is diverse, ranging from live animals and plants to a vast array of wildlife products derived from them, including food products, exotic leather goods, wooden musical instruments, timber, tourist curios and medicines. Levels of exploitation of some animal and plant species are high and the trade in them, together with other factors, such as habitat loss, is capable of heavily depleting their populations and even bringing some species close to extinction. Many wildlife species in trade are not endangered, but the existence of an agreement to ensure the sustainability of the trade is important in order to safeguard these resources for the future.

Because the trade in wild animals and plants crosses borders between countries, the effort to regulate it requires international cooperation to safeguard certain species form over-exploitation. CITES was conceived in the spirit of such cooperation. Today, it accords varying degrees of protection to more than 30,000 species of animals and plants, whether they are traded as live specimen fur coats or dried herbs.

CITES was drafted as a result of a resolution adopted in 1963 at a meeting of members of IUCN (The World Conservation Union). The text of the Convention was finally agreed at a meeting of representatives of 80 countries in Washington DC., United States of America, on 3 March 1973, and on 1 July 1975 CITES entered in force.

CITES is an international agreement to which States (countries) adhere voluntarily. States that have agreed to be bound by the Convention ('joined' CITES) are known as Parties. Although CITES is legally binding on the Parties- in other words they have to implement the Convention- it does not take the place of national laws. Rather it provides a framework to be respected by each Party, which has to adopt its own domestic legislation to make sure, that CITES is implemented at the national level.

Not one species protection by CITES has become extinct as a result of trade since the Convention entered into force and, for many years, CITES has been among the largest convention agreements in existence, with now 1967 Parties.[85]

The 1972 Stockholm Conference can be traced to an Intergovernmental Conference of Experts on the Scientific Basis for Rational Use and Conservation of the Resources of the Biosphere convened by UNESCO in 1968 (the 1968 Biosphere Conference). The Conference considered the human impact no the biosphere, including the effects of air and water pollution, overgrazing, deforestation and the drainage of wetlands, and adopted twenty recommendations reflecting themes adopted at the 1972 Stockholm Conference.[86] The scale of the task facing the international community was reflected in the final report of the 1968 Biosphere Conference.

Until this point in history the nations of the world have lacked considered, comprehensive policies for managing the environment. Although changes have taking place for a long time, they seem to have reached a threshold recently that has made the public aware of them. This awareness is leading to concern, to the recognition that to a large degree, man now has the capability and the responsibility to determine and guide the future of his environment, and to the beginning of national and international corrective action... It has become clear, however, that earnest and bold departures from the past will have to be taken nationally and internationally if significant progress is to be made.[87]

[85] http://www.cites.org/eng/disc/what.shtml

[86] See Ybk. UN 1968, 958; UNESCO, Use and Conservation of the biosphere : Proceedings of the Intergovernmental Conference of Experts on the Scientific Basis for Rational Use and Conservation of the Resources of the Biosphere (1970).

[87] Cited in Caldwell, supra n. 6, 45.

Chapter 4

From Stockholm to Rio: 1972-1992

Since the 1972 Stockholm Conference, the number and scope of international environmental policy responses have increased significantly. Initially, the established global strategic planning frameworks usually had a sect oral nature. Examples of this include the United Nations Plan of Action to Combat Desertification (1977), the World Conference on Agrarian Reform and Rural Development (1979), the World Conservation Strategy (1980), the World Soil Policy (1982), and the Tropical Forest Action Plan (1984). Under these global programmatic frameworks, national action plans, strategies, and policies were prepared.[88]

The Stockholm Conference set the prospect for international activities at the regional and global level and influenced legal and institutional developments up to and beyond UNCED. Developments in this are of two types: those directly related to Stockholm and follow-up actions, and those indirectly related. The period was marked by a proliferation of international environment organizations (including those established by treaty) and greater efforts by existing institutions to address environmental issues; the development of new sources of international environmental obligation from acts of such organizations; new environmental norms established by treaty; the development of new techniques for implementing environmental standards, including environmental impact assessment and access to information; and the formal integration of environment and development, particularly in relation to international trade and development assistance.

[88] Global Environment Outlook-1997, Published UNEP; page-129.

4.1 The 1972 United Nations Conference on the Human Environment

The Stockholm Conference was convened in December 1968 by the United Nations General Assembly. This followed the adoption in July 1968 of a resolution, first proposed by Sweden, noting 'the continuing and accelerating impairment of the quality of the human environment', and recommending that the General Assembly consider the desirability of convening a UN Conference. The Conference was held in Stockholm from 5-16 June 1972 under the chairmanship of Maurice Strong, a Canadian, and was attended by 144 states and a large number of international institutions and non-governmental observers.

The Conference adopted[89] three non-binding instruments: a resolution on institutional and financial arrangements, a Declaration containing 26 Principles, and an action Plan containing 109 recommendations.[90] The Conference did not adopt any binding obligations and formal decisions had to wait the twenty-seventh session of the UN General Assembly the following autumn. The Conference was generally considered to have been successful, largely because the preparatory process had allowed agreement to be reached on most issues prior to the Conference. According to one commentator 'Stockholm enlarged and facilitated means toward international action previously limited by inadequate perception of environmental issues and by restrictive concepts of national sovereignty.... There were significant elements of innovation in (1) the redefinition of international issues, (2) the rationale for co-operation, (3) the approach to international responsibility, and (4) the conceptualization of international organizational relationship. Although the infusion of new international law was not dramatic, trends underway before Stockholm relating to marine pollution, transboundary air and water pollution, and protection of endangered species were reinforced by the Stockholm resolutions. From a legal perspective significant development included the recommendations for the creation of new

[89] It adopted by the United Nations Conference on the Human Environment, on the 16th of June 1972 in Stockholm.
[90] Report of the UN Conference on the Human environment: UN doc. A/CONF 48/14 at 2-65.

institutions and the establishment of co-ordinating mechanisms amongst existing institutions (the Action Plan), the definition of a framework for future actions to be taken by the international community (the Recommendations), and the adoption of a set of general guiding principles (the Principles).

The recommendation on institutional and financial arrangements proposed that action be taken by the UN General Assembly to establish four institutional arrangements: an intergovernmental Governing Council for Environmental Programmes to provide policy guidance for the direction and co-ordination of environmental programmes; an Environment Secretariat headed by an Executive Director ; an Environment Fund to provide financing for environmental programmes; and an inter-agency Environmental Co-ordinating Board to ensure co-operation among all bodies concerned in the implementation of environmental programmes in the United Nations system. The Action Plan comprised 109 recommendations. These were generally accepted by consensus, and reflected an agenda which identified six main subject areas.

a) planning and management of human settlements for environmental quality;
b) environmental aspects of natural resources management;
c) identification and control of pollutants and nuisances of broad international significance;
d) educational, informational, social and cultural aspects of environmental issues;
e) development and environment; and
f) international organizational implications of action proposals.[91]

The Action Plan included proposals on environmental assessment (by the establishment of Earth watch, which was to include a Global Environmental Monitoring System (GEMS) and an International Referral System (subsequently INFOTERRA); on natural resources management; and on supporting measures relating to training and education and the provision of information. Consensus was virtually complete, although some reservations were made. The United States would not accept the principle of 'additionally' according to which an increase in its foreign aid budget would be required to cover costs imposed by

[91] Caldwell, supra n. 6. 61.

environmental protection measures on development projects (Recommendation) and Japan refused to observe the recommendation calling for a ten-year moratorium on commercial whaling (Recommendation 33) [92]

4.2 Principles of Stockholm Conference:

Principle 1

Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well being, and he bears a solemn responsibility to protect and improve the environment for present and future generations. In this respect, policies promoting or perpetuating apartheid, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated.

Principle 2

The natural resources of the earth including the air, water, land, flora and fauna and especially representative samples of natural ecosystems must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.

Principle 3

The capacity of the earth to produce vital renewable resources must be maintained and, wherever practicable, restored or improved.

Principle 4

Man has a special responsibility to safeguard and wisely manage the heritage of wildlife and its habitat which are now gravely imperiled by a combination of adverse factors. Nature conservation including wildlife must therefore receive importance in planning for economic development.

Principle 5

[92] Ibid, 62.

The non-renewable resources of the earth must be employed in such a way as to guard against the danger of their future exhaustion and to ensure that benefits from such employment are shared by all mankind.

Principle 6

The discharge of toxic substances or of other substances and the release of heat, in such quantities or concentrations as to exceed the capacity of the environment to render them harmless, must be halted in order to ensure that serious or irreversible damage is not inflicted upon ecosystems. The just struggle of the peoples of all countries against pollution should be supported.

Principle 7

States shall take all possible steps to prevent pollution of the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

Principle 8

Economic and social development is essential for ensuring a favorable living and working environment for man and for creating conditions on earth that are necessary for the improvement of the quality of life.

Principle 9

Environment deficiencies generated by the conditions of underdevelopment and natural disasters pose grave problems and can best be remedied by accelerated development through the transfer of substantial quantities of financial and technological assistance as a supplement to the domestic effort of the developing countries and such timely assistance as may be required.

Principle 10

For the developing countries, stability of prices and adequate earnings for primary commodities and raw materials are essential to environmental management since economic factors as well as ecological processes must be taken into account.

Principle 11

The environmental policies of all States should enhance and not adversely affect the present or future development potential of developing countries, nor should they hamper the attainment of better living conditions for all, and appropriate steps should be taken by States and international organizations with a view to reaching agreement on meeting the possible national and international economic consequences resulting from the application of environment measures.

Principle 12

Resources should be made available to preserve and improve the environment, taking into account the circumstances and particular requirements of developing countries and any costs which may emanate from their incorporating environmental safeguards into their development planning and the need for making available to them, upon their request, additional international technical and financial assistance for this purpose.

Principle 13

In order to achieve a more rational management of resources and thus to improve the environment, States should adopt an integrated and coordinated approach to their development planning so as to ensure that development is compatible with the need to protect and improve the human environment for the benefit of their population.

Principe 14

Rational planning constitutes an essential tool for reconciling any conflict between the needs of development and the need to protect and improve the environment.

Principle 15

Planning must be applied to human settlements and urbanization with a view to avoiding adverse effects on the environment and obtaining maximum social, economic and environmental benefits for all. In this respect projects, which are designed for colonialist and racist domination, must be abandoned.

Principle 16

Demographic policies, which are without prejudice to basic human rights and which are deemed appropriate by Governments concerned, should be applied in those regions where the rate of population growth or excessive population concentrations are likely to have adverse effects on the environment or development, or where low population density may prevent improvement of the human environment and impede development.

Principle 17

Appropriate national institutions must be entrusted with the task of planning, managing or controlling the environmental resources of States with the view to enhancing environmental quality.

Principle 18

Science and technology, as part of their contribution to economic and social development, must be applied to the identification, avoidance and control of environmental risks and the solution of environmental problems and for the common good of mankind.

Principle 19

Education in environmental matters, for the younger generation as well as adults, giving due consideration to the underprivileged, is essential in order to broaden the basis for an enlightened opinion and responsible conduct by individuals, enterprises and communities in protecting and improving the environment in its full human dimension. It is also essential that mess media of communications avoid contributing to the deterioration of the environment, but, on the contrary, disseminate information of an educational nature, on the need to protect and improve the environment in order to enable man to develop in every respect.

Principle 20

Scientific research and development in the context of environmental problems, both national and multinational, must be promoted in all countries, especially the developing countries. In this connation, the free flow of up-to-date scientific information and transfer of experience

must be supported and assisted, to facilitate the solution of environmental problems; environmental technologies should be made available to developing countries on terms which would encourage their wide dissemination without constituting an economic burden on the developing countries.

Principle 21

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Principle 22

States shall cooperate to develop further the international law regarding liability and compensation for the victims of pollution and other environmental damage caused by activities within the jurisdiction or control of such States to areas beyond their jurisdiction.

Principle 23

Without prejudice to such criteria as may be agreed upon by the international community, or to standards which will have to be determined nationally, it will be essential in all cases to consider the systems of values prevailing in each country, and the extent of the applicability standards which are valid for the most advanced countries but which may be inappropriate and of unwarranted social cost for the developing countries.

Principle 24

International matters concerning the protection and improvement of the environment should be handled in a cooperative spirit by all countries, big or small, on an equal footing. Cooperation through multilateral or bilateral arrangements or other appropriate means is essential to effectively control, prevent, reduce and eliminate adverse environmental effects resulting from activities conducted in all spheres; in such a way that due account is taken of the sovereignty and interests of all States.

Principle 25

States shall ensure that international organizations play a coordinated, efficient dynamic role for the protection and improvement of the environment.

Principle 26

Man and his environment must be spared the effects of nuclear weapons and all other means of mass destruction. States must strive to reach prompt agreement, in the relevant international organs, on the elimination and complete destruction of such weapons.[93]

4.3 Criticism of Stockholm Declaration:

The Declaration of Principles for the Preservation and Enhancement of the Human Environment was based on a draft Declaration prepared by the Preparatory Committee. It was intended to provide 'a common outlook and for common principles to inspire and guide the peoples of the world in the preservation enhancement of the human environment.[94] The 26 (twenty-six) Principles reflected a compromise between those states which believed it should stimulate public awareness of, and concern over, environmental issues, and those states who wanted the Declaration to provide specific guidelines for future governmental and intergovernmental action.[95]

This Principle was not agreed at the Conference following the objections of a number of developing states, which maintained that the obligation to consult might be abused by developed states to hamper development projects.[96]

---

[93] Edited by W. E. Burhenne, Selected and compiled by Marlene Jahnke, *International Environmental Soft Law* Collection of Relevant Instruments, Martinus Nijhoff Publishers, November 1993; See details UN General Assembly Resolutions 2994/XXVII, 2995/XXVII and 2996/XXII of 15 December 1972.

[94] UN doc. A/ CONF. 48/PC. 17

[95] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-36

[96] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995.. page-37, Chapter-2

The Stockholm Principles 1 to 20 was contained in non-legal language. Principle 1 linked environmental protection to human rights norms, stating that man has 'the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations'. Other Principles can be grouped into themes.

Principles 2, 3 and 5 set forth general guidelines for the natural resources of the earth to be safeguarded for the benefit of present and future generations, and for maintenance, restoration and improvement of vital renewable resources and the non-exhaustion of non-renewable resources.

Principles 4, 5 and 7 identified specific environmental threats, recalling the special responsibility of man to safeguard and wisely manage the heritage of wildlife and habitat, halt the discharge of toxic and other substances and heat which cause serious or irreversible damage to the ecosystem, and prevent pollution of the seas or harm to living resources and marine life.

Principles 8 to 15 addressed issues which reflected the relationship between development and the environment they recognized the relationship between economic and social development and environmental quality; called for 'accelerated development' through the transfer of financial and technological assistance and stable and adequate prices for commodities and raw materials, and supported an integrated and coordinated approach to rational development planning which is compatible with protecting and improving the human environment.

Principles 16 to 20 recognized the need for appropriate demographic policies; supported the development of national institutions to manage environmental resources; called for the application of science and technology, and encouraged education and scientific research and development.[97]

[97] When the Stockholm Declaration was adopted, fewer than six states had national authorities specifically responsible for the environment. Today few states do not have such a body.

The draft Declaration prepared by the Conference Preparatory Committee had included a third important legal principle, 'Principle 20', which would have provided that relevant information must be supplied by states on activities or developments within their jurisdiction or under their control whenever they believe, or have reason to believe, that such information is needed to avoid the risk of significant adverse effects on the environment in areas beyond their national jurisdiction.

From a legal perspective the most relevant provisions are Principles 21, 22, 23 and 24. Principle 21 affirmed the responsibility of states to ensure that activities within their jurisdiction or control do not cause damage in another state or beyond national jurisdiction, such as in outer space or on the high seas. This responsibility is said to extend also to activities under a stat's 'control', such as those carried out by its nationals or by or on ships or aircraft registered in its territory.[98]

Principle 22 required states to co-operate in developing international environmental law. This is a substantially weakened version of an earlier proposal, which would have required states to pay compensation for all environmental damage caused by activities carried on within their territory. The earlier proposal failed because of concerns that it implied acceptance of a no-fault or 'strict' standard of liability for environmental harm. Certain states made clear their view that liability to pay compensation would only exit where there had been negligence attributable to the state concerned.

Principle 23 foresaw a limited role for international regulation and suggested that certain standards would 'have to be determined nationally' on the basis of the value systems applying in each country and their social costs, and in accordance with the need for different environmental standards in different countries. The Stockholm Principles are weak on techniques for implementing environmental standards, such as environmental impact

[98] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. Page-186-94, Chapter-6 For the background to Principle 21 and its subsequent development.

assessment, access to environmental information and the availability of administrative and judicial remedies.

Principle 24 called for international co-operation 'to effectively control, prevent, reduce and eliminate adverse environmental effects resulting from activities conducted in all spheres, in such a way that due account is taken of the sovereignty and interests of all states.

Principle 24 simple calls for international organizations to play a co-coordinated, efficient and dynamic role.

4.4 Post Stockholm treaties and other international acts

The creation of UNEP and the adoption of Principle 21 were the most significant achievements of the Stockholm Conference. UNEP has been responsible for the establishment and implementation of the Regional Seas Programme, including some thirty regional treaties,[99] as well as important global treaties addressing ozone depletion; trade in hazardous waste and biodiversity.[100] In the period immediately after Stockholm several other treaties of potentially global application were adopted outside UNEP but within the UN system, to address the dumping of waste at sea,[101]pollution from ships, trade in endangered species, and the protection of world cultural heritage.[102] The most important viewed over time is likely to be the 1982 United Nations Convention on the Law of the Sea (UNCLOS) which established a comprehensive framework for the establishment of global rules on the

[99] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-296-302, Chapter-8.

[100] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page71-3, Chapter-3

[101] 1972 London Convention, Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-309-14, Chapter-8

[102] 1972 World Heritage Convention, Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-446-50, Chapter-10

protection of the marine environment and marine living resources, including detailed and important institutional arrangements and provisions on environmental impact assessment, technology transfer, and liability. Many of the techniques subsequently adopted in other environmental treaties may be traced directly to 1982 UNCLOS.

The Stockholm Conference was followed by important regional developments, including the creation of EC environmental protection rules, and the creation of an Environment Committee at the OECD. Other notable regional developments included multilateral treaties dedicated to the protection of all migratory species,[103] the protection of habitats;[104] the prevention of transboundary air pollution;[105] regulation and prohibition of commercial mineral activities in the Antarctic,[106] and rules on environment cooperation and behavior in a compact on development assistance between development and developing countries.[107]

Towards the end of this period (1972-92) UN economic and financial organizations began to be faced with the practical implications which national and international environmental law might have for their respective activities. In 1971 the GATT had established a Group on Environmental Measures and International Trade (which did not meet until 1991), and as a organization found itself increasingly faced with environmental issues, including the question of the circumstances in which unilateral trade restrictions adopted in the name of

---

[103] 1979 Bone Convention, Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-444-6, Chapter-10.

[104] 1979 Berne Convention, Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-395-7, Chapter-10.

[105] 1979 LRTAP Convention and Protocol; Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-248-55, Chapter-7

[106] 1988 CRAMRA and 1991 Environmental Protocol to the 1959 Antarctic Treaty; Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-524-34, Chapter-13

[107] 1989 Lome Convention; Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-729, Chapter-19

environmental protection could be justified. In the face of increasing public and governmental pressure the World Bank and regional development banks were called upon to integrate environmental considerations into their loan-making processes. This led to the establishment of an Environment Department in the World Bank and the adoption of limited environmental impact assessment requirements by most multilateral development banks. Perhaps the most significant reflection of the changing times was the integration of environmental obligations in the 1990 Articles establishing the European Bank for Reconstruction and Development. In 1991 the World Bank, UNEP and the UNDP established the Global Environmental Facility (GEF) to provide financial resources to support projects which benefited the global commons. At the same time the GATT decided to re-activate its long-dormant Group on Environmental Measures and International Trade.

Prior to UNCED, treaties were adopted in areas not previously subject to international regulation. Under the auspices of the UNECE, treaties addressed environmental impact assessment[108] the transboundary impacts of industrial accidents,[109] and the protection and use of international watercourses.[110] The ILC completed a first reading of its draft Articles on the law of non-navigational use of international watercourses, while the UN Security Council declared that ecological issues could constitute threats to international peace and security. The UN General Assembly adopted a resolution prohibiting the use of driftnets; the first time body had adopted a normative rule seeking to establish a worldwide standard.

This was also the period in which the impact of acts of international organizations began to be felt. Many organizations had the power to adopt binding or non-binding decisions,

---

[108] 1991 Espoo Convention; Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-588-91, Chapter-15

[109] 1992 Industrial Accidents Convention; Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-460-1, Chapter-11

[110] 1992 Watercourses Convention; Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-357-9, Chapter-9

resolutions, recommendations or other acts, and these organizations served as for a in which new international environmental legislation could be proposed, adopted and implemented. There are several examples of such acts, which are noteworthy for their consequences on industrial and other economic activity, but three in particular reflect the scale of the change, which had occurred. These were the moratorium on commercial whaling adopted by resolution of the International Whaling Commission in 1982, the 1983 moratorium on commercial whaling adopted by resolution of the Consultative Meeting of the parties to the 1972 London Convention; and the decision by the 1989 conference of the parties to the 1973 CITES which placed African elephant ivory on Appendix 1 of the Convention and banned international trade in ivory. Each of these acts followed public pressure and politico-legal strategies adopted at the national and international levels over several years. Despite strong efforts to reverse these acts they remained in effect in 1994, although their economic impact, and effect on the activities of indigenous peoples, focused attention on the broader economic and social implications of adopting international environmental regulations.[111]

Several non-binding instruments were adopted under the auspices of intergovernmental and non-governmental organizations. Three such instruments have played an influential role the 1978 UNEP draft Principles, the 1981 Montevideo Programme, and the 1882 World Charter for Nature. Non-governmental efforts lay behind two other initiatives whose impact has been substantial: the collaboration between IUCN, UNEP and the Worldwide Fund for Nature which led to the 1980 World Conservation Strategy, and the 1991 document 'Caring for the Earth: A Strategy for Sustainable Living'.

4.5 1978 UNEP draft Principles

One of the first acts to be adopted by UNEP in the field of international law led to the 1978 draft 'Principles of Conduct in the Field of the Environment for the Guidance of States in the

[111] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995.

Conservation and Harmonious Utilization of Natural Resources Shared by Two or More States' (1978 UNEP draft Principles). The draft Principles resulted from the efforts of an Intergovernmental Working Group established by the UNEP Governing Council in 1976,[112] pursuant to a request by the UN General Assembly. The Working Group agreed to limit the effort to the preparation of principles and guidelines, which would not be taken as creating legally binding obligations. This is reflected in the Explanatory Note to the Principles, which states that 'the language used throughout does not seek to prejudice whether or to what extent the conduct envisaged in the principles in already prescribed by existing principles of general international law'. The UNEP draft Principles were annexed to the final report of the Working Group, which was adopted by the UNEP Governing Council in May 1978 but never submitted to the General Assembly for its consideration.[113]

The UNEP Principles comprise fifteen principles to govern the use of 'shared natural resources', a concept which is not defined but which is understood from the Report of the UNEP Executive Director to mean something other than the 'global commons.'[114] The fifteen Principles include language presciently similar to some of the provisions that were endorsed by the whole of the international community fourteen years later at UNCED. Principles 1 and 2 recognize the duty of states to cooperate to control, prevent, reduce and eliminate adverse environmental effects, and require them, to that end, to endeavor to conclude bilateral or multilateral agreements to secure specific regulation of their conduct. Principle 21 of the Stockholm Declaration is broadly followed by Principle 3 and Principle 4 introduces a requirement that states 'make environmental assessments' before engaging in certain activities. Principles 5 and 6 relate to information exchange, consultation and notification, which are elements of the principle of good faith and good neighborliness elaborated by Principle 7. The draft Principles includes principles on

---

[112] UNEP Governing Council Decision 44 (iii)(1975).
[113] UNEP Governing Council Decision 6/14 (1978).
[114] Co-operation in the Field of the Environment Concerning National Resources Shared by Two or More States, Report of the Executive Director, UNEP / GC/44, 20 February 1975, which cites five illustrative examples : (a) an international water system, including both surface and ground water; (b) an air-shed or air mass above the territories of a limited number of states; (c) enclosed or semi-enclosed seas and adjacent coastal waters; (d) migratory species which move between the waters or territories of several states; (e) a special eco-system spanning the frontiers between two or more states, such as a series of mountains, forests or areas of special conservation nature;

scientific and assessments (Principle 8), emergency action (Principle 9), and the use of the 'services' of international organizations (Principle 10). The settlement of disputes and responsibility and liability are addressed by Principles 12 and 13, and Principles 13 and 14 elaborate upon the objectives of non-discrimination and the rights of persons in other jurisdictions who may be adversely affected by environmental damage to the equal right of access to administrative and judicial proceedings. Principle 15 provides that the UNEP Draft Principles should be interpreted and applied 'to enhance and not to affect adversely development and the interests of all countries and in particular the developing countries.'

4.6 1980 World Convention Strategy

The 1980 World Conservation Strategy was prepared by IUCN, UNEP and the WWF, UNESCO and FAO. The Strategy gave currency to the term 'sustainable development', and has led to the preparation of national and sub-national conservation strategies in more than fifty countries. It has subsequently influenced international legal developments. The 1980 Strategy emphasized three objectives stressing the interdependence of conservation and development:

- essential ecological processes and life-support systems must be maintained;
- genetic diversity must be preserved ; and
- any use of species or ecosystems must be sustainable.

It identified six main obstacles to the fulfillment of these objective: (1) the failure to recognize that living resource conservation is a process that cuts across all sectors; (2) the failure to integrate conservation with development; (3) a development process that is inadequate in environmental planning and management; (4) lack of capacity to conserve due to inadequate legislation and lack of enforcement; (5) lack of awareness of the benefit of conservation; and (6) the inability to deliver conservation-based development where it is most needed, including rural areas of developing countries.[115]

[115] Caldwell, supra n. 6, 322-3

4.7 1981 Montevideo Programme

Three years later an ad hoc meeting of senior government officials expert in environment law was held in Montevideo under UNEP auspices and the Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme) was prepared. The Programme was adopted by the UNEP Governing Council in May 1982 and influenced UNEP's legal activities in the period 1982-92, resulting in the development of regional and global treaties and 'soft law' instruments.[116] The Programme has also been integrated into the UN System Wide Medium-Term Environment Programmes (1984-9, 1990-5). In 1993 the UNEP Governing Council adopted a new Programme.

The Montevideo Programme is divided into three parts. The first proposed that guidelines, principles or agreements should be developed to address marine pollution from land-based sources; protection of the stratospheric ozone layer; and transport, handling and disposal of toxic and dangerous wastes. The second proposed that action should be taken to address eight priority subject areas.

- international cooperation in environmental emergencies;
- coastal zone management;
- soil conservation;
- transboundary air pollution;
- international trade in potentially harmful chemicals;
- protection of rivers and other inland waters against pollution; legal and administrative measures for the prevention and redress of pollution damage; and
- environmental impact assessment.

[116] Governing Council decision 10/21, 31 May 1982. On UNEP sponsored legal developments see Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-71-3, Chapter-3

The third programme are proposed work of a general nature to promote the development of environmental law, including research, writing and teaching of theoretical and practical aspects of environmental law and the dissemination of information.[117]

4.8 1982 World Charter for Nature

Ten years after the Stockholm Conference the UN General Assembly adopted the World Charter for Nature, which set forth 'principles of conservation by which all human conduct affecting nature is to be guided and judged. The Charter, which is divided into three sections, is a non-binding instrument drafted in general language, which lessens the likelihood that it, or parts of it, could crystallize into rules of customary law. The Charter differs from the Stockholm Declaration and the UNEP Draft Principles in substance and form: it is an avowedly ecological instrument. Whereas the earlier instruments were anthropocentric and focused on the protection of nature for the benefit of mankind, the Charter emphasizes the protection of nature as an end in itself. The explanation for this lies in part in its origins- the Twelfth General Assembly of the IUCN[118] held in Zaire in 1975- and its subsequent elaboration by IUCN and an international group of independent experts. The Charter was strongly supported by developing countries, marking a change from the general reluctance, which many of these countries had expressed at Stockholm ten years earlier for international environmental policy. The Charter is not binding, and has been characterized as 'an important symbolic expression of an intent among nations to achieve a more harmonious and sustainable relationship between humanity and the rest of the biosphere- between mankind and earth.[119] As a standard of ethical conduct, however, many of its provisions are now reflected in treaties.

Section 1, entitled 'General Principles', contains inspirational language calling for the respect of nature its essential processes: safeguarding habitats and ensuring the survival of all life forms;

[117] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995.
[118] Infra- page 141
[119] Caldweel, supra n. 6, 92.

providing special protection for unique areas, ecosystems and habitats of endangered species; maintaining 'optimum sustainable productivity' of natural resources without endangering other ecosystems or species, and securing nature against degradation from warfare. Section II, entitled 'Functions', is more operational in character. It calls for the integration of nature into the planning and implementation of development activities, taking into account the long-term capacity of natural systems and the physical constraints, biological productivity and diversity and natural beauty of different areas. The Charter 'rules' governing the use of natural resources which pre-date the concept of sustainable development first used in the 1985 ASEAN Agreement and endorsed by the Brundtland Report in 1987, Living resources should be used in excess of their natural capacity for regeneration; the productivity of soils should be maintained; resources should be reused or recycled, and non-renewable resources should be used with restraint. The Charter includes language on environmental impact assessment and distinguishes between three activities in the light of such assessments: (1) activities which are likely to cause irreversible damage to nature (which should be avoided); (2) activities which are likely to pose a significant risk to nature (which should be preceded by an exhaustive examination); and (3) activities which may disturb nature (which should be preceded by assessment of their consequences). The Charter supports an approach, which combines the prevention of natural disasters, the avoidance of discharge of pollutants, and the rehabilitation of degraded areas.

Section III, entitled 'Implementation', includes elements of the approaches endorsed and applied by subsequent environmental treaties and the instruments. These techniques include the dissemination of knowledge of nature, particularly by ecological education; the formulation of conservation strategies and environmental assessments; public access to information of consultation and participation; the provision of funds and administrative structures; scientific research; and early detection of degradation. Implementation includes cooperation among and between the various actors in the international community (states, public authorities, international organizations, individuals groups and corporations); the establishment of standards for products and manufacturing processes; the implementation of applicable international legal

provisions, and measures to ensure that activities do not cause damage to natural systems within other states or in beyond the limits of national jurisdiction.

The Charter recognizes the place of non-governmental actors, including their right and duties relating to participation in the formulation of decisions, access to means of redress when their environment suffers drainage, and the responsibility to act in accordance with the provisions of the Charter.

4.9 1983 The Brundtland Report and the Report of the Legal Experts Group

The World Commission on environment and Development (WCED), chaired by Norwegian Prime Minister Gro Harlem Brundtland, was established in 1983 by the UN General Assembly and its report (the Brundtland Report) was published in 1987.[120] The Commission was established as an independent body, linked to, but outside the control of, governments and the UN system. It had three objectives: to reexamine critical environment and development issues and formulate realistic proposals for dealing with them; to propose new forms of international cooperation on these issues that would influence policies and events in the direction of needed changes; and to raise levels of understanding and commitment to action of individuals, voluntary organizations, businesses, institutions, and governments. Drawing on previous work such as the World Conservation Strategy, the Brundtland Report was a catalyst for UNCED and the five instruments there adopted. The Brundtland Report signaled changes in the way we look at the world. It provided support for expanding the role of sustainable development, proposed a UN programme on sustainable development, and identified the central legal and institutional issues.

> Until recently, the planet was a large world in which human activities and their effects were carefully compartmentalized within nations, within sectors (energy, agriculture, trade) and within broad areas of concern (environmental, economic and social). These compartments

[120] Our Common Future (1987)

have begun to dissolve. This applies in particular to the global 'crises' that have seized public concern, particularly over the best decade. These are not separate crises: an environmental crisis, a development crises, an energy crisis. They are all one.

On policy matters the Commission focused attention on population, food security, the loss of species and genetic resources, energy, industry and human settlements, recognizing that these are connected and cannot be treated in isolation from each other.

On international cooperation and institutional reform the focus included the role of the international economy; managing global commons, the relationship between peace, security, development and the environment; and institutional and legal change. The Report made specific recommendations in respect of each of these matters that identify challenges for the development of international law, including the impact of national sovereignty and the management of the 'global commons'. The Brundtland Report identified six priority areas for legal institutional change, and identified the existing legal order as part of the problem. First, governments, regional organizations and international bodies and agencies were called upon to support development which would be economically and ecologically sustainable, to integrate the environment fully into their goals and activities, and to improve co-ordination and cooperation. Second, it sought a reinforcement of the roles and capacities of environmental protection and resource management agencies to deal with effects, including a strengthened UNEP as the principal source for environmental data, assessment and reporting and the principal advocate and agent for change and international cooperation. Third, it called for an extension of the capacity of the international community to identify, assess and report on global risks of irreversible environmental damage, including a new international programme for cooperation among non-governmental organizations, scientific bodies and industry groups. Fourth, it recognized the need to expand the rights, roles and participation in development planning, decision-making and project implementation of an informed public, non-governmental organizations, the scientific community, and industry. Fifth, in recognizing that 'international law is being rapidly out distanced by the accelerating pace and expanding scale of impacts on the ecological basis of development', the Brundtland Report

called on governments to fill gaps in national and international law related to the environment in order to find ways to recognize and protect the rights of present and future generations to an environment adequate for their health and well-being; to prepare under UN auspices a universal Declaration on environmental protection and sustainable development and a subsequent Convention, and to strengthen procedures for avoiding or resolving disputes on environment and resource management issues. Finally, the Report recognized the need to invest in pollution control by providing financial assistance through the World Bank, IMF and other regional development banks. The report also called for a UN Programme on Sustainable Development and an international conference to review progress and to promote follow up arrangements. Each of these proposals received support from governments at UNCED.

An Experts Group on Environmental Law was established alongside UNCED. It proposed Legal Principles and Recommendations on Environmental Protection and Sustainable Development (1986 WCED Legal Principles)[121] set out in twenty-two Articles, which are intended to reflect the basic obligations of states based on an assessment of treaties, soft law instruments, and some state practice. The WCED Legal Principles fall into three categories, including 'general principles, rights and responsibilities', and 'principles, rights and obligations governing transboundary natural resources and environmental interference.' These are addressed below.

4.10 1991 Caring for the Earth: Strategy for Sustainable Living

In 1991 the 'Caring for the Earth' Strategy restated thinking about conservation and development with two aims: securing a commitment to sustainable living, and translating its principles into practice.[122] The text defines Principles and Additional Actions for Sustainable Living and proposes guidelines to allow adoption of the Strategy to needs and capabilities and to implement

[121] Reprinted in R. D. Munro and J. G. Lammers (eds.), Environmental Protection and Sustainable Development (1987) at 7.
[122] Caring for the Earth: A Strategy for Sustainable Living, IUCN, UNEP, WWF (1991)

it. The Strategy includes a commitment to national and international law as essential tools for achieving sustainability by the establishment of standards of social behavior and the establishment of permanent policies. Specific recommendations include:

- establishing a constitutional commitment to the principles of a sustainable society;
- establishing a comprehensive system for environmental law and providing for its implementation and enforcement;
- reviewing the adequacy of legal administrative controls and of implementation and enforcement mechanisms;
- making information on the environment more accessible;
- subjecting projects programmes, and policies to environmental impact assessment.

National legal measures specifically recommended include the development of standards, the application of the precautionary principle and the use of best available technology, a liability system that provides for compensation not only for economic losses suffered by other users of the environmental resource in question but also for ecological and intangible losses, and the capacity to require the restoration of damaged ecosystems, or punitive damages where restoration is impossible. Also recommended were strict liability for accidents involving hazardous substances; granting citizens' groups standing in judicial and administrative procedures to contribute to enforcement of the law and remedies for environmental damage; and making agencies that are responsible for the implementation and enforcement of environmental law accountable for their actions. The Strategy seeks the development of international law by strengthening existing international agreements, concluding new international agreements to achieve global sustainability, and preparing and adopting a Universal Declaration and Covenant on Sustainability.

4.11 1987 Environmental Perspective to the Year 2000 and Beyond

In 1987 the United Nations General Assembly adopted the 'Environmental Perspective to the Year 2000 and Beyond' as a framework to guide national action and international co-operation in policies and programmes aimed at achieving environmentally sound development.[123] The Perspective had been prepared by a UNEP intergovernmental preparatory committee pursuant to a request from the General Assembly[124] and focused on the same six key sect oral issues as the Brundtland Commission: population; food and agriculture; energy; industry; health and human settlements; and international economic relations. The Perspective identified four other issues which it considered to be of global concern: oceans and seas; outer space; biological diversity; and security and environment. For legislation and environmental law, the Perspective identified issues requiring attention.

- the need to conclude conventions for hazards relating to chemicals, treatment and international transport of hazardous wastes, industrial accidents, climate change, protection of the ozone layer, protection of the marine environment from pollution form land-based sources, and protection of biological diversity; and
- the establishment of legal regimes at international and national levels to improve the environmental management of rivers, lakes and forests.[125]

The Perspective noted, in opaque language which reflected the lack of consensus over future directions, that the 'progressive emergence of general environmental norms and principles and the codification of existing agreements could lead to a global convention on the protection and enhancement of the environment. It also noted that the International Court of Justice, the International Court of Arbitration and regional mechanisms should facilitate the peaceful settlement of environmental disputes.

---

[123] Resolution 42/186. 11 December 1987.
[124] UNGA res. 38/161. 19 December 1983
[125] Ibid, Annex, 38 (paras. 100-2)

4.12 Achievement of this period (1972-92)

By 1990 preparations for UNCED were under way and significant political and legal changes were in place. There was now a different area called international environmental law. At the global and regional level this included a large number of substantive rules limiting the right of states to engage in activities, which were harmful to the environment. International environmental law was no longer focused on the protection of wildlife. Standards had been adopted and applied for the protection of the marine environment and freshwater resources, the atmosphere and the ozone layer and the disposal of hazardous and other wastes. New techniques for the implementation of those standards, such as environmental impact assessment and access to environmental information, were being developed and applied. Environmental protection was being addressed in the context of economic of matters, such as trade and development lending. Developing countries had succeeded in establishing the principle that financial resources should be made available to help them meet incremental costs of implementing their international environmental obligations. Differential standards were accepted in the 1985 SO_2 Protocol to the LRTAP Convention and the Montréal Protocol. New institutions had been created to address regional and global environmental issues and existing institutions were beginning to integrate environmental considerations into their activities. Subsidiary bodies were being established to ensure innovative implementation and compliance techniques. Principle 21 was broadly considered to reflect a rule of customary international law and new principles were emerging, such as the polluter-pays principle and the precautionary principle. Perhaps most significantly, in respect of the standards being adopted, monitoring and implementation, new international actors, including non-governmental organizations from developed and developing countries, were participating in the international legal process.

4.13 UNCED

In December 1987 the UN General Assembly noted the Brundtland Report,[126] and the following year called for a UN conference on environment and development.[127] In December 1989 General Assembly resolution 44/ 228 convened a UN Conference on Environment and Development for June 1992 in Brazil. The purpose of Conference was to 'elaborate strategies and measures to halt and reverse the effects of environmental degradation in the context of strengthened national and international efforts to promote sustainable and environmentally sound development in all countries.[128]

UNCED was held in Rio de Janeiro, Brazil, from 3-14 June 1992, attended by 176 states, more than fifty intergovernmental organizations, and several thousand non-governmental organizations. UNCED adopted three non-binding instruments: the Rio Declaration on Environment and Development (the Rio Declaration); a Non-legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forest (the UNCED Forest Principles),[129] and Agenda 21. Two treaties were also opened for signature the Convention on Biological Diversity,[130] and the UN Framework Convention on Climate Change.[131]

UNCED was the culmination of three separate but related negotiating processes, one of which was the Preparatory Committee for UNCED (Preg Comm) that met four times between August 1990 and May 1992. The other two were the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change (INC/FCCC), which held five sessions between February 1991 and May 1992, and the Intergovernmental Negotiating Committee for a Convention on Biological Diversity (INC/CBD) which held five sessions between June 1991 and May 1992. It was also, however, an opportunity to take stock of developments which had taken

[126] UNGA res. 42/ 187 (1987)
[127] UNGA res. 43/ 196 (1988). See also UNEP Governing Council Decision 15/3 (1989).
[128] UNGA res. 44/ 228, para. 3
[129] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-408-10, Chapter-10
[130] Ibid page-381-7, Chapter-10
[131] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995.page-271-80, Chapter-7

place in regional and global organizations, in public and private initiatives, and in bilateral, regional and global treaties. It provided an opportunity for the international community to translate initiatives such as the Brundtland Report and the Strategy for Sustainable Living, as well as the many regional preparatory conferences, which had taken place, into a coherent strategy of international environmental policy and law for the twenty-first century. UNCED's contribution to international law will emerge over time, and is likely to include the Commission on Sustainable Development, the endorsement of a new topic area known as the 'international law of sustainable development' (of which international environmental law forms a significant part)[132] some of the Rio Declaration principles and the framework established by Agenda 21. It has been suggested that UNCED's endorsement of sustainable development could undermine 'the autonomy of environmental law as a body of rules and standards designed to restrain and prevent the environmentally destructive effects of certain kinds of economic activity' and there might be some reason to fear that the Rio Conference constituted 'the beginning of the decline of international environmental law as an autonomous branch of international law'. This is probably unduly pessimistic.

UNCED was concerned with the balance between environmental protection and economic development. Environmental concerns have been marginal in the broader scheme of international legal and institutional arrangements. For them to affect and influence behavior in significant ways they must be integrated into economic and development activities, without their being overwhelmed by the more powerful rules of international economic cooperation.

[132] Rio Declaration, Principle 27; Sands et al. Vol IIA, 49. Agenda 21, paras. 39.1 and 39.2.

Chapter 5

From Rio to Jonesburg 1992-2002

The United Nations Conference on Environment and Development (UNCED), held in Rio de Janeiro in June 1992, made it clear that the context in which UNEP functions has changed and expectations about its potential grown. No longer is it possible to address environmental issues in isolation from the multitude of causes and effects with which they are inextricably entwined. The response of UNCED was to legitimize and bring to centre stage the evolving concept of sustainable development, based on the recognition that meaningful progress on any environmental issue must take into account a innumerable of other factors in the socio-economic mosaic: that environment and development are inseparable, and the aspirations of "We, the Peoples" to greater security, to peace, to a cleaner environment and to development which ensures a decent quality of life for all, cannot be achieved and sustained unless it is pursued within the natural carrying-capacity of planet Earth.[133]

The International Law Commission continues its work on state responsibility, international liability for injurious consequences arising out of acts not prohibited by international law, and crimes against the peace and security of mankind. In June 1993 Hungary and Slovakia submitted their dispute over the construction of the Gabcikovo-Nagymaros dam on the Danube River to the International Court of Justice for settlement, and the following month the Court established a Chamber for Environmental Matters.[134]

---

[133] UNEP's New Way Forward: Environmental Law and Sustainable Development; Published by UNEP-1995.
[134] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-351-4, Chapter-9

5.1 Criticism of the Rio Declaration

United Nations Conference on Environment and Development popularly knows as Earth Summit (Rio de Janeiro, June 3-14, 1992) made a new beginning for the progressive development of environment law. Issues, which formed the top agenda of the Conference, were:

(a) protection of atmosphere (climate change, depletion of ozone layer, air pollution)

(b) preservation of land resources (desertification, soil erosion, deforestation and draught)

(c) preservation of pure water

(d) protection of marine and coastal areas and rational use and development of marine bio-resources

(e) protection and preservation of bio-diversity

Like the Stockholm Conference, Rio Conference also adopted a Declaration. This time the Declaration was titled Declaration on Environment and Development, emphasizing the close mutual relationship of these two issues.[135]

Besides stating the principles already enunciated in the Stockholm Declaration on Human Environment, Rio-Declaration brought into Focus the concept of sustainable development and the idea that any development planning must take into consideration the development and environmental needs of the future generations as well. It also underlined the special needs of the developing countries and called upon the world community to assist them in meeting development and environmental challenges. But it must be mentioned that the Conference failed to lay down concrete provisions and principles for the transfer of environment friendly technology from developed to developing countries. This problem needs to be resolved on urgent basis if universal scheme for sound environment is to be materialized. The Rio Conference laid utmost importance on individual state legislations for the protection of environment in various sectors. It is very encouraging to note that the states demonstrate sufficient awareness of their

[135] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995.

responsibility and attempt to enact laws in accordance with their needs, capabilities and demands of international standards.[136]

The Rio Declaration a series of compromises between developed and developing countries and a balance of the environmental protection and economic development. The text was completed at the Forth PrepComm in April 1992 and was not reopened for negotiation at UNCED, despite threats from a number of countries to do so, and was 'endorsed' by the UN General Assembly in December 1992. It comprises twenty-seven principles, which set out the basis upon which states and people are to cooperate and further develop 'international law in the field of sustainable development' (Principle 27). Although it is non-binding some provisions may reflect rules of customary law, others reflect emerging rules, and yet others provide guidance as to future legal developments. The Declaration provides a benchmark to measure further developments and provides a basis for defining 'sustainable development' and its application. It attempts to achieve an acceptable balance between environment and development. The Declaration lost its original title (Earth Charter), mainly at the insistence of developing countries, and it bears little resemblance to the Universal Declaration of Human Rights, or to the Universal covenant which the Brundtland Report had called for.

Principle of the Rio Declaration reflects a shift towards an anthropocentric approach to environment and development issues, declaring that human beings are 'at the centre of concerns for sustainable development', and that they are 'entitled to a healthy and productive life in harmony with nature'; this falls short of recognizing a right to a clean and healthy environment. The Rio Declaration reaffirmed Principle 21 of the Stockholm Declaration with one addition. As amended, Principle 2 provides that

'States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and development policies, and the responsibility to ensure that activities within

[136] Dr. M Shah Alam, 'Environment, Environmental Law and Justice' *Law Vision* issue: 8, December 2002-2003, Chittagong University.

their jurisdiction or control do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction.'

The addition of the words 'and developmental' (which is not reflected in Article 3 of the Biodiversity Convention or Principle 2 (a) of the Forest Principles), in the context of a negotiation of a document adopted by consensus of 176 states, arguably reflects an 'instant' change in the rule of customary international law which is widely considered to be set forth in Principle 21. It has been suggested that the addition of these two words reveals a 'skillfully masked step backwards' which by its stronger emphasis on development 'upsets the delicate balance struck in Stockholm between the sovereign use of natural resources and the duty of care for the environment.' It fact, a careful reading suggests that the additional words merely affirm that states are entitled to pursue their own development policies. The introduction of these words may even expand the scope of the responsibility not to cause environmental damage to apply to national development policies as well as national environment policies.

The heart of the Rio Declaration is found in Principles 3 and 4, which should be read together to understand the political context in which they were negotiated and the trade-off they represent. Both Principles were controversial, and their meaning, implementation and effect will be a matter of disagreement. Principle 3 provides that the right to development must be fulfilled so as to equitably meet development and environmental needs of present and future generations.' It represents something of a victory for developing countries and the Group of 77, being the first time that the 'right to development' has affirmed in an international instrument adopted by consensus. The nature and of that right is left open, as is the question of whether such a right attaches to states, peoples or individuals. In return for Principle 3, the developed countries extracted Principle 4, which provides that 'in order to achieve sustainable development, environmental protection shall constitute an integral part of development process and cannot be considered in isolation from it.' The Rio Declaration recognizes a principle of 'common but differentiated responsibility'. Principle 7 note the different contribution of countries to regional and global environmental degradation and provides that

In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command. [137]

This principle of 'common but differentiated responsibilities' crystallizes the provisions in earlier instruments which encourage universal participation in agreements by providing incentives in the from of differentiated standards and 'grace periods' and the provision of financial incentives to subsidies at least some of the incremental costs incurred fulfilling treaty obligations. The United States rejected an interpretation 'that would imply a recognition or any diminutions in the responsibilities of developing countries. Principle 11 of the Rio Declaration commits all states to enact 'effective environmental legislation', although the standards, objectives and priorities 'should reflect the environmental and developmental context to which they apply. Principle 11 also recognizes that standards applied by some countries 'may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries.'

The Rio Declaration develops general principles of international law of sustainable development. The 'precautionary approach' is endorsed by Principle 15, and the polluter-pays principle is implicitly recognized in Principle 16. The Rio Declaration does take several steps beyond the Stockholm Declaration by supporting the development of 'procedural techniques for implementing international standards- including the provision of and access to, information relating to environmental matters and recognizing the for participation of concerned citizens-

[137] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-217-20, Chapter-6

supporting environmental impact assessments, and calling for notification, information exchange and consultation.

Other matters addressed by the Rio Declaration include the relationship between environmental protection and free trade obligations, the development of national and international law regarding liability and compensation for the victims of pollution and other environment damage; the need to eradicate poverty and decrease disparities in standards of living, and the reduction and elimination of 'unsustainable patterns of production and consumption'. It promotes 'appropriate demographic policies,' endogenous capacity-building and scientific understanding, as well as the transfer of technologies. The Rio Declaration supports the full participation of women, youth, and indigenous people and-their communities, recognizes that war is 'inherently destructive of sustainable development', that peace, development and environment and environmental protection are 'interdependent and indivisible', and that there is a need for the peaceful resolution of environmental disputes.

As a package the Rio Declaration includes provisions which are more specific than those adopted in the Stockholm Declaration. It provides a framework for the development of environmental law at the national and international level, which will serve as an important point of reference to guide decision-making. Its contribution to the development of rules of customary law will become clearer over time, although many of its provisions are already found in treaties and other international acts and reflected in the domestic practice of many states.

5.2 Agenda 21

Agenda 21 is a non-binding proposal and action plan for a global partnership for sustainable development.[138] It was conceived as a plan for action by and for the whole of the international community, designed to integrate environment and development concerns for 'the fulfillment of

[138] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-52, Chapter-2

basic needs, improved living standards for all, better protected and managed ecosystems and a safer, more prosperous future.[139]

Agenda 21 comprises forty chapters and hundreds of programme areas, the problem-solving cost of each having been estimated by the UNCED secretariat. The average annual cost of implementing the activities in Agenda 21 estimated at $600 billion in the period 1993-2000.

Agenda 21 was negotiated over two years, and 'reflects a global consensus and political commitment at the highest level' towards the implementation of national strategies, plans, policies and processes to be supported and supplemented by international cooperation.[140] Implementation of Agenda 21 is the responsibility of Governments, with key roles to be played by the UN system, other international, regional and sub regional organizations, and with broad public participation and the active involvement of non-governmental organizations. It constitutes an extensive series of programme areas setting out 'the basis for action, objectives and means of implementation', which will be carried out

By the various actors according to the different situations, capacities and priorities of countries and regions in full respect of all the principles contained in the Rio Declaration on Environment and Development. It could evolve over time in the light of changing needs and circumstances. This process marks the beginning of a new global partnership for sustainable development.

The real developments, which flow directly from the text, are limited. It recommended the creation of a Commission on Sustainable Development, and new coordinating mechanisms between UN and other bodies. It proposed a Convention on Drought and Desertification, but could not agree on a possible international agreement on forests. It proposed two intergovernmental follow-up conferences, on 'straddling stocks' of marine living resources and

---

[139] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-52, Chapter-2

[140] Chapter 1, para. 1, 2. For the draft negotiating texts see N. Robinson et al. (eds), The United Nations Conference on Environment and Development, Agenda 21 and the UNCED Proceedings (1992). Although it was adopted by consensus, written statements were submitted by the United States, Saudi Arabia, Argentina, Kuwait, Philippines, France and the delegation from Palestine:

on the sustainable development of small island states. It endorsed a partnership role for all members of the international community (states, international organizations, non-governmental actors) in the development and implementation of law and policy on environment and development. And it established progamme areas of variable quality effect to cover virtually all human activity. Its contribution to international law can be considered at three levels.

First, as a consensus document negotiated by the international community over a period of two years it provides the only agreed global framework for the development and application of international legal instruments, including 'soft law' instruments, and the activities of international organizations.

Second, limited parts of Agenda 21 might be considered to reflect rules of 'instant' customary law.[141]

Third, it may reflect consensus on principles practices and rule, which might contribute to the development of new rules of customary law.

Agenda 21 comprises a Preamble (Chapter 1) and **four** Sections. Section 1 (Chapters 2-8) addresses 'Social and Economic Dimensions'. The seven Chapters in this Section provide for national and international action in relation to international cooperation, poverty, consumption patterns, population, human health, sustainable human settlement and the integration of environment and development in decision-making.

Section II (Chapters 9-22) is concerned with 'Conservation and Management of Resources for Development'. Its fourteen Chapters address substantive issues for the protection and sustainable use of natural resources in various sectors:

- protection of atmosphere (Chapter 9);
- planning and management of land resources (Chapter 10);
- deforestation (Chapter 11);
- desertification and drought (Chapter 12);
- sustainable mountain development (Chapter 13);

[141] See e.g the provision limiting the storage or disposal of radioactive waste near the sea: Agenda 21, paragraph 22.5 (c).

- sustainable agriculture and rural development (Chapter 14);
- conservation of biological diversity (Chapter 15);
- management of biotechnology (Chapter 16);
- protection of oceans, seas, coast areas and protection, use and development of their living resources (Chapter 17);
- protection of quality and supply of freshwater resources (Chapter 18);
- management of toxic chemicals (Chapter 19);
- management of hazardous wastes (Chapter 20);
- management of solid and sewage wastes (Chapter 21);
- management of radioactive wastes (Chapter 22).

Section III (Chapter 23-32) provides for 'Strengthening the Role of Major Group'. The Section recognizes that 'one of the fundamental prerequisites for the achievement of sustainable development is broad public participation in decision-making', including new forms of participation.[142] In a Chapter devoted to each it identifies key groups for implementation of Agenda 21 and proposes their roles at the national and international levels : women; children and youth; indigenous people and their communities; non-governmental organizations; local authorities; workers and their trade unions; business and industry; the scientific and technological community; and farmers.[143]

Finally, Section IV (Chapters 33-40) identifies 'Means of Implementation'. The eight Chapters identify actions relating to financial resources and mechanisms, technology transfer, cooperation and capacity-building, science, education, public awareness and training, capacity-building in developing countries, international institutional arrangements (Chapter 38), international legal instruments and mechanisms (Chapter 39), and information for decision-making (Chapter 40).

Agenda 21 aims at developing the concept of international law of sustainable development, calling on competent intergovernmental and non-governmental organizations to cooperate.

[142] Agenda 21, Preamble, paras. 23.1-2
[143] Ibid., Chapter 24-32

To provide governments and legislations, upon request, with an integrated programme of environment and development law (sustainable development law) services, carefully adopted to the specific requirements of the recipient legal and administrative systems.

5.3 UNEP activities by this period

Immediately following UNCED, UNEP commenced a series of activities and a broad consultative process to reformulate its programmes to respond to the new reality, providing the principal environmental inputs into the sustainable development agenda, and playing a key function in shaping a global environmental consensus. The result was an integrated programme of work of UNEP for the biennium 1996-1997 responding to four principal environmental challenges: the sustainable management and use of natural resources; sustainable production and consumption; a better environment for human health and well-being; and globalization trends and the environment. The Governing Council, at its eighteenth session, held in May 1995, unanimously adopted the new work programme, reaffirmed political support for UNEP as the authoritative voice on global environment and endorsed a strengthened and enhanced role for the organization. The new change, in particular the work programme, have firmly set UNEP on its new way forward in the direction of sustainable development.[144]

UNEP attaches great importance to the role of environmental law and has accorded high priority to its law programme, including in particular, the implementation of its long-term Programme for the Development and Periodic Review of Environmental Law- the Montevideo Programme. UNEP has always been at the vanguard of the progressive development and effective implementation of international environmental law. A number of global and regional international legal regimes have been elaborated and implemented under UNEP's auspices, in particular, those concerning the protection of the ozone layer, on the control of transboundary movements of hazardous wastes and their disposal, on illegal trade in endangered species of wild fauna and flora, migratory species, the conservation and sustainable use of the world's biological

[144] UNEP's New Way Forward: Environmental Law and Sustainable Development; Published by UNEP-1995.

diversity and its components, and on the protection of regional seas. In addition, UNEP has rendered considerable support to the negotiation, adoption and implementation of the United Nations Framework Convention on Climate Change and the Convention to Combat Desertification.[145]

5.4 Environmental Law implement through UNCED

Since UNCED additional work has been undertaken in international environmental law aiming at sustainable development such as the negotiation and adoption of the Lusaka Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora, the protection of the marine environment from land-based activities and the development of a legally binding instrument on the prior informed consent (PIC) procedure in international trade in hazardous chemicals. As required by Agenda 21, a programme has been launched to promote the coherent development and effective implementation of international environmental law through coordinating functions arising from an increasing number of international legal agreements, and the functioning of the Secretariats of the Conventions. Pursuant to the UN General Assembly resolution 3436 (XXX) UNEP's programme of assistance to governments has also been enhanced.

Since 1992, 31 developing countries and countries with economics in transition have been provided with assistance to enhance their national environmental legislation and institutions, and several programmes have been carried out to develop human resources. A computerized environmental law information base has been established to support UNEP's assistance and capacity-building programmes for access by governments and other interested users through the Internet.

Since UNCED gave political legitimacy to the concept of sustainable development, there has been a pressing demand for the further development of international environmental law to meet the challenges that it poses. Agenda 21 called upon UNEP to take a leading role in the

[145] UNEP's New Way Forward: Environmental Law and Sustainable Development; Published by UNEP-1995.

development of international environmental law and emphasized that the overall objective of the review and development of international environmental law should be to promote its efficacy, as well as the integration of environment and development policies through international agreements and instruments. In 1994, the Commission on Sustainable Development requested UNEP to study the concepts, requirements and implications of international law and sustainable development. The Governing Council, as its eighteenth session, held in May 1995, called on the Executive Director to develop international environmental law aiming at sustainable development. These developments demonstrate the critical importance of the interaction between international environmental law and sustainable development.

While international environment law moves in the direction of sustainable development, it has inspired a number of innovative ideas, concepts and principles, and facilitative and enabling mechanisms and procedures. These unique and characteristic features of international environmental law, are crucial for consolidating the interaction between environmental law and sustainable development, and are attracting the close attention of both professional and academic communities.

What is probably most important is that the concept of sustainable development has been incorporated and reflected in major environmental conventions that have been adopted in recent times. The idea of protecting the Earths's environment for present and future generations can be seen throughout the letter and spirit of these instruments. The conventions on climate change, biological diversity and desertification routinely consider and integrate environmental considerations with their socio-economic dimensions.

The concepts of common concern of humankind and common but differentiated responsibilities constitute an indispensable feature of contemporary international environment law. The conventions on climate change and biological diversity directly acknowledge that environmental issues are the common concern of humankind, and provide at the same time that shared obligations arising from that common concern could be more effectively addressed by the parties in accordance with their respective capacities and capabilities.

New and emerging features can also be seen in the process of the complementary and harmonious development of environment law regimes and other legal regimes, such as human rights, economic and trade law.

These unique and characteristic features of international environmental law will not only have far reaching implications for the progressive development of international law generally, but will also provide a more effective legal framework to facilitate the implementation of Agenda 21.[146]

5.5 The Millennium Summit 2000

Environmental issues featured prominently during the United Nations Millennium Summit hosted by Secretary-General Kofi Annan in New York in 2000. While recognition of the importance of environmental issues at this summit was encouraged, the actual progress report was not. The Secretary-General was straight in his comments regarding environmental management, stating that the international community was failing to provide future generations the freedom to 'sustain their lives on this plant. On the contrary', he said, 'we have been plundering our children's future heritage to pay for environmentally unsustainable practices in the present'.[147]

5.6 UN Secretary-General's key proposals presented to the Millennium Summit

Freedom from want: the Development Agenda

Heads to State of Government are urged to take action in the following areas:

- Poverty: to halve, by 2015, the proportion of the world's people (currently 22 per cent) whose income is less than one dollar a day.

[146] UNEP's New Way Forward: Environmental Law and Sustainable Development; Published by UNEP-1995. Page-X& XI.

[147] UN (2000). We the People- The Role of the United Nations in the 21st Century. New York, United Nations; See also http://www.un.org/millennium/sg/report/key.htm.

- Water: to halve, by 2015, the proportion of people who do not have access to safe drinking water (currently 20 per cent).
- Education: to narrow the gender gap in primary and secondary education by 2005; and to ensure that, by 2015, all children complete a full course of primary education.
- HIV/AIDS: to halt, and begin to reverse, the spread of HIV/AIDS by 2015 by:
- adopting as an explicit goal the reduction of HIV infection rates in persons 15 to 24 years of age, by 25 per cent within the most affected countries before the year 2005, and by 25 per cent globally before 2010;
- setting explicit prevention targets: by 2005 at least 90 per cent, and by 2010 at least 95 per cent, of young men and women must have access to HIV-preventive information and services; and
- Urging every seriously affected country to have a national plan of action in place within one year of the Summit.
- Clearing the Slums: to endorse and act upon the Cities without Slums plan launched by the World Bank and United Nations to improve the lives of 100 million slum dwellers by 2020.[148]

5.7 2002 World Summit on Sustainable Development

World Summit on Sustainable Development to be held in Johannesburg, from 26 August to 4 September 2002, where the international community will take stock of the progress made in the ten years since the Earth Summit in Rio de Janeiro and seeks to reach agreement on further concrete since to implement sustainable development. The Summit will also provide a unique opportunity for States to reaffirm their commitment to the principles of sustainable development reflected in Agenda 21 and a range of carefully negotiated multilateral treaties.[149]

[148] UN (2000). We the People- The Role of the United Nations in the 21st Century. New York, United Nations; See also http://www.un.org/millennium/sg/report/key.htm.
[149] The Secretary General's (UN) letter to Heads of state and Government, 30 April, 2002.

The international legal principles carefully developed and incorporated in these treaties reflect humanity's efforts to achieve economic advancement while ensuring that the environment will also be preserved for future generations.[150]

5.8 A sustainable future: the Environmental Agenda

Heads of State or Government are urged to adopt a new ethic of conservation and stewardship; and, as first steps:

- Climate Change: to adopt and ratify the Kyoto Protocol, so that it can enter into force by 2002, and to ensure that its goals are met, as a step towards reducing emissions of greenhouse gases.
- Green Accounting: to consider incorporating the United Nations system of 'green accounting' into their own national accounts, in order to integrate environmental issues into mainstream economic policy.
- Ecosystem Assessment: to provide financial support for, and become actively engaged in, the Millennium Ecosystem Assessment, a major international collaborative effort to map the health of the plant.
- Earth Summit+ 10: to prepare the ground for the adoption of concrete and meaningful actions by the world's leaders at the 10-year follow-up to the Earth Summit in 2002.[151]

5.9 Recommendation of Johannesburg Summit

At the Rio-Conference the international community adopted Agenda 21, a global plan of action for sustainable development. Ten years later, the Johannesburg Summit presented a unique opportunity for the states to adopt just steps and identify target areas for implementing Agenda 21. Johannesburg summit 2002- the world summit on sustainable development- brought together

[150] The Secretary General's (UN) letter to Heads of state and Government, 30 April, 2002.
[151] UN (2000). We the People- The Role of the United Nations in the 21st Century. New York, United Nations; See also http://www.un.org/millennium/sg/report/key.htm.

tens of thousands of participants, including heads of state and Government, national delegates and leaders from NGOs, business and other major groups to focus the world's attention and direct action toward meeting difficult challenges, including improving people's lives and conserving our natural resources in a world that is growing in population with ever-increasing demands for food, water, shelter, sanitation, energy, health services and economic security. Certain Agreements were adopted in the Summit, most important of which are:

(a) Johannesburg Declaration on Sustainable Development

(b) Johannesburg Plan of Implementation.

These agreements specifically and categorically urge for the implementation of the Agenda 21 adopted in Rio- Summit.[152]

5.10 Development & Environment: Problems of the Contemporary World

To promote development and to protect environment are the two main problems of the contemporary world. Addressing these two problems demand framing of appropriate norms of international law and their effective application. These issues are in the priority list of the United Nations and all other relevant international organizations. The issues of development and environment have become important elements of the process of globalization. Healthy and positive globalization requires rational economic development worldwide and prevention of environmental pollution.[153]

Necessary conversion of natural resources by men with the help of science and technology is what we call development; Development is a way of the progressive march of civilization. But

---

[152] [152] Dr. M Shah Alam, 'Environment, Environmental Law and Justice' *Law Vision* issue: 8, December 2002-2003, Chittagong University.

[153] Dr. M Shah Alam, 'Environment, Environmental Law and Justice' *Law Vision* issue: 8, December 2002-2003, Chittagong University.

interference with nature for development may cause damage to natural environment. Extensive development runs the risk of extensive damage to environment. But both development and sound environment are necessary. Science and technology, therefore, must be placed at the cause of the protection of environment. It is to be borne in mind that polluted environment in the long run will become an impediment for development. On the other hand, only planned development can ensure sound environmental pollution, Developed economy is better equipped to fight environmental pollution. Development and environmental needs are to be taken into consideration in long term planning in order that they become complementary rather than adversary to one another. This is the essence of the concept of sustainable development, which also means environmental justice. Demands of sustainable development form the essence of progressive development of environmental law.[154]

Chapter 6

Popular International Environmental Conventions, Treaties & its key provisions

6.1 United Nations Convention on the Law of the Sea (Montego Bay, 10 December 1982, Agreement in New York, 28 July 1994 & New York, 4 August 1995)

Objectives

The United Nations Convention on the Law of the Sea lays down a comprehensive regime of law and order for the world's oceans and seas, establishing rules governing all uses of the oceans and seas and their resources.

[154] Dr. M Shah Alam, 'Environment, Environmental Law and Justice' *Law Vision* issue: 8, December 2002-2003, Chittagong University.

The Convention was opened for signature on 10 December 1982 in Montego Bay, Jamaica. At the time of its adoption, the Convention embodied in one instrument traditional rules for the uses of the oceans and at the same time introduced new legal concepts and regimes and addressed new concerns. Today, it is the globally recognized regime dealing with all matters relating to the law of the sea.

Key Provisions

The Convention represents an attempt to create a legal order for the seas and oceans, which will facilitate international cooperation, and will promote the peaceful uses of the seas and oceans, the equitable utilization of their resources, the conservation of their living resources, and the study, protection and preservation of the marine environment. The Convention is in many respects a framework Convention in light of the fact that many of its provisions, being of a general nature, can only be further implemented through the adoption of relevant international rules and standards developed by or through the competent international organization or organizations. Key provisions of the Convention include:

- Coastal States exercise sovereignty over their territorial sea, which they have the right to establish up to a limit not exceeding 12 nautical miles;

- Archipelagic States, made up of a group or groups of closely interrelated islands and interconnecting waters, have sovereignty over a sea area enclosed by straight lines drawn between the outermost points of the islands;

- Foreign ships can exercise the rights of 'innocent passage' through the territorial sea and archipelagic waters, 'transit passage' through straits used for international navigation and archipelagic sea lanes passage through archipelagic sea lanes. The exercise of such rights is subject to the duty to comply with the relevant international rules and standards and the

laws and regulations of the coastal and archipelagic States, and of the States bordering the strait;

- Coastal States have sovereign rights in a 200 nautical mile exclusive economic zone (EEZ) with respect to exploring, exploiting, conserving and managing the natural resources, living and non-living, and with regard to other activities for the economic exploitation and exploration of the zone; coastal States also exercise jurisdiction with regard to marine scientific research and the protection and preservation of the marine environment;

- Land locked and geographically disadvantaged States have the right to participate on an equitable basis in exploitation of an appropriate part of the surplus of the living resources of the EEZs of coastal States of the same region or sub-region; land-locked States also have the right of access to and from the sea and enjoy freedom of transit through the territory of transit States;

- All States enjoy freedom of navigation and over flight in the EEZ, as well as freedom to lay submarine cables and pipelines;

- Coastal States have sovereign rights over the continental shelf for the purpose of exploring it and exploiting its natural resources; the shelf extends to a distance of at least 200 nautical miles; data on the outer limits of the continental shelf beyond 200 nautical miles must be submitted to the Commission on the Limits of the Continental Shelf;

- Coastal States share with the international community part of the revenue derived from exploiting non-living resources form any part of their shelf beyond 200 nautical miles;

- All States enjoy, *inter alia*, the traditional freedoms of navigation, overflight, scientific research and fishing on the high seas; they are obliged to adopt, or cooperate with other States in adopting measures to manage and conserve living resources;

- States bordering enclosed or semi-enclosed seas should coordinate the management, conservation, exploration and exploitation of living resources; the implementation of their rights and duties with respect to the protection and preservation of the marine environment and scientific research policies and activities;

- The seabed beyond the limits of national jurisdiction (the Area) and its mineral resources are the common heritage of mankind; the exploration and exploitation of the mineral resources are to be carried out for the benefit of mankind as a whole, and under the control of the International Seabed Authority, which is also responsible for ensuring the protection of the marine environment form harmful effects which may arise from activities in the Area;

- States have an obligation to protect and preserve the marine environment and are required to take all measures necessary to prevent, reduce and control pollution of the marine environment from any source; to ensure that activities under their jurisdiction or control do not spread to areas beyond their jurisdiction and do not cause damage by pollution to their States and their environment; and to protect and preserve rare and fragile ecosystems, as well as the habitat of depleted, threatened or endangered species and other forms of marine life;

- States are responsible for the fulfillment of their international obligations concerning the protection and preservation of the marine environment and shall be liable in accordance with international law;

- All marine scientific research in the EEZ and on the continental shelf is subject to the consent of the coastal State, which must normally be granted if the research is conducted for peaceful purposes and in order to increase scientific knowledge of the marine environment for the benefit of mankind;

- States are bound to promote the development and transfer of marine technology 'on fair and reasonable terms and conditions', with due regard for all legitimate interests;

- States Parties are obliged to settle disputes between them concerning the interpretation or application of the Convention by peaceful means;

- Under the compulsory procedures entailing binding decisions, disputes can be submitted to the International Tribunal for the Law of the Sea established under the Convention, to the International Court of Justice, to an arbitral tribunal, or to a special arbitral tribunal. Conciliation is also available and, in certain circumstances, submission to it would be compulsory. The Tribunal has exclusive jurisdiction over disputes relating to activities in the Area.[155]

Agreement relating to the implementation of Part xi of the United Nations Convention on the Law of the Sea (New York, 28 July 1994)

The Agreement was adopted by Resolution 48/263, on 28 July 1994, by the General Assembly of the United Nations during its resumed 48the Session, held from 27 to 29 July 1994 in New York. In accordance with its article 3, the agreement shall remain open for signature at the United Nations Headquarters in New York by the States and entities referred to in article 305, paragraphs 1 (c), (d), (e) and (f) of the 1982 Convention on the Law of the Sea for 12 months from the date of its adoption i.e. until 28 July 1995.[156]

Objectives

The Secretary-General convened in 1992 a series of informal consultations to address certain difficulties with the seabed mining provisions contained in Part XI of the Convention, which had

[155] Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development, UN publication-2002, Page 46.
[156] Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development Published by UN 2002. Page-54.

been raised, primarily by the industrialized countries. This culminated in the adoption, on 28 July 1994, of the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December, 1982.[157]

Key Provisions

The Agreement consists of 10 articles relating to the procedural aspects of participation by States and other defined entities, such as signature, entry into force and provisional application. Its article 2 deals with the relationship between the Agreement and Part XI of the Convention and it provides that the two shall be interpreted and applied together as a single instrument. In the event of an inconsistency between the Agreement and Part XI of the Convention, however, the provisions of the Agreement shall prevail.

The Agreement has an annex, divided into nine sections, dealing with the various issues that were identified as problem areas during the informal consultations. These include costs to States Parties and institutional arrangements, decision-making mechanisms for the Authority, the Review Conference, production policy and financial terms of contracts.[158]

Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (New York, 4 August 1995).

---

[157] United Nations, Treaty Series, vol. 1994, p. 3; depositary notification C.N.176. 1995. TERATIES-6 of 27 July 1995 (proces-verbal of rectification of the authentic Chinese text); Multilateral Treaty Framework : An Invitation to Universal Participation; Focus 2002 : Sustainable Development; Published UN-2002;

[158] Doc. A/RES.48/263; and depositary notification C.N.1.1995 TREATIES-1 of 9 February 1995 (process-verbal of rectification of the original French text); Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development Published by UNEP 2002.

The above Agreement was adopted on 4 August 1995 at New York, by the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stock. In accordance with its article 37, the Agreement will be open for signature at United Nations Headquarters, from 4 December 1985 until and including 4 December 1996 by all States and the other entities referred to in article 305 (1) (a), (c), (d), (e) and (f) of the United Nations Convention on the Law of the Sea of 10 December 1982.[159]

Objectives

The United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and High Migratory Fish Stocks sets out principles for the conservation and management of those fish stocks and establishes that such management must be based on the precautionary approach and the best available scientific information. The Agreement elaborates on the fundamental principle, established in the Convention, that States should cooperate to ensure conservation and promote the objective of the optimum utilization of fisheries resources both within and beyond the exclusive economic zone. The Agreement was adopted on 4 August 1995.[160]

Key Provisions

The Agreement provides a framework for cooperation in the conservation and management of fisheries resources. It promotes good order in the oceans through the effective management and conservation of high seas resources by establishing, among other things, detailed minimum international standards for the conservation and management of straddling fish stocks and highly

[159] *Multilateral Treaty Framework : An Invitation to Universal Participation*; Focus 2002 : Sustainable Development; Published UNEP-2002; page 59.

[160] Doc. A/CONF. 164/37; and depositary notification C.N.99. 1996.TREATIES-4 of 7 April 1996 (process-verbal of rectification of the authentic Arabic text); Multilateral Treaty Framework : An Invitation to Universal Participation; Focus 2002 : Sustainable Development; Published UNEP-2002;

migratory fish stocks; ensuring that measures taken for the conservation and management of those stocks in areas under national jurisdiction and in the adjacent high seas are compatible and coherent; ensuring that there are effective mechanisms for compliance and enforcement of those measures on the high seas; and recognizing the special requirements of developing States in relation to conservation and management as well as the development and participation in fisheries for straddling fish stocks and highly migratory fish stocks.[161]

6.2 Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal, 16 September 1987)

(As amended in London 1990, Copenhagen 1992, Montreal 1997, Beijing 1999)

The Protocol was adopted by the Conference of Plenipotentiaries on the Protocol on Chlorofluorocarbons to the Vienna Convention for the Protection of the Ozone Layer, held in Montreal from 14 to 16 September 1987. Open for signature in Montreal on 16 September 1987, in Ottawa from 17 September 1987 to 16 January 1988 and at United Nations Headquarters, New York, from 17 January 1988 to 15 September 1988, in accordance with article 15.[162]

[161] Doc. A/CONF. 164/37; and depositary notification C.N.99. 1996.TREATIES-4 of 7 April 1996 (process-verbal of rectification of the authentic Arabic text); Multilateral Treaty Framework : An Invitation to Universal Participation; Focus 2002 : Sustainable Development; Published UNEP-2002;

[162] Multilateral Treaty Freamework : An Inviation to Universal Participation Focus 2002 : Sustainable Development-Published UNEP-2002; Page 63.

Objectives

The potential effects on humans and the environment of depletion of the ozone layer have led Government to reinforce the framework laid in Vienna Convention for the Protection of the Ozone Layer (1985). The Montreal Protocol on Sustainable that Deplete the Ozone Layer (Montreal Protocol), and the London (1990), Copenhagen (1992), Montreal (1997) and Beijing (1999) amendments to the Protocol, oblige Parties to protect the ozone layer by taking measures to control equitably total global emissions of substances that deplete the ozone layer with the ultimate objective of eliminating these substances.

The Montreal Protocol on Substances that Deplete the Ozone Layer contains clauses to cover the special circumstances of groups of countries, especially developing countries with low consumption rates. The Protocol is constructively flexible, however, in that it can be adjusted as the scientific evidence strengthens, without having to be completely renegotiated. It sets the elimination of ozone-depleting substances as its final objective. Parties recognized that the Protocol was only a beginning and that as new scientific evidence become available, tighter and stringent controls would be adopted.[163]

Key Provisions

The Parties must adopt appropriate legislation and policies to reduce activities likely to have an adverse effect on the ozone layer. The Montreal Protocol provides for phase-out schedules of the various categories of controlled ozone depleting substances (ODS) and requires all Parties to ban exports and imports of controlled substances from to non-Parties.

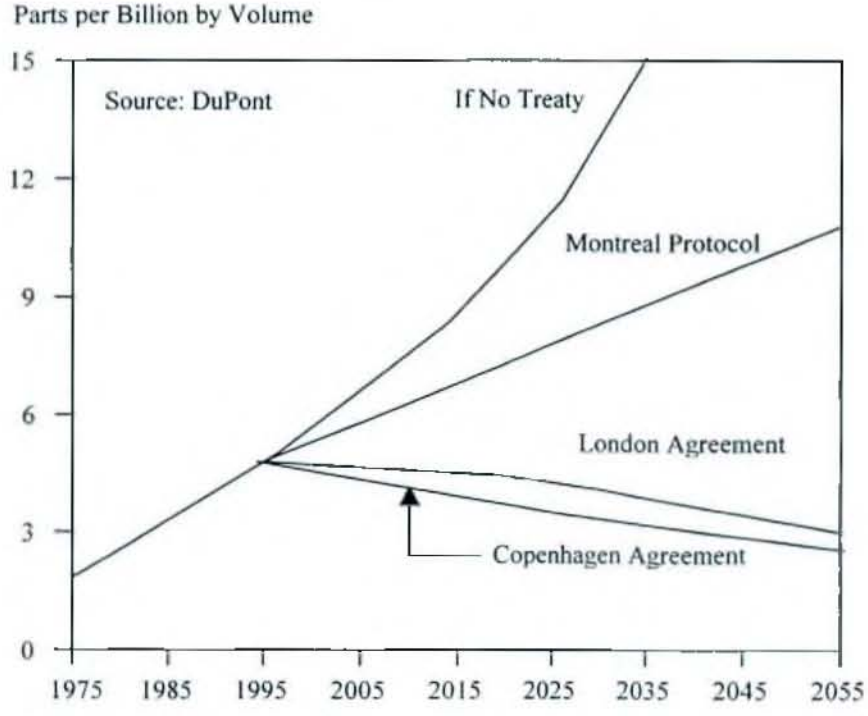
Developing countries benefit from the ten-year grace period with most substances scheduled for phase-out by 2010 (2015 for methyl chloroform and methyl bromide, and 2040 for hydro chlorofluorocarbons). Several developing countries, however, will complete their phase out

[163] United Nations, Treaty Series, vol. 1522, p.3; Multilateral Treaty Freamework : An Inviation to Universal Participation Focus 2002 : Sustainable Development- Published UNEP-2002; Page 60.

much before the stipulated date. Recognition of the special circumstances of developing countries in the Montreal Protocol demonstrates the commitment by the industrialized counties to meet developing countries incremental costs of compliance with the Montreal Protocol.[164]

Figure 2

The Impact of the Montreal Protocol and Its Amendments on Atmospheric Chlorine Concentrations, 1975-2055



Summary of Amendments

The Amendments to the Protocol added additional chemicals to the list of controlled substances and converted transitional substances into controlled substances with reporting requirements as well as banned the import and export of additional substances. The phase out dates for many ODS, on the list of controlled substances were introduced, and licensing requirements were strengthened. A requirement on Parties to introduce licensing systems for imports and exports of

[164] United Nations, Treaty Series, vol. 1522, p.3; Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development- Published UNEP-2002; Page 60.

all categories of ODS, including new, used, recycled and reclaimed substances, was introduced in the 1997 Montreal Amendment. The aim of the licensing system is to help tackle the growing illegal trade in ODS, stemming form some users' attempts to avoid the cost of replacing machinery requiring banned categories of chemicals. Provisions relating to technology transfer were integrated, as well as a financial mechanism, which included the establishment of a Multilateral Fund. The purpose of the Fund is to assist eligible Parties to comply with the control measures.[165]

Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (London Amendment)

Entered into force on 10 August 1992.

Copenhagen Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer

(Copenhagen Amendment)

Entered into force on 14 June 1994.

The Amendment was adopted by Decision IV/4 (amendment) at the Fourth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer, which was held in Copenhagen form 23 to 25 November 1992.[166]

Montreal Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer

(Montreal Amendment)

Entered into force on 10 November 1999.

The Amendment was adopted by Decision II/2 of 29 June 1990 at the Second Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer, which

[165] Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development-Published UNEP-2002; Page 61.

[166] Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development-Published UNEP-2002; Page 68.

was held at the Headquarters of the International Maritime Organization, in London, from 27 to 29 June 1990.[167]

The Amendment to the Montreal Protocol as set out in Annexes I to III to the report of the Ninth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (Decision IX/4), which was held in Montreal from 15 to 17 September 1997, was adopted in accordance with the procedure laid down in article 9 (4) of the 1985 Vienna Convention for the Protection of the Ozone Layer.[168]

Beijing Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (The Beijing Amendment)

Entered into force on 25 February 2002.

At the Eleventh Meeting of the Parties to the Protocol held in Beijing from 29 November to 3 December 1999, the Parties adopted, in accordance with the procedure laid down in article 9, paragraph 4 of the 1985 Vienna Convention for the Protection of the Ozone Layer, the Amendment to the Montreal Protocol as set out in Annex V to the report of the Eleventh Meeting of the Parties (Decision XI/5).[169]

6.3 Basel Convention on the Control of Trans boundary Movements of Hazardous Wastes and their Disposal (Basel, 22 March 1989) and Amendment (Geneva, 22 September 1995)

Objectives

The Basel Convention is the response of the international community to the problems caused by annual worldwide production of hundreds of millions of tons of hazardous wastes. These wastes

[167] Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development- Published UNEP-2002; Page 66.
[168] Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development- Published UNEP-2002; Page 70.
[169] Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development- Published UNEP-2002; Page 71.

are hazardous to people and the environment because they are toxic, poisonous, explosive, corrosive, flammable, eco-toxic, or infections.

The Convention strictly regulates the transboundary movements of hazardous wastes and obliges Parties to ensure that such wastes are managed and disposed of in an environmentally sound manner. The main principles of the Basel Convention are:

- Transboundary movements of hazardous wastes should be reduced to a minimum consistent with their environmentally sound management.
- Hazardous wastes should be treated and disposed of as close as possible to their source of generation.
- Hazardous waste generation should be reduced and minimized at source.

Key Provisions

In order to achieve these principles, the Convention aims to control the transboundary movement of hazardous wastes, monitor and prevent illegal traffic, provide assistance for the environmentally sound management of hazardous wastes, promote cooperation between Parties in this field, and develop technical guidelines for the management of hazardous wastes.

The Convention sets out a number of general obligations for Parties. These obligations include taking the appropriate measures to reduce hazardous wastes to a minimum; ensuring the availability of adequate disposal facilities; ensuring that persons involved in the management of hazardous wastes take the necessary steps to prevent pollution and minimize its consequences; reducing the transboundary movement of hazardous wastes to the minimum consistent with the environmentally sound and efficient management of such wastes; prohibiting the export of such wastes to States Parties, especially developing countries, which have prohibited by their legislation imports of such wastes or which have reason to believe that the wastes will not be managed in an environmentally sound manner; and preventing the import of hazardous wastes if it has reason to believe that the wastes will not be managed in an environmentally sound manner.

Under the Convention, transboundary movements of hazardous wastes or other wastes can take place only upon prior written notification by the State of export to the competent authorities of the States of import and the transit (if appropriate). Each shipment of hazardous waste or other waste must be accompanied by a movement document from the point at which a transboundary movement begins to the point of disposal. Hazardous waste shipments made without such documents are illegal. In addition, there are outright bans on the export of these wastes to certain countries. Transboundary movements can take place, however, if the State of export does not have the capability of managing or disposing of the hazardous waste in an environmentally sound manner.

The Convention also defines illegal traffic of hazardous wastes and deems such activity to be criminal. It obliges Parties to take appropriate legal, administrative and other measures to implement and enforce the provisions of the Convention, including measures to prevent and punish conduct in contravention of the Convention.

Further, the Convention obliges Parties to cooperate in order to improve and achieve environmentally sound management of hazardous wastes and other wastes through disseminating information; monitoring the effects of the management of hazardous wastes on human health and the environment; developing and implementing new environmentally sound low-waste technologies, and improving existing technologies; and promoting the transfer of technology and management system. The Convention also encourages cooperation between Parties and international organizations, taking into account the needs of developing countries, to promote public awareness, the development of sound management of hazardous wastes and the adoption of new technologies.

Parties to the Convention are required to report any accident occurring during the transboundary movement of hazardous wastes or other wastes and their disposal, which are likely to present risks to human health and the environment in other States. Moreover, the Convention obliges

Parties to transmit annual reports pertaining to, *inter alia,* the movement, reduction and disposal of hazardous wastes.[170]

Amendment to the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal Geneva, 22 September 1995.

6.4 United Nations Framework Convention on Climate Change (New York, 9 May 1992)

The Convention was agreed upon and adopted by the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change, during its Fifth session, second part, held at New York from 30 April to 9 May 1992. In accordance with its article 20, the Convention was open for signature by States Members of the United Nations or of any of its specialized agencies or that are Parties to the Stature of the International Court of Justice and by regional economic integration organization, at Rio de Janeiro during the United Nations Conference on Environment and Development, from 4 to 14 June 1992, and remained thereafter open at the United Nations Headquarters in New York until 19 June 1993.[171]

Objectives

The objective of this Convention is to achieve stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a timeframe sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened,

[170] Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development Published by UN 2002. Page-72.
[171] Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development Published by UN 2002. Page-83.

to avoid adverse health effects and to enable economic development to proceed in a sustainable manner.

Key Provisions

In order to achieve stabilization of greenhouse gas concentrations in the atmosphere, States are obliged to develop, periodically update, publish and make available national inventories of anthropogenic emissions and sinks; adopt and implement national and regional measures to mitigate climate change; promote the application of processes that control emissions, including the transfer of technologies; promote sustainable management of sinks and reservoirs of all greenhouse gases; elaborate integrated plans for coastal zone management and cooperation in research and systematic observation of the climate system.

Development country Parties and other specified Parties shall adopt national policies and take corresponding measures on the mitigation of climate change. These Parties are obliged to communicate detailed information on their policies and measures. Parties not bound by these provisions may elect to be bound by such provisions by written notification.

The Convention also provides for a financial mechanism, which requires developed countries Parties and other Parties to provide financial resources to meet the costs incurred by developing country Parties to adopt necessary measures and to communicate information relating to implementation. Developed country Parties and other developed Parties shall also promote the transfer of, or access to, environmentally sound technologies and know-how to other Parties.

Parties are obliged to support and develop international and intergovernmental programmes aimed at defining, conducting, assessing and financing research, data collection and systematic observation; support international and intergovernmental efforts to strengthen systematic observation and national and technical research capabilities; develop and implement educational

and public awareness programmes on climate change; facilitate public awareness and participation; and provide training of scientific, technical and managerial personnel.[172]

6.5 Convention on Biological Diversity (Rio de Janeiro, 5 June 1992)

The Convention was adopted by the Intergovernmental Negotiating Committee for a Convention on Biological Diversity, during its Fifth session, held at Nairobi from 11 to 22 May 1992. The Convention was open for signature at Rio de Janeiro by all States and regional economic integration organizations from 5 June 1992 until 14 June 1992, and remained open at the United Nations Headquarters in New York until 4 June 1993.[173]

Objectives

In response to the growing recognition that biological diversity is a global asset of tremendous value to present and future generations and to the increasing threat to the survival of species and integrity of habitats and ecosystems, the United Nations Environment Programme initiated work exploring the need for an international convention on biological diversity. Aspects to be taken into account in this process were the need to share costs and benefits between developed and developing countries as well as ways and means to support innovation by local people.

The work culminated on 22 May 1992 in the Nairobi Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity. The Conference adopted the Nairobi Final Act which conveyed the Agreed Text of the Convention to the Rio Earth Summit held in June 1992 in Brazil. In accordance with the Convention, its objectives are 'the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources'. The Convention is thus the first global, comprehensive agreement to address all aspects of biological diversity: genetic resources,

[172] United Nations, Treaty Series, vol 1771, p. 107; Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development, UN publication-2002.
[173] Multilateral Treaty Framework : An Invitation to Universal Participation; Focus 2002 : Sustainable Development; Published UN-2002, Page-93.

species and ecosystems. It recognizes, for the first time, that the conservation of biological diversity is 'a common concern of humankind' and an integral part of the development process. To achieve its objectives, the Convention, in accordance with the spirit of the Rio Declaration on Environment and Development, promotes a renewed partnership among countries. Its provisions on scientific and technical cooperation, access to genetic resources and the transfer of environmentally sound technologies from the foundations of this partnership.

Key Provisions

Pursuant to the Convention, the Contracting Parties undertake to conserve and sustainably use biodiversity. The Contracting Parties are required to develop national biodiversity strategies and action plans and to integrate these into broader national plans for environment and development. This is particularly important for such sectors as forestry, agriculture, fisheries, energy, transportation and urban planning. Furthermore, Contracting Parties shall identify and monitor the important components of biological diversity that need to be conserved and used sustainably.

Other key provisions are to establish protected areas to conserve biological diversity while promoting environmentally sound development around these areas; to rehabilitate and restore degraded ecosystems and to promote the recovery of threatened species in collaboration with local residents; to respect, preserve and maintain traditional knowledge of the sustainable use of biological diversity with the involvement of indigenous peoples and local communities; to prevent the introduction of, to control and to eradicate alien species that could threaten ecosystems, habitats or species; and to control the risks posed by organisms modified by biotechnology.

The Convention also focuses on promoting public participation, particularly when it comes to assessing the environmental impact of development projects that threaten biological diversity, and on educating people and raising awareness about the importance of biological diversity and the need to conserve it.

The Convention of the Parties is required to keep under review the implementation of the Convention. In doing so, the Contracting Parties are obliged to submit reports relating to national

implementation of the provisions in the Convention. In addition, the Convention provides for establishing the Subsidiary Body on Scientific, Technical and Technological Advice that provides the Conference of the Parties with advice relating to the implementation of the Convention.

The Convention also provides for the elaboration of protocols as deemed appropriate by the Conference of the Parties. The first protocol to the Convention is the Cartagena Protocol on Biosafety, adopted in Montreal, Canada, on 29 January 2000 by the Resumed Session of the First Extraordinary Conference of the Parties (ExCop-1) to the Convention.[174]

6.6 United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (Paris, 14 October 1994)

The Convention was adopted on 17 June 1994 by the Intergovernmental Negotiating Committee for the elaboration of an international convention to combat desertification in those countries experiencing serious drought and/ or desertification, particularly in Africa (established pursuant to resolution 47/188 of the General Assembly dated 22 December 1992), during its Fifth session held at Paris. The Convention was open for signature at Paris by all States and regional economic integration organizations on 14 and 15 October 1994. Thereafter, it remained open for signature at the United Nations Headquarters in New York until 13 October 1995.[175]

[174] United Nations, Treaty Series, vol. 1760, p. 79; Multilateral Treaty Framework : An Invitation to Universal Participation; Focus 2002 : Sustainable Development; Published UN-2002;
[175] Multilateral Treaty Framework : An Invitation to Universal Participation; Focus 2002 : Sustainable Development; Published UNEP-2002; page 101.

Objectives

The United Nations Convention to Combat Desertification is a major achievement of the international community. Stemming form the United Nations Earth Summit in Rio de Janeiro in 1992, the Convention is as innovative document, which breaks new ground in international environmental law.

The Convention describes its objective as "to combat desertification and mitigate the effects of drought in countries experiencing serious drought and/ or desertification, particularly in Africa, through effective action at all levels, supported by international cooperation and partnership arrangements in the framework of an integrated approach which is consistent with Agenda 21, with a view to contributing to the achievement of sustainable development in affected areas". Furthermore, the Convention adds that "achieving this objective will involve long-term integrated strategies that focus simultaneously, in affected areas, on improved productivity of the land and the rehabilitation, conservation and sustainable management of land and water resources, leading to improved living conditions, in particular, at the community level".[176]

Key Provisions

Both affected and developed Contracting Parties undertake comprehensive sets of obligations under the Convention. In accordance with the Convention, all Contracting Parties have an obligation to adopt an integrated approach addressing the physical, biological and socio-economic aspects of desertification and drought. In addition, affected Contracting Parties undertake to give priority to combating desertification and mitigating the effects of drought by establishing strategies and priorities within the framework of sustainable development plans and plans and policies. In turn, Contracting Parties from developed countries commit themselves to

[176] United Nations, Treaty Series, vol. 1994, p. 3; depositary notification C.N.176. 1995. TERATIES-6 of 27 July 1995 (proces-verbal of rectification of the authentic Chinese text); Multilateral Treaty Framework : An Invitation to Universal Participation; Focus 2002 : Sustainable Development; Published UNEP-2002;

active support by providing substantial financial resources and other forms of assistance, individually or jointly, to the efforts of affected developing Contracting Parties.

The Convention is to be implemented through National Action Programmes supplemented by such programmes at regional and sub-regional levels. National Action Programmes form the very core of the Convention. The Contracting Parties should implement the Convention, taking into account the participation of populations and local communities in a spirit of partnership and international cooperation.

The Conference of the Parties (COP) is established as the supreme body of the Convention, whose main task is to make the decisions necessary to promote effective implementation of the Convention. The Convention also establishes a Permanent Secretariat which will, among other duties, make arrangements for sessions of the Conference of the Parties and its subsidiary bodies, and compile and transmit reports submitted to it. Scientific and technological information and advice will be provided by a Committee on Science and Technology.

After is given priority and particular attention throughout the Convention and the first of the four Regional Implementation Annexes, which form an integral part of the Convention, is devoted to the continent. There are three further Regional Implementation Annexes to the Convention (Asia, Latin America and the Caribbean and the Northern Mediterranean) to provide guidelines and arrangements for the effective implementation of the Convention. All of the Annexes provide for action programmes to be part and parcel of their policies for sustainable development.[177]

6.7 Kyoto Protocol to the United Nations Framework Convention on Climate Change (Kyoto, 11 December 1997)

The Protocol was adopted at the third session of the Conference of the Parties to the 1992 United Nations Framework Convention on Climate Change ('the Convention'), held at Kyoto (Japan) from 1 to 11 December 1997. The Protocol shall be open for signature by States and regional

[177] United Nations, Treaty Series, vol. 1994, p. 3; depositary notification C.N.176. 1995. TERATIES-6 of 27 July 1995 (proces-verbal of rectification of the authentic Chinese text); Multilateral Treaty Framework : An Invitation to Universal Participation; Focus 2002 : Sustainable Development; Published UN-2002;

economic integration organizations which are Parties to the Convention at United Nations Headquarters in New York from 16 March 1998 to 15 March 1999 in accordance with its article 24 (1).[178]

Objectives

The Kyoto Protocol has the same ultimate objective as the United Nations Framework Convention on Climate Change (UNFCCC), which is the stabilization of atmospheric concentrations of greenhouse gases at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.

At the first United Nations Framework Convention on Climate Change Conference of the Parties in Berlin in 1995, the Contracting Parties reviewed the commitments by the developed countries under the Convention and decided that the commitment to aim at returning their emissions to 1990 levels by the year 2000 was inadequate for achieving the Convention's long-term objective. The Conference adopted the Berlin Mandate and launched a new round of negotiations on strengthening the commitments of the Contracting Parties from developed countries. At the third Conference of the Parties in Kyoto in 1997, the Parties adopted the Kyoto Protocol.[179]

Key provisions

In accordance with the Kyoto Protocol, Contracting Parties from developed countries are committed to reducing their combined greenhouse gas emissions by at least 5 per cent from 1990 levels by the period 2008-2012. The targets cover the six main greenhouse gases, namely, carbon

---

[178] *Multilateral Treaty Framework : An Invitation to Universal Participation; Focus 2002 : Sustainable Development*; Published UNEP-2002; page 89.

[179] *Multilateral Treaty Framework : An Invitation to Universal Participation; Focus 2002 : Sustainable Development; Published UNEP-2002*; Decision 1/CP. 3 of the Conference of the State Parties to the Convention at its third session;

dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF_6), along with some activities in the land-use change and forestry sector that remove carbon dioxide from the atmosphere (carbon 'sinks'). Each Contracting Party from developed countries is required to have made demonstrable progress in implementing its emission reduction commitments by 2005. Implementation of the legally binding Protocol commitments promises to produce an historic reversal of the upward trend in emissions from developed countries.

The Kyoto Protocol also establishes three innovative mechanisms, known as joint implementation, emissions trading and the clean development mechanism, which are designed to help Contracting Parties included in Annex 1 of the United Nations Framework Convention on Climate Change to reduce the costs of meeting their emission targets. The clean development mechanism also aims to promote sustainable development in developing countries. The operational details of these mechanisms are now being fleshed out by the Contracting Parties.

The procedure for the communication and review of information is established in the Kyoto Protocol. Contracting Parties from developed countries are required to incorporate in their national communications the supplementary information necessary to demonstrate compliance with their commitments under the Protocol in accordance with guidelines to be developed. The information submitted shall be reviewed by expert review teams, pursuant to guidelines established by the Conference of the Parties, which is the supreme body that shall regularly review and promote effective implementation of the United Nations Framework Convention on Climate Change and the Kyoto Protocol.

The Protocol provides that the Contracting Parties shall periodically review the Protocol in the light of the best available scientific information and assessment on climate change and its impacts. The first review will take place at the second session of the Conference of the Parities serving as the meeting of the Parties to the Protocol. Further reviews shall take place at regular

intervals and in a timely manner. A framework for a compliance system is required to be developed under the Protocol.[180]

6.৪ Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus, Denmark, 25 June 1998)

This Convention open for signature at Aarhus (Denmark) on 25 June 1998, and thereafter at United Nations Headquarters in New York until 21 December 1998.[181]

Objectives

The Convention recognizes that adequate protection of the environment is essential to human well-being and the enjoyment of basic human rights, including the right to life itself. It aims to ensure the rights of citizens to full information on the environment in order to contribute to the protection of the right of every person of person of present and future generations to live in an environment adequate to his or her health and well-being. The Convention establishes that sustainable development can be achieved only through the involvement of all stakeholders in society, by linking government accountability and environmental protection. The Convention focuses on interactions between the civil society and public authorities and forges a new process for public participation and transparency in the negotiation and implementation of international agreements.[182]

---

[180] *Multilateral Treaty Framework : An Invitation to Universal Participation; Focus 2002 : Sustainable Development*; Published UNEP-2002; Decision 1/CP. 3 of the Conference of the State Parties to the Convention at its third session;

[181] Multilateral Treaty Framework : An Invitation to Universal Participation; Focus 2002 : Sustainable Development; Published UNEP-2002; Page 105.

[182] Doc. ECE/CEP/43; Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development Published by UNEP 2002.

Key Provisions

The Convention provides that each Party shall guarantee the rights of access to information, public participation in decision-making and access to justice in environmental matters, while promoting environmental education and awareness among the public. Each Party shall take the necessary legislative, regulatory and other measures to establish and maintain a clear, transparent and consistent framework to implement the provisions of the Convention.

Public authorities, in response to a request for environmental information, shall make such information available to the public within the framework of national legislation. The public authorities shall also possess, update and disseminate information to the public without the need for a specific request through, *inter alia*, publicly accessible registers and electronic databases including national reports on the state of the environment, texts of environmental legislation, and other policies and programmes.

Practical means and opportunities for the public to participate in decision-making on a specific activity, in the development of plans, programmes and policies, and in the preparation of laws, rules and legally binding norms relating to the environment are guaranteed by the Convention. In this respect, the dissemination of information to the public is imperative.

In order to enforce the provisions under the Convention in the domestic legal system, the Convention ensures that any person who considers that his or her rights of access to information or participation in decision-making have been wrongfully refused, inadequately answered or otherwise not dealt with in accordance with the provisions of the Convention shall have access to a review procedure before a court of law or another independent and impartial body established by law.[183]

[183] *Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development* Published by UNEP 2002; Doc. ECE/CEP/43;

6.9 Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam, 10 September 1998)

The Convention was adopted on 10 September 1998 by the Conference of Plenipotentiaries on the Convention in Rotterdam, the Netherlands. In accordance with its article 24, the Convention will be open for signature at Rotterdam by all States and region economic integration organizations on 11 September 1998, and subsequently at United Nations Headquarters in New York from 12 September 1998 to September 1999.[184]

Objectives

The objective of the Convention is to promote shared responsibility and cooperation among Parties in international trade of certain hazardous pesticides and chemicals in order to protect human health and the environment form potential harm.

The Convention renders the monitoring and controlling of trade in dangerous substances more efficient and transparent. In addition, the Convention strengthens the ability of importing countries to decide which chemicals they wish to receive and to exclude those they cannot manage safely. If trade does take place, the Convention's requirements for labeling and provision of information on potential health and environmental effects will promote the safe use of such chemicals.[185]

Key Provisions

The Convention establishes a Prior Informed Consent (PIC) procedure as a means for obtaining and disseminating the policies of importing countries relating to future shipments of certain chemicals and for ensuring compliance with such policies by exporting countries. The decision

[184] Multilateral Treaty Framework : An Invitation to Universal Participation Page 108.
[185] Doc. UNEP/FAO/PIC/CONF/5; Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development Published by UNEP 2002.

not to import a certain chemical must be trade neutral, i.e, such a decision must be followed by a prohibition of domestic production of the chemical for domestic use or for imports from any other source.

The Convention provides for the exchange of information among Parties of potentially hazardous chemicals that may be imported and exported, and for a national decision-making process regarding import and compliance by exporters.

Each Party shall facilitate the exchange of scientific, technical, economic and legal information concerning the chemicals within the scope of this Convention. Parties shall also facilitate the provision of publicly available information on domestic regulatory actions. Information on domestic regulatory actions that substantially restrict one or mere uses of a chemical shall be made available to other Parties, directly or through the secretariat of the Convention.

The Convention provides for technical assistance between the Parties. The Parities shall cooperate in promoting technical assistance for development of infrastructure and the capacity necessary to manage chemicals to enable the implementation of the Convention. In this respect, the needs of developing countries and countries with economics in transition shall be taken into account.

Each Party must designate one or more national authorities to act on its behalf in the performance of the administrative functions required by the Convention.

The implementation of the Convention will be overseen by a Conference of the Parties. A Chemicals Review Committee will established to review notifications and nominations from Parties, and make recommendations to the Conference of the Parties on which chemicals should be included in the PIC procedure. The Convention requires that the entire process be conducted in an open and transparent manner.[186]

[186] Doc. UNEP/FAO/PIC/CONF/5; Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development Published by UNEP 2002.

6.10 Basel Protocol on Liability and Compensation for Damage Resulting from Trans-boundary Movements of Hazardous Wastes and their Disposal (Basal, 10 December 1999)

The Protocol will be open for signature by States and by regional economic integration organizations Parties to the Basel Convention in Berne at the Federal Department of Foreign Affairs of Switzerland from 6 to 17 March, 2000 and at United Nations Headquarters in New York form 1 April 2000 to December 2000, in accordance with its article 26.[187]

Objectives

The objective of the Protocol is to provide for a comprehensive regime for liability as well as adequate and prompt compensation for damage resulting from the trans-boundary movement of hazardous wastes and other wastes, including incidents occurring because of illegal traffic in those wastes. Each phase of a trans-boundary movement, from the point at which the wastes are loaded on the means of transport to their export, international transit, import and final disposal, is considered.[188]

Key Provisions

The person who notifies in accordance with article 6 of the Convention shall be strictly liable for damage until the disposer has taken possession of the hazardous wastes and other waste. Thereafter the disposer is strictly liable. Any person in operational control of hazardous wastes at the time of an incident has a duty to take all reasonable measures to mitigate damages arising there from. Strict liability is subject to limited exceptions especially in cases of war and natural phenomena.

---

[187] Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development Published by UNEP 2002. Page 80.

[188] *Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development* Published by UNEP 2002; Doc UNEP/FAO/PIC/CONF/5;

Notwithstanding the provisions concerning strict liability, any person shall be liable for damage caused or contributed to by his lack of compliance with the provisions implementing the Convention or by his wrongful intentional, reckless or negligent acts of omission.

The Protocol provides for a right of recourse for any person liable under the Protocol, contains a provision on contributory fault and establishes financial limits for liability as well as time limits for bringing a claim for compensation.

The Protocol also addresses insurance and financial guarantees, financial mechanisms, State responsibility, jurisdiction, choice of law, mutual recognition and enforcement of judgements.[189]

6.11 Cartagena Protocol on Bio-safety to the Convention on Biological Diversity (Montreal, 29 January 2000).

The above Protocol was adopted on 29 January 2000 by the Conference of the Parties to the Convention on Biological Diversity at the resumed session of its first extraordinary meeting held in Montreal from 24 to 29 January 2000. The Protocol will be open for signature by State and by regional economic integration organization in Nairobi at the United Nations Office from 15 to 26 May 2000, and at United Nations Headquarters in New York from 5 June 2000 to 4 June 2001, in accordance with its article 36.[190]

Objectives

One of the Key agreements adopted at the 1992 Earth Summit in Rio de Janeiro was the Convention on Biological Diversity, which sets out commitments for maintaining the world's ecological underpinnings in parallel with economic development. The Cartagena Protocol on Bio-safety is a supplementary agreement to the Convention. The Protocol seeks to protect biological diversity from the potential risks posed by living modified organisms resulting from

---

[189] *Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development* Published by UNEP 2002; Doc. UNEP/CHW. 1/WG/1/9/2

[190] Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development Published by UNEP 2002. page 97.

modern biotechnology. It establishes an advance informed agreement (AIA) procedure for ensuring that countries are provided with the information necessary to make informed decisions before agreeing to the import of such organisms into their territory. The Protocol contains reference to a precautionary approach and reaffirms the precautionary language in Principle 15 of the Rio Declaration on Environment and Development. The Protocol also establishes a Bio-safety Clearing-House to facilitate the exchange of information on living modified organisms organisms and to assist countries in the implementation of the Protocol.[191]

Key Provisions

Recognizing that modern biotechnology has great potential for human well-being if developed and used with adequate safety measures for the environment and human health, the Parties undertake to ensure that the development, handling, transport, use, transfer and release of any living modified organisms is undertaken in a manner that prevents or reduces the risks to biological diversity, and to human health.

The trans-boundary movements of living modified organisms are subject to an AIA procedure under which trans-boundary movement is only allowed after advanced written consent by the competent national authority of the importing State party. This procedure involves several distinct requirements, namely: notification by the exporting party, acknowledgement of notification by the importing party, a decision-making procedure by the importing party, and the right to review such decisions in the light of new scientific information. When the trans-boundary movement is authorized, the Parties are obligated to take necessary measures to require that living modified organisms are handled, packaged and transported under conditions of safety. The Protocol provides for several exceptions to that procedure including the trans-boundary movements of pharmaceuticals; living modified organisms that are solely transiting through the

[191] Depositary notification C. N. 531.2001. TREATIES-96 of 19 June 2001; Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development Published by UNEP 2002.

territory of a Party or that are destined for contained use only or living modified organisms intended for direct use as food or feed, or for processing.

In any circumstances, lack of scientific certainty due to insufficient relevant scientific information and knowledge regarding the extent of the potential adverse effects of a living modified organism shall not prevent the Parties from taking a decision, as appropriate, with regard to the import of the living modified organism in question in order to avoid or minimize such potential adverse effects.

A Bio-safety Clearing-House is established for the purpose of facilitating the exchange of information on, and experience with, living modified organisms to assist Parties to implement the Protocol, taking into account the special needs of developing country Parties.

Each Party shall make available to the Bio-safety Clearing-House copies of any national laws, regulations and guidelines applicable to the import of living modified organisms intended for direct use as food or feed, or for processing, if available.

Lastly, the Parties undertake to cooperate in the development and/ or strengthening of human resources and institutional capacities in bio-safety, including biotechnology to the extent that it is required for bio-safety, for the purpose of the effective implementation of this Protocol, in developing country Parties, and in Parties with economies in transition. Such assistance in capacity building in bio-safety may occur through existing global, regional, sub-regional and national institutions and organizations and, as appropriate, through facilitating private sector involvement.[192]

6.12 Stockholm Convention on Persistent Organic Pollutants (Stockholm, 22 May 2001)

[192] Depositary notification C. N. 251.2000. TREATIES-1 of 27 April 2000; Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development Published by UNEP 2002.

Objectives

The Stockholm Convention is a global treaty that aims at protecting human health and the environment from persistent organic pollutants (POPs). POPs are chemicals that remain intact in the environment for long periods, become widely distributed geographically, accumulate in the fatty tissue of living organisms and we toxic to humans and wildlife. This Convention provides opportunities for international cooperation in the reduction of POPs emissions and, if possible, in their elimination.[193]

Key Provisions

States are obliged to take measures to reduce or eliminate the release of POPs from international production and use by prohibiting and or taking the legal and administrative measures necessary to eliminate the production and use as well as the import and export of specified POPs; restricting the production and use of specified POPs; and restricting the importation and exportation of specified POPs for certain purposes.

Parties maintaining specific exemptions or having an acceptable purpose shall take appropriate measures to ensure that any production or use under such exemption or purpose is carried out in a manner that prevents or minimizes human exposure and release of POPs into the environment.

Parties shall take prescribed measures to reduce or eliminate releases from unintentional production, including the development of an action plan, promotion of the development of substitute or modified materials, products and processes, and the promotion of the use of the best available techniques and the best environmental practices.

Parties are also under an obligation to take measures to reduce or eliminate releases of POPs from stockpiles and wastes. Parties are required to manage stockpiles in a safe, efficient and environmentally sound manner.

[193] Depositary notification C. N. 531.2001. TREATIES-96 of 19 June 2001; Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development Published by UNEP 2002.

It is incumbent upon each Party to develop a plan for the implementation of its obligations under the Convention. For purposes of its implementation plan, Parties are obliged to cooperate with global, regional and sub regional organizations.

Parties are also obliged to facilitate the exchange of information concerning alternatives to POPs, and the reduction or elimination of the production, use and release of POPs. Parties are further obliged to promote awareness; develop and implement educational and public awareness programmes; encourage appropriate research, development, monitoring and cooperation pertaining to POPs at the national and international levels; and provide technical assistance, financial resources and mechanisms.[194]

Development of environment law, both national and international, has already brought forth certain self-evident postulates as following:

1. Right to life implies right to a healthy life that is possible only in a sound physical environment meaning fresh air and clean water accompanied by nature's bounties- flora and fauna.
2. Right to sound environment is increasingly being recognized as a human right, absence of which could seriously impair normal human habitation.
3. Development must be conditioned by environmental needs, i.e. development activity and technology for development are to be environment friendly, which is the essence of the concept of sustainable development.
4. Development needs of the developing countries cannot always be made subservient to high international standards of environmental protection, meaning that the special needs of the developing countries have to be accommodated within broader framework of international environmental law.

[194] Depositary notification C. N. 531.2001. TREATIES-96 of 19 June 2001; Multilateral Treaty Framework : An Invitation to Universal Participation Focus 2002 : Sustainable Development Published by UNEP 2002.

5. Transfer of environment friendly technology from the developed to the developing countries is a fundamental prerequisite for rational economic development and protection of environment.
6. Right to development implies right to sustainable development which is a great contemporary idea embodying both development and environment justice.[195]

Amongst various principles enunciated in the Declaration, were three concrete principles of international law. They are : (1) States have a sovereign right to exploit their own resources pursuant to their own environment policies; (2) States are responsible for ensuring that activities within their jurisdiction or control do not cause damage to the environment of other states, or of areas beyond the limits of national jurisdiction, (3) States are under a duty to cooperate to develop further the international law as to liability and compensation for the victims of pollution and other environmental damages caused by such activities to areas beyond national jurisdiction.[196]

Chapter 7

Environment related International organizations and their developing activities:

The participation of non-state actors in international environmental law has a long history, and is widely encouraged and accepted. The various actors have different roles and functions, both as subject and objects of international environmental law, including: participating in the law-making process; monitoring implementation, including reporting; and ensuring implementation and enforcement of obligations. The role of each turns upon its international legal personality and the rights and obligations granted to it by general international law and the rules established

[195] Dr. M Shah Alam, 'Environment, Environmental Law and Justice' *Law Vision* issue: 8, December 2002-2003, Chittagong University.
[196] Dr. M Shah Alam, 'Environment, Environmental Law and Justice' *Law Vision* issue: 8, December 2002-2003, Chittagong University.

by particular treaties and other rules. The Rio Declaration and Agenda 21, as well as an increasing number of international environmental agreements, support an expanded role for international organizations and non-governmental actors in virtually all aspects of the international legal process.

States create, adopt and implement international legal principles and rules, create international organizations, and permit the participation of other actors in the international legal process.

There are currently 191 member states of the UN, and several dozen entities, which do not possess the characteristics of statehood, such as dependent territories and non-self governing territories.

The role played by the 191 UN member states in the development and application of international law depends on the subject being addressed and the relationship of their vital interests to that subject, and on a complex blend of economic, political, cultural, geographical and ecological considerations.

Within the UN system states are also arranged into regional groupings, usually for the purpose of elections to UN bodies. The five groupings are: the Latin American and Caribbean Group; the African Group; the Asian Group; the Western European and others group; and the Central and Eastern European Group. Frequently in environmental negotiations these distinctions tend to break down as states pursue what they perceive to be their vital national interests, including their strategic alliances, an issue which may be unrelated to environmental matters. The UNCED negotiations illustrated the extent of the differences which existed between and among developed states and developing states on particularly contentious issues: atmospheric emissions, conservation of marine mammals, protection of forests, institutional arrangements and financial resources.[197] Discuss about the international environmental related organization is below:

[197] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-63-64, Chapter-3

7.1 Kinds of International Organizations

International organizations involved in environmental law are established at the global, regional, sub-regional and bilateral levels. Almost all international organizations today have some competence or responsibility for the development, application or enforcement of international environmental obligations, including functions related to standard setting. The decentralized nature of international organizations in the environmental field makes it difficult to their role by reference to any functional, sect oral or geographic criteria. They can be divided into three general categories: global organizations associated with the UN and its specialized agencies; regional organizations outside the UN system; and organizations established by environmental and other treaties. Within these categories there are of course overlaps, since many of the organizations established in the third category were created by acts of the UN or its specialized agencies.[198]

7.2 History of international organizational arrangements

Since 1954 the number of international environmental organizations has flourished, and they have usually been established at the sub regional, regional or global level either to deal with specific environmental issues or, as is more often the case, by formally or informally adapting existing organizations to give them with competence in the area of environmental issues. The Stockholm Conference and UNCED provided opportunities to establish more orderly and coherent arrangements for international organizations in addressing environmental matters. The Stockholm Declaration recognized that the growing global and regional environmental problems required 'extensive co-operation among nations and action by international organizations in the common interest' and the Principle 25 called on states to 'ensure that international organizations play a coordinated, efficient and dynamic role for the protection and improvement of the

[198] See e.g. the Conference of the Parties to the 1987 Montreal Protocol (UNEP); the 1989 Basal Convention (UNEP); the 1992 Climate Change Convention (United Nations General Assembly); the 1992 Biodiversity Convention (UNEP); the Intergovernmental Panel on Climate Change (WMO/UNEP).

environment'. Following the Stockholm Conference the UN General Assembly established UNEP[199], an environmental secretariat and fund, and an Environment Co-Ordination Board to co-ordinate UN environment activities.

Between Stockholm and UNCED the environmental activities of global and regional organizations proliferated, and many new organizations were created by environmental treaties and acts.[200]

7.3 History of UN

The name "United Nations", coined by United States President Franklin D. Roosevelt, was first used in the "Declaration by United Nations" of 1 January 1942, during the Second World War, when representatives of 26 nations pledged their Governments to continue fighting together against the Axis Powers.[201]

States first established international organizations to cooperate on specific matters. The International Telecommunication Union was found in 1865 as the International Telegraph Union, and the Universal Postal Union was established in 1874. Both are now United Nations specialized agencies.[202]

In 1899, the International Peace Conference was held in The Hague to elaborate instruments for settling crises peacefully, preventing wars and codifying rules of warfare. It adopted the Convention for the Pacific Settlement of International Disputes and established the Permanent Court of Arbitration, which began work in 1902.

The ancestor of the United Nations was the League of Nations, an organization conceived in similar circumstances during the First World War, and established in 1919 under the Treaty of Versailles "to promote international cooperation and to achieve peace and security". The

---

[199] Infra- page 128
[200] Supra- page 80
[201] Dr. M Shah Alam, *International Organization*, Bangla Academy -1995.
[202] Ibid

International Labour Organization[203] was also created under the Treaty of Versailles as an affiliated agency of the League. The League of Nations ceased its activities after failing to prevent the Second World War.

In 1945, representatives of 50 countries met in San Francisco at the United Nations Conference on International Organization to draw up the United Nations Charter. Those delegates deliberated on the basis of proposals worked out by the representatives of China, the Soviet Union, the United Kingdom and the United States at Dumbarton Oaks, United States in August-October 1944. The Charter was signed on 26 June 1945 by the representatives of the 50 countries. Poland, which was not represented at the Conference, signed it later and became one of the original 51 Member States.

The United Nations officially came into existence on 24 October 1945, when the Charter had been ratified by China, France, the Soviet Union, the United Kingdom, and the United States and by a majority of other signatories. United Nations Day is celebrated on 24 October each year.[204]

7.4 United Nations

The UN, its specialized agencies, and subsidiary bodies, organs and programmes, are the focal point for international law and institutions in the field of the environment. The UN Charter does not expressly provide the organization with competence over environmental matters. The relevant purposes of the UN include the maintenance of international peace and security, the adoption of measures to strengthen universal peace, and the achievement of co-operation in solving international economic, social, cultural or humanitarian problems.[205] Since the late 1960s, the practice of the organization through its principal organs, in particular the General Assembly and the Economic and Social Council (ECOSOC), has been to interpret and apply these broad purposes as including the protection of the environment and the promotion of sustainable development. The UN is the principal forum for global environmental law-making

[203] Infra- page 134
[204] http://www.un.org/aboutun/history.htm
[205] Charter of the United Nations, Art. 1(1), (2) and (3).

and has played a central role in the development of international environmental law, its universal character making it the only 'appropriate forum for concreted political action on global environmental problems'.[206] A part from the Secretariat, the UN has five principal organs : the General Assembly, the Security Council, ECOSOC, the Trusteeship Council, and the International Court of Justice. Each organ has, to a differing degree, addressed international environmental issues.

7.5 UN General Assembly

The UN General Assembly, which is the principal policy-making organ to UNCED follow-up, has the power to discuss any questions or matters within the scope of the Charter, to make recommendations to the Members or to the Security Council on any such questions or matters, and to promote international political, economic, social, cultural, educational and health cooperation and the progressive development of international law and its codification.[207] Although it does not have a specific environment mandate, its role over the past two decades has led it to its being identified by Agenda 21.[208]

Although its resolutions are not formally binding, the General Assembly has taken decisions which have created new bodies, convened conferences, endorsed principles and substantive rules, and recommended actions. Its contribution to the development of international environmental law is not to be underestimated. The General Assembly has long been involved in natural resource issues: the 1962 resolution on Permanent Sovereignty over Natural Resources was a landmark instrument in the development of international law, and has continued to influence debate and practice on the nature and extent of limitations imposed on states by the environmental reasons. It was only in the late 1960s, however, that the General Assembly began to address the protection of the environment and the conservation of natural resources and since 1968 it has adopted many resolutions contributing directly or indirectly to the development of

[206] UNGA res. 44/224 (1990).
[207] UN Charter, Arts. 10 and 13 (1).
[208] Agenda 21, para. 38.9.

substantive legal obligations and new institutional arrangements. The General Assembly's early interest in environmental matters related to the protection of the marine environment, the relationship between environment and development, and cooperation on shared natural resources. The General Assembly convened the 1972 UN Conference on the Human Environment and created UNEP later that year. Other bodies created by the General Assembly include the United Nations Development Piogamme (UNDP), the International Law Commission, UNCED and the Commission on Sustainable Development. Other relevant bodies established by the UN, which are prominent by their limited actions, include the Committee on the Development and Utilization of New and Renewable Sources of Energy.

Amongst the General Assembly resources on broad principles are those declaring the historical responsibility of states for the preservation of nature; noting the 1978 UNDP draft Code of Conduct[209]; adopting the 1982 World Charter for Nature[210]; requesting the UN Secretary-General to prepare and regularly update a consolidated list of products whose consumption or sale has been banned, withdrawn, severely restricted or not approved by governments; endorsing the Brundtland Report; and seeking to improve co-operation in the monitoring and assessment of environmental threats. More recently the General Assembly convened UNCED, the negotiations of the framework Convention on Climate Change, and the Convention on Drought and Desertification. The General Assembly has only on limited occasions adopted resolutions on substantive matter, a recent example being the recommendation that moratoria should be imposed on all large-scale pelagic driftnet on the high seas by the end of 1993.[211]

7.6 Economic and Social Council (ECOSOC)

The Economic and Social Council (ECOSOC), which has fifty-four members serving three-year terms, has competence over international economic, social, cultural, educational and health issues, and related matter. Although it does not have an express mandate over environmental

[209] Infra- page 130
[210] Supra- page 60
[211] UNGA res. 44/225 (1989).

issues it has addressed a broad range of topics, which are directly related to the environment. ECOSOC makes recommendations with respect to the General Assembly, to the UN Members, and to specialized agencies, and it can also prepare draft conventions. [212] ECOSOC has responsibility for coordinating the activities of specialized agencies and obtaining regular reports form them, including UNEP and the CSD.[213] This coordinating function was underlined by UNCED that called for ECOSOC to assist the General Assembly by 'overseeing system-wide coordination, overview on the implementation of Agenda 21 and making recommendation'.[214]

ECOSOC has contributed to the development of international environmental law. In 1946 it convened the 1949 UN Scientific Conference on the Conservation and Utilizations of Resources (UNCCUR), the predecessor to the Stockholm and Rio Conference.[215] It receives the reports of the UNEP Governing Council and the CSD, which are passed on to the General Assembly. Since it does not have any committees which focus exclusively on the environment it has not itself served as a forum for important decisions on these matters. It has, however, established several subsidiary bodies.

The five Regional Economic Commissions, established under Article 68 of the UN Charter, have contributed significantly to the development of international environmental law.[216] Under the auspices of the UN Economic Commission for Europe (ECE) regional treaties have been adopted on transboundary air pollution; environmental impact assessment; industrial accidents; and protection of watercources. The ECE Group of Senior Advisers to ECE Governments on Environmental and Water Problems has also adopted numerous recommendations on water issues and biodiversity conservation, as well as a draft ECE Charter on Environmental Rights and Obligations. The other UN regional Economic Commissioins are responsible for Asia and the Pacific (ESCAP), Africa (ECA), Latin America and the Caribbean (ECLAC), and West Asia.

---

[212] 1945 UN Charter, Art. 62(1) and (3).
[213] Idid., Arts. 63(2) and 64 (1)
[214] Agenda 21, para. 38.10.
[215] UN Yearbook 1946-47, (UN, 1947), 491
[216] See UNGA res. 46/235 (1991)

Although the regional Commissions have not yet promoted negotiation of international environmental agreements they play a limited role in developing 'soft' instruments and the regional preparatory arrangements for UNCED.

Other relevant ECOSOC subsidiary bodies include the newly established Standing Committee on Natural Resource; the Standing Committee for Development Planning; and the Commission on Human Rights. The now disbanded Commisson on Transnational Corporations carried out useful work examining the relationship between transnational corporations and international environmental obligations.

7.7 Security Council

The Security Council, which has primary responsibility in the UN system for the maintenance of international peace and security,[217] has only recently addressed international environmental issues. Its five permanent members and ten members elected for a period of two years can adopt legally binding resolutions, which give it the potential to develop a significant role.

The Security Council's first knock into environmental affairs was in 1991, when it adopted a resolution holding Iraq liable for, *inter alia*, damage to the environment resulting from the invasion of Kuwait.[218] The following years it met for the first time at the level of heads of government or state and adopted a declaration which affirmed that 'non-military sources of instability in the economic, social, humanitarian and ecological fields' have become threats to peace and security'.[219] In recognizing the link between environment and security the Security Council has opened the door to further consideration of significant environmental matters, and over time it is increasingly likely that the body will address issues relating to environmental emergencies and their consequences.

---

[217] Charter, Act. 24(1)

[218] Security Council res. 687/1991 (1991).

[219] Note by the President of the Security Council on 'The Responsibility of the Security Council in the Maintenance of International Peace and Security', UN doc. S/ 23500, 31 January 1992, p. 2.

United Nations Specialized agencies and related organizations

The UN specialized agencies and related international organizations were established before environmental matters become an issue for the international community. It is therefore not surprising that none was designed to deal with, or given express competence over, environmental matters, and that consequently the environment has tended to play a somewhat peripheral role in their affairs. Since the specialized agencies were designed to deal with issues of concern to the international community in the post-war period there are numerous significant gaps in their competence, including in particular energy, mining and transport matters.[220]

7.8 United Nations Environment Programme (UNEP)

The United Nations Conference on the Human Environment, held in Stockholm in 1972 was an important landmark in global environmental awakening. As a major institutional outcome of that Conference, UNEP has for more than thirty-two years given leadership to raising world consciousness about actions that negatively affects the environment and has nurtured a programme of major significance and influence.[221]

UNEP was established in 1972 by General Assembly resolution 2997 following the Stockholm Conference, and it has played a significant catalytic role in the development of treaties and soft law rules. It is based in Nairobi and comprises a Governing Council of 58 members elected by the General Assembly (which meets annually at the headquarters in Nairobi and reports to the General Assembly through ECOSOC) and an Environment Secretariat headed by the UNEP Executive Director. Following UNCED it remains the only UN body exclusively dedicated to international environmental matters. Its constituent instrument commits it to promote international environmental co-operation; provide policy guidance for the direction and co-

[220] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995; Chapter 3, page 81.
[221] UNEP's New Way Forward : Environmental Law and Sustainable Development; Published by UNEP-...

ordination of environmental programmes within the UN system; receive and review reports from UNEP's Executive Director on the implementation of the UN's environment programmes; review the world environment situation; promote scientific knowledge and information and contribute to technical aspects of environmental programmes; and maintain under review the impact of national and international environmental policies on developing countries.

Despite its limited status as a UN progrmme (rather than a specialized agency or body) and its limited financial resources, few observers would dispute that UNEP has contributed to the development of international environmental law. UNEP promoted the Regional Seas Programme, which now includes more than thirty environmental treaties, as well as numerous regional Action Plans,[222] the Zambezi Agreement and Action Plan, and has been responsible for the development of several global environmental treaties, including the 1985 Vienna Convention[223] and 1987 Montreal Protocol[224], the 1989 Basle Convention[225], and the 1992 Biodiversity Convention. UNEP provides secretariat functions to these treaties and performs a supportive role in relation to several others. UNEP has also been responsible for sponsoring numerous soft law instruments, including the 1978 draft Principles on shared natural resources, offshore mining and drilling;[226] and instruments on land-based marine pollution;[227] management of hazardous wastes;[228] environmental impact assessment;[229] and international trade in chemicals.[230] UNEP has focused attention on the inadequacy of existing international legal instruments in the field of the environment and has sought to further develop international environmental law in a variety of ways. Among its most important initiatives was the convening of the experts group which led to the Programme for the Development and Periodic Review of

[222] The Programme is administered by the UNEP Ocean and Coastal Areas Programme Activity Centre (OCA/PAC).
[223] Supra- page 93
[224] Supra- page 93
[225] Supra- page 97
[226] 1982 Guidelines Concerning the Environment Related to Offshore Mining and Drilling within the Limits of National Jurisdiction, UNEP GC Dec. 10/14/(vi) (1982).
[227] 1985 Montreal Guidelines for the Protection of the Marine Environment against Pollution from Land-Based Sources, adopted by UNEP GC Dec. 13/18 (II) (1985).
[228] 1987 Cairo Guidelines for the Environmentally Sound Management of Hazardous Wastes, UNEP GC Dec. 14/30 (1987)
[229] 1987 Goals and Principles of Environmental Impact Assessment, adopted by UNEP GC Dec. 14/25 (1987).
[230] 1987 London Guidelines for the Exchange of Information on Chemicals in International Trade, adopted by UNEP GC Dec. 14/27 (1987) and amended by UNEP GC Dec. 15/30 (1989).

Environmental Law (Montevideo Programme). This formed the basis for its activities in the field of environmental law over the following decade.

Resolution of the UNEP Governing Council guides the development of UNEP's contribution to international law. UNEP Governing Council resolutions are supplemented by the activities of the Environmental Law and Institutions Unit, based in Nairobi, which publishes the *Register of International Treaties and Other Agreements in the Field of the Environment*.[231] UNEP also participates in the Global Environmental Monitoring System (GEMS) and collaborates in the operation of INFOTERRA. More recently UNEP established, on an experimental basis, the UN Centre for Urgent Environmental Assistance, focusing on assessment of and responses to manmade environmental emergencies.[232]

Although UNEP was not significantly strengthened by UNCED, its increasingly focused and enhanced role is reflected in the decision to grant it co-management responsibilities, with UNEP and the World Bank, of the Global Environment Facility.

The need to enhance and strengthen the policy and co-operation role of UNEP was recognized by UNCED in Chapter 38 of Agenda 21. The priority areas for UNEP in the coming years will include strengthening its 'catalytic role', through the development of techniques such as natural resource accounting and environmental economics; promoting environmental and assessment; coordinating scientific research; disseminating information and raising general awareness, further developing international environmental law, including promoting implementation and coordinating functions; further developing environmental impact assessment; and providing technical, legal and institutional advice.[233]

7.9 United Nations Development Programme (UNDP)

The UN General Assembly established the United Nations Development Programme (UNDP) in 1965. It is the principle channel for multilateral technical and investment assistance to

[231] Initiated by UNEP GC Dec. 24/3 (1975).
[232] UNEP GC Dec. 16/9 (1991).
[233] Agenda 21, paras. 38.21 and 38.22.

developing countries. It is active in all economic and social sectors and has addressed environmental issues since the early 1970s. UNDP receives voluntary contributions from participating states and in 1992 had a core budget of a approximately $ 1.26 billion. The role of UNDP in environmental programmes has been strengthened by its participation in the management of important programmes and institutions, such as the Tropical Forestry Action Plan and the Global Environment Facility. UNDP also administers several special-purpose funds, which are relevant to environmental matters, and is particularly active in translating international efforts into grass-roots programmes and activities.[234]

7.10 Food and Agriculture Organization (FAO)

The Food and Agriculture Organization, which is based in Rome, was established in 1945 to collect, analyze, interpret and disseminate information on nutrition, food and agriculture (including fisheries, marine products, forestry and primary forest products), to promote national and international action, and to provide technical and other assistance.[235] The FAO is the only specialized agency with an environmental mandate; namely to promote the 'conservation of natural resources and the adoption of improved methods of agricultural production'. The FAO Conference and Council may initiate and approve conventions and agreements on food agriculture, and the FAO has developed soft law, including the operation with WHO of the World Food Programme,[236] the operation of the 1985 International Code of Conduct on the Distribution and Use of Pesticides. Additionally, the FAO has sponsored numerous international treaties and created a number of international organizations in the fields of fisheries,[237] plant protection,[238] forest research,[239] and locust control, for example.[240]

---

[234] http://www.undp.org
[235] Constitution, Art. 1.
[236] FAO Conference Resolution 1/ 16 of 24 November 1961 and UNGA res. 1714 (XVI) (1961).
[237] 1949 Agreement for the Establishment of a General Fisheries Council for the Mediterranean; 1969 Convention on the Conservation of the Living Resources of the Southeast Atlantic.
[238] 1951 Convention for the Establishment of the European and Mediterranean Plant Protection Organization; 1951 International Plant Protection Convention; 1956 Plant Protection Agreement for the South East Asia and Pacific Region.

It also has an emerging responsibility for forest issues, and in 1985 established the Tropical Forestry Action Plan. The FAO convenes international conferences which have led to the adoption and development of international action plants and strategies, some of which have subsequently led to binding international obligations. Examples include the 1981World Soil Charter, the 1984 World Soil Policy and Plan of Action, and the 1991 Strategy and Agenda for Action for Sustainable Agriculture and Rural Development.[241]

7.11 United Nations Education and Scientific Organization (UNESCO)

The United Nations Education and Scientific Organization (UNESCO), which is based in Paris, was established in 1945 to contribute to peace and security by promoting international collaboration through education, science and culture, including the conservation and protection of monuments of history and science and recommending necessary international conventions.[242] UNESCO played a role in convening and hosting the 1948 UNSCCUR and has established institutions and programmes such as the Intergovernmental Oceanographic Commission in 1960, and the Man and the Biosphere Programme (under which the 1985 Action Plan for Biosphere Reserves was adopted). UNESCO was responsible for the adoption of, and performs secretariat functions for, the 1971 Ramsar Convention[243] and the 1972 World Heritage Convention.[244]

---

[239] 1959 Agreement for the Establishment on a Permanent Basis of a Latin American Forest Research and Training Institute.

[240] 1963 Agreement for the Establishment of a Commission for Controlling the Desert Locust in the Eastern Region of its Distribution area in South-West Asia; 1965 Agreement for the Establishment of a Commission for Controlling the Desert Locust in the Near East; 1970 Agreement for the Establishment of a Commission for Controlling the Desert Locust in Northwest Africa.

[241] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995; Chapter 11, page 487

[242] http://www.unesco.org

[243] Ramsar, 2 February 1971, in force 21 December 1975. The Convention has been amended twice : by the Paris Protocol of 3 December 1982, in force 10 October 1986, and by the Regina Amendments of May 1987, not in force.

[244] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995, Chapter 10, page 404

7.12 International Maritime Organization (IMO)

The International Maritime Organizations (IMO), formerly known as the Intergovernmental Maritime Consultative Organization) is based in London and was established in 1948. Its objectives, which originally did not refer to marine pollution, include: the provision of machinery for co-operation among governments on regulation and practice relating to technical matters of all kinds affecting shipping engaged in international trade; encouraging the general adoption of the highest practical standards in matters concerning maritime safety; and ensuring efficiency of navigation and the prevention and control of marine pollution from ships.[245] IMO activities relating to marine pollution are mainly carried out through the Legal Committee and the Marine Environment Protection Committee, established by the IMO Assembly in 1975.[246] The letter has broad powers to consider any matter to do with the prevention and control of marine pollution from ships, including the power to propose regulations and develop recommendations and guidelines. The IMO has supported the negotiation and conclusion of a number of important environmental treaties, for which it provides secretariat functions. These relate to oil pollution,[247] pollution from ships, civil liability and compensation for oil pollution damage, and emergency preparedness.[248]

The IMO also acts as Secretariat to the 1972 London Convention and has contributed to soft law by adopting non-binding guidelines, standards and codes relating to maritime safety and the protection of the marine environment.[249]

---

[245] Constitution, Art. 1(a), as amended.
[246] Assembly Resolution A. 358 (1975).
[247] 1954 International Convention for the Prevention of Pollution of the Sea by Oil; 1969 High Seas Intervention Convention (and a 1973 Protocol); Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995
[248] 1990 Oil Pollution Preparedness Convention, Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995, Chapter 8, Page 335-6.
[249] 1988 Revised Interim Technical Guidelines on the Control of Incineration of Wastes and Other Matter at Sea; 1989 Revised Interim Technical Guidelines and Standards for the Removal of Offshore Installations and structures on the continental Shelf and the Exclusive Economic Zone.

7.13 International Labor Organization (ILO)

The purposes of the International Labor Organization (ILO), which is based in Geneva and was originally established in 1919, include the protection of workers against sickness, disease and injury arising out of employment, and the adoption of humane conditions of labor. To this end the ILO has adopted a number of conventions which set international standards for environmental conditions in the work place, including occupational safety and health,[250] as well as numerous non-binding recommendations and guidelines.[251]

7.14 World Meteorological Organization (WMO)

The World Meteorological Organization (WMO) was established in 1947 and is based in Geneva. Its purposes are to facilitate worldwide cooperation in meteorological observation and hydrological and other geophysical observations related to meteorology; to promote the establishment and maintenance of meteorological centers and the rapid exchange of meteorological information; to promote standardization and uniform publication of observations and statistics, and to encourage research and training.[252]

WMO operates the World Weather Watch, and participates in international research programmes, including the Global Atmospheric Research Program (with the nongovernmental ICSU) and the Integrated Global Ocean Station System (with UNESCO). In 1988 WMO, with UNEP, established the Intergovernmental Panel on Climate Change (IPCC) and has contributed to the preparations of the legal regimes for ozone depletion, climate change, and transboundary atmospheric pollution.

---

[250] 1960 Ionising Radiations Convention; 1971 Benzene Convention; 1977 Occupational Hazards Convention; 1981 Occupational Safety Convention; 1985 Occupational Health Services Convention; 1986 Asbestos Convention; and the 1990 Chemicals Convention.

[251] 1991 Code of Practice on the Prevention of Major Industrial Accidents; International Encyclopedia of Occupational Health and Safety (3rd ed, rev., 1989).

[252] Constitution, Art. 2.

7.15 International Civil Aviation Organization (ICAO)

The International Civil Aviation Organization (ICAO), based in Montreal, was established in 1947.[253] Its objectives include the promotion of safe, efficient and economical air transport and generally the development of all aspects of international civil aeronautics. To that end it has adopted several relevant instruments, including international standards and recommended practices on aircraft engine emissions and on noise pollution.[254]

7.16 World Health Organization (WHO)

The World Health Organization (WHO)[255] was established in 1946 to ensure 'the attainment by the peoples of the highest possible level of health'. It is based in Geneva. The WHO Assembly can adopt conventions or agreements for any matters within the competence of the organization, as well as regulations on sanitary and quarantine requirements, and standards and advertising and labeling for biological, pharmaceutical and similar products placed on international markets. It may also make recommendations and non-binding standards have been adopted for drinking water and air quality. WHO administers the Food Standard Progamme with the FAO, which is administered by the Codex Alimentarius Commission. Recent developments include the establishment in 1990 of a WHO Commission on Health and Environment to assess the impact of environmental change on human health, and the creation in 1991 of a Centre to Collect Environmental Health Data. In May 1993, the WHO Assembly caused something of a stir by requesting an Advisory Opinion from the International Court of Justice on the legality of nuclear weapons use, in the context of its work on the effects of nuclear weapons on health and the environment. This illustrates how environmental issues cross-traditional sect oral boundaries, and the difficulty of establishing boundaries to the competence of international organizations.[256]

---

[253] http://www.icao.org

[254] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995; Chapter 7, page 258.

[255] http://www.who.org

[256] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995.

7.17 International Atomic Energy Agency (IAEA)

The International Atomic Energy Agency (IAEA), which is based in Vienna, was established in 1956 to develop the peaceful uses of atomic energy. The IAEA is autonomous and not formally a specialized agency of the United Nations, but sends reports to the General Assembly and other organs. It is the only member of the UN 'family' dedicated to one part of the energy sector, although its dual promotional and regulatory function appears anomalous. Under the 1963 Treaty on the Non-Proliferation of Nuclear Weapons the IAEA has responsibilities for safeguarding nuclear materials in non-nuclear weapon states parties to it. The IAEA has also sponsored, and provides secretariat functions for, international conventions relating to liability, protection of nuclear material, and nuclear accidents. The IAEA also has adopted numerous non-binding standards and recommendations on basic safety standards relating to, *inter alia,* radioactive effluents and the disposal and transboundary movement of radioactive wastes.[257]

7.18 The United Nations Industrial Development Organization (UNIDO)

The United Nations Industrial Development Organization (UNIDO) helps developing countries and countries with economies in transition in their fight against marginalization in today's globalize world. It mobilizes knowledge, skills, information and technology to promote productive employment, a competitive economy and a sound environment. Carlos Magarinos, the Director General of UNIDO, describes the Organization as a specialized United Nations agency that focuses its efforts on relieving poverty by fostering productivity growth.

UNIDO was set up in 1966 and become a specialized agency of the United Nations in 1985. As part of the United Nations common system, UNIDO has responsibility for promoting industrialization throughout the developing world, in cooperation with its 171 Member States. Its headquarters are in Vienna, and it is represented in 35 Developing countries. This representation

[257] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation,* Vol-1, Manchester University Press-1995, Chapter 12, page 508-9.

and a number of specialized field offices, for investment and technology promotion and other specific aspects of its work, give UNIDO an active presence in the field.

UNIDO's eight Service Modules are :

- Industrial Governance and Statistics;
- Investment and Technology Promotion;
- Industrial Competitiveness and Trade;
- Private Sector Development;
- Agro-Industry;
- Sustainable Energy and Climate Change;
- Montreal Protocol (sustainable that deplete the ozone layer);
- Environmental management.[258]

7.19 Organizations established by environmental treaties

The third type of organization is that established by environmental treaty, most of which establish institutional arrangements for their implementation, development and review. The institutional arrangements have a variety of names and forms. They range from the standing Commissions established by the 1972 Oslo Convention and the 1974 Paris Convention, to the *ad hoc* conferences or meetings of the parties to a wide range of agreements. Each treaty organization will also have a secretariat. These institutional arrangements are, in effect, international organizations. They have international legal status, rules of procedure and membership, and enumerated powers relating to decision-making and dispute settlement and, occasionally, enforcement powers. A large number of treaty organizations are increasingly active and have made significant contributions to the development of international environmental law, much of which is not well documented.[259]

[258] http:// www.unido.org/doc/3352.
[259] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-92, Chapter-3

Atmosphere

Transboundary air pollution

1979 LRTAP Convention (and Protocols), Executive Body (meets annually)

Ozone

1985 Vienna Convention, conference of the parties (as necessary)

1987 Montreal Protocol, meetings of the parties (at regular intervals)

Climate change

1992 Climate Change Convention, Conference of the Parties (every year unless decided otherwise)

Oceans and seas

General

1974 Baltic Convention, Helsinki Commission (at least annually)

1982 UNCLOS, Assembly of the International Sea-Bed Authority (annually)

1992 OSPAR Convention, OSPAR Commission (at regular intervals)

Dumping

1972 Oslo Convention, Oslo Commission (at regular intervals, in practice annually)

1972 London Convention, consultative meetings (annually)

Pollution from ships

MARPOL 1973/78, IMO Assembly (annually)

Land-based sources

1974 Paris Convention, Paris Commission (at regular intervals, in practice annually)

Compensation and liability

1971 Oil Pollution Fund Convention, Assembly and Executive Committee (annually/ at least every two years)

Freshwaters

1992 Watercourses Convention, meeting of the parties (at least every three years)

Biological diversity

General

1992 Biodiversity Convention, conference of the parties (at regular intervals)

Trade in endangered species

1973 CITES, conference of the parties (at least once every three years, in practice every two years)

Wetlands

1971 Ramsar Convention, Conferences (as necessary)

Forests

1983 ITTA, Council (annually)

Whales

1946 International Whaling Convention, Commission (meets annually)

Migratory species

1979 Bonn Convention, conference of the parties (at least every three years)

Fisheries

1952 North Pacific Fisheries Convention, Commission (annually)

1966 Atlantic Tuna Convention, Commission (every two years)

1969 South East Atlantic Convention, Commission (at least every two years)

1973 Baltic Fishing Convention, Commission (every two years unless decided otherwise)

1978 Northeast Atlantic Fisheries Convention, General Council of the Northwest Atlantic Fisheries Organization (annually)

1980 North-East Atlantic Fisheries Convention, Commission (annually unless decided otherwise)

Waste

1989 Basle Convention, conference of the parties (at regular intervals)

1991 Bamako Convention, conference of the parties (at regular intervals)

Environmental impact assessment, accidents

1991 Espoo Convention, meeting of the parties (as necessary)

1992 Industrial Accidents Convention, conference of the parties (annually)

War and environment

1977 ENMOD Convention, conference of the parties (usually every five years)

7.20 Renounced International Environmental Organizations (IUCN, ICEL, WWF)

Internationally a number of environmental organizations have played a particularly important role in developing international environmental law. The International Union for the Conservation of Nature (IUCN), established in 1948, The World Conservation Union brings together States, government agencies and a diverse range of non-governmental organizations in a unique world partnership: over 800 members in all, spread across some 125 countries.[260]

As a Union, IUCN seeks to influence, encourage and societies throughout the world to conserve the integrity and diversity of nature and to ensure that any use of natural resources is equitable and ecologically sustainable. A central secretariat coordinates the IUCN Programme and serves the Union membership, representing their views on the world stage and providing them with the strategic, services, scientific knowledge and technical support they need to achieve their goals. Though it's six Commissions, IUCN draws together over 6000 expert volunteers in project teams and action groups, focusing in particular on species and biodiversity conservation and the management of habitats and the natural resources. The Union has helped many countries to prepare National Conservation Strategies, and demonstrates the application of its knowledge through the field projects it supervises. Operations are increasingly decentralized and are carried forward by an expanding network of regional and country offices, located principally in developing countries.

The World Conservation Union builds on the strengths of its members, networks and partners to enhance their capacity and to support global alliances to safeguard natural resources at local, regional and global levels.[261]

IUCN has developed policy initiatives and prepared texts of draft instruments which have served as the basis for the negotiation of the 1971 Ramser Convention, the 1973 CITES, and the 1992

[260] Draft International Coveneant on Environment and Development; Environment Policy and law paper No. 31 Published by IUCN-1995.

[261] Draft International Coveneant on Environment and Development; Environment Policy and law paper No. 31 Published by IUCN-1995.

Biodiversity Convention. Together with UNEP and WWF, IUCN was also instrumental in drawing up the 1980 World Conservation Strategy and the 1990 World Conservation Strategy II.

The International Council of Environmental Law (ICEL) was formed in 1969 in New Delhi as a public interest organization with the aims of encouraging advice and assistance through its network, and of fostering the exchange and dissemination of information on environmental law and policy and among its elected members.

As a non-governmental organization in consultative status with the United Nations Economic and Social Council, ICEL has permanent representatives at the UN offices in New York, Geneva and Vienna.

ICEL is a member of IUCN- The World Conservation Union and supports the IUCN Environmental Law Programme.[262]

The Worldwide Fund for Nature (WWF), Greenpeace and Friends of the Earth are other international non-governmental organizations, which have played an active role in developing treaty language and other international standards, and acting as watchdogs in the implementation of treaty commitments. Grass roots environmental and consumer organizations have also influenced the development of international environmental law. Often they participate in global networks, which focus on specific issues, such as the Climate Action Network and the Pesticides Action Network; similar global networks exist to address environmental issues related to the GATT Uruguay Round and the NAFTA, as well as projects funded by the multilateral development banks. At UNCED a large group of non-governmental organizations prepared their own draft treaties on a range of international legal issues relating to sustainable development.

[262] Draft International Coveneant on Environment and Development; Environment Policy and law paper No. 31 Published by IUCN-1995.

7.21 Friends of the Earth International

Friends of the Earth International was founded in 1971 by four organizations from France, Sweden, England and the USA. Today's federation of 68 groups grew from annual meetings of environmentalists from different countries who agreed to campaign together on certain crucial issues, such as nuclear energy and whaling.

In 1981, a small International Secretariat was set up, and in 1983 an Executive Committee was elected. In 1986, the annual meeting was hosted for the first time by an organization from the South, Sahabat Alam/ Friends of the Earth Malaysia. In 1985, a European coordinating body was established with an office in Brussels, Friends of the Earth Europe, and in 2001, Latin America and Caribbean groups formed their own regional coordinating body.

Friends of the Earth International is highly decentralized it is made up of autonomous organizations that comply with the guidelines established by the federation. Friends of the Earth International is democratic : every two years there is a general meeting where the policies and activities of the federation are decided, and in which all members have an equal say. This Bi-annual General Meeting (BGM) elects an Executive Committee, which meets several times per year. The Executive Committee employs and oversees the work of a small International Secretariat in Amsterdam.

There are now 68 Friends of the Earth member groups and 15 affiliates campaigning internationally, nationally and locally. They are united by the common conviction that creating environmentally and socially sustainable societies requires both strong grassroots activism and effective national and global campaigning.[263]

Friends of the Earth International is a global federation of national environmental organizations that aims to:

- protect the earth against further deterioration and repair damage inflicted upon the environment by human activities and negligence;
- preserve the earth's ecological, cultural and ethnic diversity;

[263] Annual Report 2003, *Friends of the Earth* Published June, 2004 in Amsterdam, the Netherlands, Printed on recycled chlorine free paper.

- increase public participation and democratic decision-making, both of which are vital to the protection of the environment and the sound management of natural resources;
- achieve social, economic and political justice and equal access to resources and opportunities for men and women on the local, national, regional and international levels;
- promote environmentally sustainable development on the local, national, regional and global levels.[264]

7.22 E-Law (Environmental Law Alliance Worldwide)

The U.S. office of the Environmental Law Alliance Worldwide (E-Law U.S.) is helping public interest lawyers and scientists around the world gain the skills and resources they need to protect the environment through law. These advocates, working in their home countries, know best how to protect the environment. E-Law gives them the tools they need.

E-Law U.S. serves as the Secretariat of the E-Law network, a unique global alliance of grassroots environmental lawyers. Founded by lawyers from 10 countries in 1989, E-Law has grown into a powerful network of the world's leading environmental advocates working in more than 60 countries.

Every year, environmental defenders from around the world call on E-Law U.S. for help with hundreds of efforts to protect the environment through law. E-Law U.S. helps local advocates strengthen environmental laws and enforce existing laws to challenge environmental abuses. In the process, E-Law U.S. helps build a worldwide corps of skilled, committed advocates working to protect ecosystems.[265]

7.23 International Legal Groups

Private groups and associations of lawyers have long played a role in the progressive development of international environmental law. Since the Institut de Droit International adopted

[264] Annual Report 2003, *Friends of the Earth* Published June, 2004 in Amsterdam, the Netherlands, Printed on recycled chlorine free paper.
[265] E-Law brochure www.elaw.org

its 1911[266] Resolution on International Regulations regarding the role of International Watercourses for Purposes other than Navigation, it and International Law Association have developed model international rules on a range of environmental issues, including tranboundary water resources and atmospheric pollution.[267] The IUCN Environmental Law Centre and the IUCN Commission on Environmental Law have prepared important draft treaties, which have formed the basis for the formal negotiations. Other private organizations contributing significantly to the field include environmental law groups based in the United States, such as the Natural Resources Defence Council (NRDC), the Sierra Club Legal Defence Fund (SCLDF), and the Environmental Defence Fund (EDF), which play an advocacy role in the development of international environmental law. The International Council on Environmental Law and university-based organizations, such as the Foundation for International Law and Development (FIELD) at London University, and the Centre for International Environmental Law in Washington, have provided international legal assistance to developing countries and non-governmental organizations. Many national academic institutions have also contributed to the domestic implementation of international environmental obligations.[268]

Chapter 8

Conclusion Remarks

8.1 Need for an international court of environment

Numerous international protocols, convention's prohibition, terms and condition are existed, but no provision of international court of environment. The International Court of Justice exercises

[266] Supra- page 31
[267] *Supra* Page 86
[268] Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995. page-97, Chapter-3;

their activities. Judge Amedeo Postiglione, the Director of International Court of Environment Foundation (ICEF), Italy and judge in the Italian Supreme Court, has discussed elaborately on the urgency of establishing an international court of environment.

According to Amedeo Postiglione, "There is an unquestionable urgency for the establishment of the International Court of the Environment on the basis of the following identifiable needs:

'Environmental need: to ensure sustainability of life on earth

'Economic need: limits and opportunities for the global economy

'Legal need: to provide a universal guarantee for the human right to the environment and for the enforceability of international environmental law

'Social need: to ensure information, participation and access of individuals and NGOs to justice

'Political need: to prevent and solve environmental conflicts by enabling a peaceful and balanced development

'Religious need: to respect and preserve the gift of creation

'Ethical need: to react to the degradation of the planet through new rules on individual and social liability

'Cultural need: to provide the common heritage of mankind with a common defense in the interest of future generations

'Scientific need: an independent global forum fosters freedom and truth about the destiny of the planet."[269]

8.2 Conclusion

Development of International Environmental Law and Organizations shows that significant progress has been made in the last decade in confronting environmental challenges in both developing and industrial regions. Worldwide, the greatest progress has been in the area of institutional developments, international cooperation, public participation, and the emergence of

[269] *Holiday,* Dhaka, 17 September, 2004.

private-sector action. Legal frameworks, economic instruments, environmentally sound technologies, and cleaner production processes have been developed and applied.

Internationally, Agenda 21- the plan of action adopted by Governments in 1992 in Rio de Janeiro- provides the global consensus on the road map towards sustainable development. The Commission on Sustainable Development offers an intergovernmental forum to coordinate and monitor progress on the plan's implementation. A financial mechanism, the Global Environment Facility (GEF), addresses the incremental costs that developing countries face in responding to selected global environmental problems. UNEP continues to be the environmental voice of the United Nations, responsible for environmental policy development, scientific analysis, monitoring, and assessment. Increasingly, United Nations organizations, the World Bank, and Regional Banks are "greening" their programmes. Recently signed international agreements are entering into force, older treaties are being improved, and new approaches to international policy are being developed, tested, and implemented.

Since Rio, a growing body of actors- Governments, non-governmental organizations (NGOs), the private sector, civil society, and the scientific and research community- have responded to environmental challenges in a variety of ways and have taken great strides towards incorporating environmental considerations in their day-to-day activities.

Groups such as the World Business Council for Sustainable Development, the Earth Council, and the International Council for Local Environment Initiatives provide effective non-governmental forums for worldwide cooperation and information sharing. Increasingly, Government departments are called on to take environmental considerations into account, and consequently environment assumes a more important role in international relations and transactions. The participation of a broad range of ministries (other than those on the environment) in the negotiation and implementation of the Biodiversity, Climate, and Desertification Conventions and the increasing arrangement of voluntary agreements, codes of conduct, and guidelines generated by the industry, banking, and insurance sectors all exemplify the encouraging trend.

Nevertheless, despite this progress on several fronts, from a global perspective the environment has continued to degrade during the past two decade, and significant environmental problems remain deeply embedded in the socio-economic fabric of nations in all regions. Progress towards a global sustainable future is just too slow. A sense of urgency is lacking. Internationally and nationally, the funds and political will are insufficient to halt further global environmental degradation and to address the most pressing environmental issues- even though technology and knowledge are available to do so. The recognition of environmental issues is necessarily long-term and cumulative, with serious global and security implications, remains limited. The reconciliation of environment and trade regimes in a fair and equitable manner still remains a major challenge. The continued preoccupation with immediate local and national issues and a general lack of sustained interest in global and long-term environmental issues remain major impediments to environmental progress internationally. Global governance structures and global environmental solidarity remain too weak to make progress a worldwide reality.

Primary Sources:

1. Annual Report 2003, *Friends of the Earth* Published June, 2004 in Amsterdam, the Netherlands, Printed on recycled chlorine free paper.
2. Global Environment Outlook-1997, Published UNEP; page-129.
3. *Multilateral Treaty Framework: An Invitation to Universal Participation Focus 2002: Sustainable Development*, Johannesburg Summit 2002, Published United Nations 2002 (Summaries and Status of the Core Group of Multilateral Treaties)
4. Global Environment Outlook 3 Past, present and future perspectives, 2002 by Earthscan Publications Ltd for and on behalf of the United Nations Environment Programme.
5. World Development Report-2003; Sustainable Development in a Dynamic World: Transforming Institutions, Growth and Quality of Life; Published by World Bank-2003.
6. Ozone Action Newsletter Special Supplement, Number-6, Published by UNEP-2001.
7. Handbook for the International Treaties for the Protection of the Ozone Layer, UNEP Ozone Secretariat, 2000.
8. Handbook on Data Reporting under the Montreal Protocol, UNEP DTIE, 1999.
9. International Trade and the Montreal Protocol, Duncan Brack, The Royal Institute of International Affairs, 1996
10. Monitoring Imports of Ozone-Depleting Substances: A Guidebook, UNEP DTIE/SEI/SIDA, 1996.
11. Green Trade for Protection of Ozone Layer: Bangladesh Profile- Prepared by Udayan Barua & Dr. S. K. Purkayastha. Edited by Mohammad Reazuddin; Published-2004.

Books, Journals and Papers:

1. Philippe Sands, *Principles of International Environmental Law : Frameworks, Standards and Implementation*, Vol-1, Manchester University Press-1995.
2. Hilary F. French, *Partnership for the Planet: An Environmental Agenda for the United Nations*, World Watch Paper 126 July 1995.
3. David Freestone, *The Road From Rio: International Environmental Law after the Earth Summit*, The University of Hull Press-1993.
4. Edited by W. E. Burhenne, Selected and compiled by Marlene Jahnke, *International Environmental Soft Law* Collection of Relevant Instruments, Martinus Nijhoff Publishers, November 1993.
5. Armin Rosencranz, Shyam Oivan, Martha L. Noble, *Environmental Law & Policy in India Cases, Materials and Statutes*, Published-1991, The Book Review Literary Trust, New Delhi.
6. J. McLoughlin, E. G. Bellinger, *International Environmental Law and Policy Series; Environmental Pollution Control: An Introduction to Principles and Practice of Administration* Published by Graham & Trotman Ltd, 1993.
7. Robert E. Ricklefs *Ecology*, Third Edition, published 1990, W. H. Freeman & Company-New York.
8. Illegal Trade in Ozone Depleting Substances : is there a hole in the Montreal Protocol?-Ozone Action Newsletter Special Supplement, Number-6, Published by UNEP-2001.
9. Dr. M Shah Alam, 'Environment, Environmental Law and Justice' *Law Vision* issue, Department of Law, University of Chittagong. Chittagong.
10. Mr. Liaquat A. Siddiqui *Implementation of Global Environmental Treaties in Bangladesh*, Volume 21 November 3, 2000 BIISS, Dhaka.
11. A Compilation of Environmental Laws administered by the Department of Environment-Edited by Md. Emdadul Haq, Published by DoE & BEMP- Dhaka, 2002.

Websites:

1. http://www.elaw.org
2. http://www.undp.org
3. http://www.unep.org
4. http://www.un.org
5. http://www.wto.org
6. http://www.epa.gov/ozone/index.html
7. http://www.unep.ch/basel
8. http://eia-international.org
9. http://www.icao.org
10. http://www.unesco.org

Newspapers and Magazines:

1. *Holiday,* Dhaka 17 September 2004.
2. *The Daily Star,* Dhaka *5 June, 2002*
3. The Daily Star, Dhaka 5 June, 2003
4. The Bangladesh Observer, Dhaka 5 June 2001
5. The Daily Star, Dhaka 5 June 2001
6. The New Age, Dhaka 5 June 2005
7. The Daily Star 16 September 2000
8. The Daily Star, Dhaka 31 December 2004.
9. The Daily Star, Dhaka, Friday, 14 January 2005.

Appendix-A

Major Multilateral Environmental Treaties

Chronology of Bilateral Environmental Treaties :

1867 : Convention between France and Great Britain relative to Fisheries, (Paris) 11 November 1867, in force 14 January 1868.

1869 : Convention Establishing Uniform Regulations Concerning Fishing in the Rhine between Constance and Basle, (Berne) 9 December 1869.

1882 : International Phylloxera Convention with a Final Protocol, (Berne) 23 June

1882 : Treaty for Regulation of the Police of the North Sea Fisheries (Over Fishing Convention).

1887 : Convention Designed to Remove the Danger of Epizootic Diseases in the Territories of Australia-Hungary and Italy, (Rome) 7 December 1887.

1891 : Agreement between the Government of United States of America and the government of Her Britannic Majesty for a Modus Vivendi in Relation to Fur Seal Fisheries Bering Sea, (Washington) 15 June 1891.

1892 : Treaty between Great Britain and United States Submitting to Arbitration the Questions relating to the Seal Fisheries in Bering Sea, (Washington) 29 February 1892.

1953 : Convention between the USA and Canada for the preservation of the habitat fishery of the Northern Pacific Ocean and Bering Sea, singed at Ottawa.

1979 : France and Switzerland Agreement on the Exchange of Information in Case of Accidents which could have Radiological Consequences, 18 October 1979.

Regional Environmental Agreement and treaties :

1979 : Convention on the Conservation of European Wildlife and Natural Habitats, (Berne) 19 September 1979, in force 1 July 1982.

1986 : Convention for the Protection of the Natural Resources and Environment of the South Pacific Region.

1988 : Agreement on the Network of Aquaculture Centers in Asia and the Pacific, Bangkok.

1993 : North American Agreement on Environmental Co-operation (Washington, Ottawa, Mexico City)8, 9 ,12, 14 September 1993, in force 1 January 1994.

1993 : Agreement Concerning the Establishment of a Border Environment Co-operation Commission and a North American Development Bank, 18 November 1993, in force 1 January 1994.

2000 : Revised Protocol on Shared Watercourses of the Southern African Development Community, Windoek.

2000 : European Agreement Concerning the International Carriage of Dangerous Goods by Inland Waters, Geneva.

2001 : Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean. Windhoek.

2002 : The Convention for Cooperation in the Protection and Sustainable Development of the Marine and Coastal Environment of the Northeast Pacific (Antigua Convention)

2002 : ASEAN Agreement on Transboundary Haze Pollution (Entered into force November 2003)

Multilateral Environmental Treaties and Agreement :

1950 : (a) Protocol to Establish a Tripartite Standing Committee on Polluted Waters, (Brussels) 8 April 1950, in force 8 April 1950.

(b) International Convention for the Protection of Birds (Paris), 18 October 1950, in force 17 January 1963.

1951 : International Plant Protection Convention, Rome

1954 : International Convention for the Prevention of Pollution of the Sea by Oil, London (as amended on 11 April 1962 and 21 October 1969)

1956 : Plant protection Agreement for the South East Asia and Pacific Region (as amended), Rome

1958 : Convention on the Continental Shelf, Geneva.

1960 : Convention Concerning the Protection of Workers Against Ionizing Radiations, Geveva.

1963 : Vienna Convention on Civil Liability for Nuclear Damage, Vienna.

1963 : Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water, Moscow.

1967 : Treaty on Principles Governing the Activities of Status in the Exploration and use of outer Space Including the Moon and Other Celestial Bodies, London, Moscow, Washington.

1968 : European agreement on the restriction of the use of Certain detergents in Washing and Cleaning products, done at Strasbourg.

1969 : Convention on Intervention on the High Seas in Cases of Oil pollution Casualties, Signed at Brussels.

1969 : International Convention on Civil Liability for Oil Pollution Damage (as amended), Brussels.

1969 : International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, Brussels.

1969 : International Convention on Civil Liability for Oil Pollution Damage (as amended), Brussels.

1969 : International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, Brussels.

1971 : Convention on Wetlands of International Importance especially as Waterfowl Habitat, Ramsar (Popularly known as Ramsar Convention), 2 February 1971, in force 21 December 1975.

1971 : Convention Concerning Protection Against Hazards of Poisoning Arising from Benzene, (Geneva) 23 June 1971, in force 27 July 1973.

1971 : Convention relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material, (Brussels) 17 December 1971, in force 15 July 1975.

1971 : Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea Bed and the Ocean Floor and in the Subsoil thereof, London, Moscow, Washington.

1971 : International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (as amended), Brussels, 18 December 1971, in force 16 October 1978.

1972 : Convention on Dumping of wastes at sea : Final documents, London.

1972 : Convention for the protection of the world cultural and Natural Heritage, UNESCO.

1972 : Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxic Weapons, and on Their Destruction, London, Moscow, Washington.

1972 : Convention Concerning the Protection of the World Cultural and Natural Heritage, Paris.

1972 : Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter (as amended), London, Mexico City, Moscow, [Washington].

1973 : Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, London.

1973 : Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973 (Popularly known as CITES).

1973 : International Convention for the Prevention of Pollution from Ships, London.

1973 : Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, London.

1974 : Convention Concerning Prevention and Control of Occupational Hazards Caused by Carcinogenic Substances and Agents, Geneva.

1974 : Convention on the Protection of Marine Environment of the Baltic Sea, done at Helsinki.

1974 : Convention on Marine Pollution from Land based Sources, Paris.

1976 : Convention on the Protection of the Mediterranean Sea Against Pollution, Barcelona.[270]

1976 : Convention on Protection of Marine Environment, Signed at Kuwait.

1976 : Convention on the Prohibition of Military or Any other Hostile use of Environmental Modification Techniques, Geneva.

1977 : Convention Concerning the Protection of Workers Against Occupational Hazards in the Working Environment Due to Air Pollution, Noise and Vibration, Geneva.

[270] Non-Navigation uses of the waters of international rivers : Rights of the riparian states Extents & Limits written by Mohiuddin Farooque.

1977 : Convention On Protection of Military or any other Hostile Use of Environmental Modification Techniques, United Nations.

1979 : Convention on Long-Range Transboundary Air Pollution, (Genava) 13 November 1979, in force 16 March 1983.

1979 : Convention for the Conservation and Management of the Vicuna, (Lima) 20 December 1979, in force 19 March 1982.

1979 : Convention on the Conservation of Migratory Species of Wild Animals, (Bonn) 23 June 1979, in force 1 November 1983.

1979 : Convention on the Convention of Migratory Species of Wild Animals, Bonn.

1981 : Convention Concerning Occupational Safety and Health and the Working Environment, Geneva.

1982 : Protocol to Amend the Convention on Wetlands of International Importance Especially as Waterfowl Habitat, Paris

1982 : United Nations Convention on the Law of the Sea, Montego Bay.

1985 : Vienna Convention for the Protection of the Ozone Layer, Vienna.

1985 : Convention Concerning Occupational Health Services, Geneva.

1986 : Convention on Early Notification of a Nuclear Accident, Vienna.

1986 : Convention on Assistance in the Case of a Nuclear Accident of Radiological Emergency, Vienna.

1986 : United Nations Convention on Conditions for Registration of Ships, Geneva.

1987 : Montreal Protocol on Substances that Deplete the Ozone Layer, Montreal.

1988 : Protocol Concerning the Control of Emissions of Nitrogen Oxides or their Transboundary Fluxes, (Sofia) 31 October 1988, in force 14 February 1991.

1989 : Convention on Civil Liability for Damage Caused During Carriage of Dangerous Goods by Road, Rail and Inland Navigation Vessels, Geneva.

1989 : Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal. Basel, 22 March 1989.

(a) Amendment to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. Geneva, 22 September 1995.

(b) Basel Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and Their Disposal. Basel, 10 December 1999.

1989 : International Convention on Salvage, London.

1990 : London Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, London.

1990 : Convention Concerning Safety in the Use of Chemicals at Work, Geneva.

1990 : International Convention on Oil Pollution Preparedness Response and Cooperation, London.

1991 : Convention on the environmental impact assessment in a Transboundary context. Espoo, Finland, 25 February 1991.

1992 : Convention on the Protection an Use of Transboundary Watercourses and International Lakes. Helsinki, 17 March 1992.

(a) Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes. London, 17 June 1999.

1992 : Convention on the Transboundary Effects of Industrial Accidents Helsinki. 17 March 1992.

1992 : United Nations Framework Convention on Climate Change, New York.

1992 : Convention on Biological Diversity, Rio de Janeiro.

1993 : Convention on Civil Liability for Damage Resulting From Activities Dangerous to the Environment, (Lugano), 21 June 1993, not in force.

1994 : International Convention to Combat Desertification, Paris.

1994 : Lusaka Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora. Lusaka, 8 September 1994.

1997 : Convention on the Law of the Non-Navigational Uses of International Watercourses. New York, 21 May 1997.

1997 : Kyoto Protocol to the United Nations Framework Convention on Climate Change. Kyoto, 11 December 1997.

1998 : Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. Aarhus, Denmark, 25 June 1998.

1998 : Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. Rotterdam, 10 September 1998.

2000 : Cartagena Protocol on Bio-safety to the Convention on Biological Diversity. Montreal, 29 January 2000.

2001 : Stockholm Convention on Persistent Organic Pollutants. Stockholm, 22 May 2001.

2001 : International Treaty on Plant Genetic Resources for Food and Agriculture, Rome

2001 : Convention on the Protection of the Underwater Cultural Heritage, Paris.