



# INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

## WORLD WIDE CONFERENCE ON THE ENVIRONMENT: HOW HAS INTERNATIONAL ENVIRONMENT LEGISLATION CHANGED SINCE THE 1970's

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### ABSTRACT

The International Research Conference is a federated organization dedicated to bringing together a significant number of diverse scholarly events for presentation within the conference program. Events will run over a span of time during the conference depending on the number and length of the presentations. With its high quality, it provides an exceptional value for students, academics and industry researchers.

**International Conference on Environmental Law and Policy** aims to bring together leading academic scientists, researchers and research scholars to exchange and share their experiences and research results on all aspects of Environmental Law and Policy. It also provides a premier interdisciplinary platform for researchers, practitioners and educators to present and discuss the most recent innovations, trends, and concerns as well as practical challenges encountered and solutions adopted in the fields of Environmental Law and Policy.

**Keyword:** Conventiona, Protocols, Environment law, International Law.

## INTRODUCTION

“Humans have turned ignorant to save the environment which opened doors for environment degradation and converted us into a follower of punitive laws or actions to save the environment from a vigilant, active and responsible citizen”.

Health is the first priority that is linked to our environment. The Environment is not a concept which is confined to some territory or to a nation, it is a global concern as every nation irrespective developed or developing, requires healthy surroundings to live in. Today we witness many environmental issues such as ecological imbalance, degrading environment, depredated earth etc. Caused or influenced by human actions only.

Globalization has put the world in huge danger and if continues, the end is not far. Industrialization directly or indirectly is eating up our environment and inducing us to breathe in poisonous air, drink contaminated water and live on degraded earth. Thus, the protection of the environment is necessary. This influenced the world to be integrated and to protect our environment by coordinated efforts at a global level. The principles of International law are intended to regulate the conduct of every nation towards safeguarding the environment. International environmental law is not just norms but an effective law accepted by most of the nations.

Environmental law is the collection of laws, regulations, agreements and common law that governs how humans interact with their environment. The purpose of environmental law is to protect the environment and create rules for how people can use natural resources. Environmental laws not only aim to protect the environment from harm, but they also determine who can use natural resources and on what terms. Laws may regulate pollution, the use of natural resources, forest protection, mineral harvesting and animal and fish populations.

India has also participated and contributed its best in major international events on environment and biodiversity conservation since 1972 and developed many enactments, ratified and complied many international conventions in its domestic laws. Hence this paper attempts to bring out some important international conventions which have been formulated as global initiatives to protect the environment.

International environmental law is an ever-changing, constantly expanding, and intriguing topic for international legal research. When decisions and collaborations occur between nations across international boundaries and treaties or agreements are made to cooperate for environmental concerns, disputes inevitably transpire because of trade implications for the respective nations, safety concerns and cleanliness of environmental resources among shared borders, or problems with enforcement mechanisms for liability under agreements or treaty provisions relating to the environment. The vastness of this area of international law includes the environmental sub-issues of population, biodiversity, global climate change, ozone depletion, preserving the Antarctic regions, movement of toxic and hazardous substances, land or vessel-based pollution, dumping, conservation of marine living resources, trans-boundary air and water pollution, desertification, and nuclear damage, among others.

To begin research in international environmental law, a researcher should have a basic understanding of international law and authority: for example, knowledge of treaty research and an awareness of the types of international agreements and their effect in nations of the world as result of reservations, understandings, or declarations. As noted in this research guide, the number of international environmental treaties is manageable by sub-topic, so identification of the appropriate sub-topic or category of international environmental law is essential to narrowly tailor research and avoid getting bogged down in the wealth of information. Like many areas of international law, regulation and implementation of the treaty terms are at the national level.

Thus, some knowledge and research of foreign laws in the countries of focus for a research problem is necessary for thorough research and analysis. This guide will provide an overview of the key terms, general starting points by sub-topic of international environmental law and correlating treaties and agreements, a summary of the essential websites and secondary sources for international environmental legal research, and an approach for researching the primary law of foreign jurisdictions for this topic. Finally, an overview of the prominent international organizations and correlating documentation produced for international environmental law and blogs for current awareness in this field is provided for a comprehensive overview.

International environmental law (sometimes, international ecological law) is a field of international law regulating the behavior of states and international organizations with respect to the environment.

The main international treaties concerning the environment are:

- 1972 UN Convention on the Human Environment;
- 1992 United Nations Conference on Environment and Development (UNCED), which produced the Rio Declaration;
- 1997 Kyoto Protocol, entered into force on February 16, 2005;
- 2002 World Earth Summit

Treaties can be referred to by a number of names like international conventions, international agreements, covenants, final acts, charters, protocols, pacts, accords, and constitutions for international organizations. A treaty is the most formal type of agreement between nations. Treaties and conventions are primary sources and one of the important sources of international law.

International conventions are treaties or agreements between countries. "International convention" is often used interchangeably with terms like "international treaty," "international agreement," "compact," or "contract between states."

### **International Environmental Conventions**

**A Conference** is consulting together formally; a type of negotiations, there is only a broad theme. In a conference the principle bodies are established for further deliberations if any is required on the broad theme for which the conference is called for.

**A Convention** is a meeting or gathering to formulate or deliberate on a generally accepted principle, a framework in which the parties decide the basic guidelines.

**A Protocol** to the convention is an agreement that diplomatic negotiators formulate and sign as the basis for a final convention where the parties set specific aims or legal obligations. Usually, when a major provision is to be incorporated on regulations of the convention, a protocol is called among the countries, who are signatory of the original convention when it was signed and approved.

## Under the UNO

- The UN Charter does not specifically mention the environment or sustainable development.
- Both the General Assembly (UNGA) and the Economic and Social Council (ECOSOC – which is one of the 6 main organs of the United Nations) consider environmental questions.
- The lead organization under the United Nations charter that deliberates on the environment related issues is the **UN Environment Programme** (UNEP is under the UN General Assembly organ of the UN) and the **Commission on Sustainable Development** is another forum for the countries to discuss the issues.
- The **World Meteorological Organization** and **UN Environment** established the **Intergovernmental Panel on Climate Change (IPCC)** in 1988.
- UN Environment is also one of several **Implementing Agencies for the Global Environment Facility (GEF)** and the **Multilateral Fund for the Implementation of the Montreal Protocol**.

**Economic and Social Council** adopts a resolution to recommend the UN General Assembly to consider convening a UN conference on problems of the environment or UNGA may on its own pass a resolution to convene a conference on the issue.

### Example:

- Sweden first suggested to ECOSOC in 1968 the idea of having a UN conference to focus on human interactions with the environment.
- ECOSOC passed a resolution supporting the idea and recommended the General Assembly consider convening a UN conference.
- General Assembly Resolution in 1969 decided to convene a conference in 1972 and suggesting that the conference focus on “stimulating and providing guidelines for action by national government and international organizations” facing environmental issues.
- The **UN Conference on the Human Environment (1972) at Stockholm** was held. This led to the **establishment of the United Nations Environment Programme (UNEP)** – the leading global environmental authority that sets the global environmental agenda, promotes the coherent implementation of the environmental dimension of sustainable development within the United Nations system and serves as an authoritative advocate for the global environment.

## IUCN

The International Union for Conservation of Nature (IUCN) is an international organization working in the field of **nature conservation and sustainable use of natural resources**.

- In 1947, the Swiss League for the Protection of Nature organised an international conference on the protection of nature in Brunnen (Switzerland).
- Afterwards, the IUCN was established on 5 October 1948, in Fontainebleau, France
- Its headquarters are in Gland, Switzerland
- It was previously called the International Union for Protection of Nature– IUPN (1948–1956) and the World Conservation Union (1990–2008).
- IUCN has **observer** and consultative status at the United Nations, and plays a role in the implementation of several international conventions on nature conservation and biodiversity. (Note: It is not a member or part of the UN)
- It is best known for compiling and publishing the **IUCN Red List**, which assesses the conservation status of species worldwide.
- IUCN was established in 1948.

IUCN was one of the few NGOs formally involved in the preparations of the United Nations Conference on the Human Environment (Stockholm, 1972). The Stockholm Conference eventually led to three new international conventions, with IUCN involved in their drafting and implementation:

- To establish a stable financial basis for its work, IUCN participated in setting up the **World Wildlife Fund (1961)** now called the World Wide Fund for Nature WWF.
- Convention Concerning the Protection of World Cultural and Natural Heritage (1972). IUCN provides technical evaluations and monitoring
- **CITES**– the Convention on International Trade in Endangered Species of Wild Fauna and Flora (1974) IUCN is a signatory party and the CITES secretariat was originally lodged with IUCN
- **Ramsar Convention** – Convention on Wetlands of International Importance (1975). The secretariat is still administered from IUCN's headquarters.
- In 1975 IUCN started work on the World Conservation Strategy.

The Strategy was followed in 1982 by the World Charter for Nature, which was adopted by the United Nations General Assembly, after preparation by IUCN.

## SOME IMPORTANT INTERNATIONAL CONVENTIONS RELATED TO ENVIRONMENT

### **The United Nations Framework Convention on Climate Change (UNFCCC)**

It is an international environmental treaty informally known as the Earth Summit, developed to combat the problem of climate change due to increase in global temperature (Global Warming), signed at Rio de Janeiro in June 1992 by some 155 states, modelled on the 1985 Vienna Convention. It was entered into force on 21 March 1994, after India in Nov 1993 and many other countries later or earlier had ratified it. Kyoto Protocol and Paris Agreement are parts of the UNFCCC. This was signed with the objective of stabilization of greenhouse gas concentrations or emissions in the atmosphere through international cooperation at a level that will prevent dangerous anthropogenic interference with the climate system as stated under **Article 2**.

Further, Article 3(1) of the Convention states that Parties should act to protect the climate system on the basis of “**common but differentiated responsibilities**”, and that developed country Parties should “take the lead” in addressing climate change. Consequently, India being a developing country was not bound to commitments for mitigation of greenhouse gas emissions, as the reduction/limitation requirements apply only to developed countries. The core reporting obligation for developing countries relates to the construction of a GHG inventory. But after the Paris Agreement of 2015, India becomes obligatory to fulfil the commitment to participate in multilateral negotiations under the UNFCCC.

Two primary duties are imposed on all Parties by **Article 4**:

(a) to develop, periodically update, publish and make available a national inventory of anthropogenic emissions by sources and removals by sinks of all greenhouse gases using comparable (and yet to be agreed upon) methodologies; and

(b) to formulate, implement, publish and regularly update national and regional programmes of measures to mitigate climate change by addressing anthropogenic emissions by sources and removals by sinks of all greenhouse gases and measures to facilitate adequate adaptation to climate change.

Performing these duties, India submitted its initial national communication to the UNFCCC in June 2004 at the Subsidiary body Meeting of the UNFCCC in Bonn. India is now required to prepare and communicate its second national communication containing updated information for the base year 2000. India is taking an active part in the negotiations of the Kyoto Protocol. The ICFRE, TERI, IISC and a number of other institutions are an active part in the meetings of the country consultative group and preparing documents for various international meetings.

### **Vienna Convention for the protection of ozone layer (1985)**

It was one of the successful and widely ratified treaties in UN history with 197 nations members of this convention as well as EU adopted on 22nd March 1985 and came into force on Sep 22, 1988. India became Party to the Vienna Convention for the Protection of Ozone Layer on 19 June 1991. The objective of this convention was preventing damage caused to the stratospheric ozone layer by working together through an international legal framework, such as by developing technologies to prevent its depletion, by cooperating with international organisations for effective implementation, by formulating standards for such implementation and by sharing research and information by every member state to analyse the effects of human activities on the ozone layer and thus recognising and adopting appropriate legislative and administrative steps and measures in order to control, limit or prevent any such human activities which are causing or likely to cause any adverse effect on the ozone layer. But this does not legally bind the members for reduction goals for the use of CFCs and other main chemical agents causing ozone depletion.

It was terminus a quo of global integration in order to protect the ozone layer from its depletion, later it was supplemented by the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, amended by the London Meeting of 1990 and latest by the Copenhagen Meeting of November 1992.

Now this protocol is called as **Montreal Protocol on Substances that Deplete the Ozone Layer (to the Vienna Convention for the Protection of the Ozone Layer), 1987**. It came into force in 1989 and it aims to cut the production and consumption of ozone-depleting substances in order to reduce their abundance in the atmosphere to protect the earth's fragile ozone Layer. It has created a history in the chapters of the UN as it is universally ratified by 197 nations. It proved to be a very successful international arrangement, as it has phased-out more than 95% of the ODS so far as per its main mandate in less than 30 years of its existence. Further, the distinguishing feature of it is that this protocol is legally binding on the nations and thus removes the lacunae of Vienna Convention of not being legally binding.

India became a Party of the Montreal Protocol on substances that deplete the ozone layer on 17 September 1992. Under this India has decided to eliminate the use of HFC-23, a greenhouse gas (GHG) by 2030, plus Indian companies will not be compensated for the costs involved in ensuring that these gases are not released. Interestingly, The Ministry of Environment and Forest has established an ozone cell and a steering committee on the protocol to facilitate the implementation of the India country program, for phasing out ozone-depleting substances production by 2010 to meet the commitments India has also taken policy decisions. Also, The Ozone Depleting Substances (Regulation and Control) Rules 2000 were drafted under Environment (Protection) Act, 1986.

### **Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1973**

It is a multilateral treaty to protect endangered flora and fauna, i.e., plants and animals, also known as the Washington Convention, drafted as a result of a resolution adopted in 1973 at a meeting of members of the International Union for Conservation of Nature (IUCN), signed on 3 March, 1973, came into force On 1 July 1975. It aims to control or prevent international commercial trade in endangered species of flora and fauna or products derived from them by cooperation in restricting international trade between export and import trade and grants protection to more than 34,000 species of animals and plants Since this convention does not directly protect the endangered species, rather it seeks to reduce the economic incentive to poach endangered species and destroy their habitat by closing off the international market, thus there arises a requirement of authorising the import and export through a licensing system.

India became a party to the convention in 1976 and CITES is legally binding on the Parties and it provides a framework to protect the endangered species which should be observed, respected and adopted by all the member nations in their own domestic legislation to implement CITES at the national level, but it does not take the place of national laws. Thus, Cites is regulated through the provisions of the Wildlife (protection) Act 1972 in India. Each protected species or population is included in one of three lists, called Appendices.

### **Basel Convention on Trans-boundary Movement of Hazardous Wastes, 1989**

It is an international treaty, popularly known as Basel Convention, which was opened for signature on 22 March 1989 and came into force on 5 May 1992. It was formulated with the aim to reduce and restrict the movements of hazardous waste between nations, especially to prevent the transfer of hazardous waste from developed to less developed countries (LDCs), also, to minimize the creation of such wastes & toxicity of wastes generated and to prohibit their shipment to countries lacking the capacity to dispose of hazardous wastes in an environmentally sound manner. However, it does not address the movement of radioactive waste. Some of the wastes which are regulated by this convention are Biomedical and healthcare wastes, Used oils, Used lead-acid

batteries, Persistent Organic Pollutant (POP) wastes, Polychlorinated Biphenyls (PCBs) and many more thousands of chemical wastes generated by industries and other consumers. As of Feb 2018, 185 states and the European Union is parties to the Convention. Haiti and the United States have signed the Convention but not ratified it, even though this convention is not legally binding upon member countries.

India ratified the convention in 1992 and give effect to this convention by including some of its provisions, related to the notification of import and export of hazardous wastes, illegal traffic and liability, in the Indian Hazardous Wastes Management Rules Act 1989. Recently, in its 14th meeting, held in 2019 on the theme “Clean Planet, Healthy People: Sound Management of Chemicals and Waste”, the members decided to amend the convention to include unsorted, mixed and contaminated plastic waste under PIC (Prior Informed Consent) procedure and improve the regulation of its trans-boundary movement.

### **Convention on Biological Diversity, 1992**

CBD is a multilateral treaty, informally known as the Biodiversity Convention. It is one of the important agreements which dealt and addressed all the aspects of biodiversity comprehensively at a global level, biodiversity conservation and sustainable usage, habitat preservation, and protection of indigenous people’s rights, and intellectual property. Thus, it recognized that the conservation of biological diversity is “a common concern of humankind”, for the very first time. It was adopted during the Earth Summit held in Rio de Janeiro on 5 June 1992, came into force on 29 December 1993, has been ratified by 180 countries, and was negotiated under the auspices of The United Nations Environment Programme (UNEP) In Nairobi in 1992. All UN member states have ratified the treaty except the United States of America (USA). The two protocols to CBD are (a) Cartagena Protocol on Biosafety, 2000 (b) Nagoya Protocol (Biodiversity Accord), 2010. This is a legally binding convention upon all member states.

It has 3 main goals: (as mentioned under Article 1 of the Biodiversity Convention)

- 1-The conservation of biological diversity
- 2- The sustainable use of the components of biological diversity.
- 3- The fair and equitable sharing of the benefits arising out of the utilization of genetic resources.

In other words, it’s objective is to develop national strategies for the conservation and sustainable use of biological diversity and To observe & perform these goals, member-states must develop plans for protecting habitat and species; provide fair and equitable sharing of funds and technology to help developing countries provide protection; ensure commercial access to biological resources for development and share revenues fairly among source countries and developers; and establish safety relation and accept liability for risks associated with biotechnological development.

India is a Party to the CBD. India has actively participated in all the eight meetings of the Conference of the Parties (COP), held so far and has prepared 3rd national report to the CBD after consultation with ministries, experts and other concerned organisations. Thus India made significant positive contributions. Thus, it is a major step is taken globally to conserve our biological diversity.

### **UN Convention on Desertification, 1994**

This convention was adopted in Paris, France on 17 June 1994 and came into force in December 1996. It is the only convention that addresses the issue of desertification having an international legally binding effect. It mainly deals with the arid, semi-arid and dry sub-humid areas, known as the drylands, to improve the living of



the person in these areas and to restore and retain, if any left, the soil productivity and fertility, to mitigate the natural disaster of drought. South Asia has a Regional Action Program with seven countries signatory to the convention including India. It collaborates closely with the other two Rio Conventions- the Convention on Biological Diversity (CBD) and the United Nations Framework Convention on Climate Change (UNFCCC).

### **Prior Informed Consent, Rotterdam Convention**

It is a multilateral treaty commonly known as the Rotterdam Convention and formally known as The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, which came into force in February 2004. It was designed with the aim to promote the environmentally safe use of the hazardous chemicals and to promote shared responsibility in the trade of hazardous chemicals by supporting a national the decision-making process on their export and import by facilitating information exchange, in order to protect human health and the environment . It looks over the pesticides and industrial chemicals that have been banned or severely restricted for health or environmental reasons by the members. This convention empowers the signatory nations to decide whether to allow or ban the importation of chemicals listed in the treaty and it is the obligation of the producers of exporting nations to comply with the jurisdictional matters. It requires Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and thus have a binding effect on members for its implementation.

India ratified the treaty in 2005 and implemented this convention in the form of a statute, by laying down some standards in Hazardous Wastes (Management and Handling) Rules, 1989.

### **Convention of Migratory Species of Wild Animals**

It is also known as the Bonn Convention, signed in 1979 in Bad Godesberg, a suburb of Bonn and came into force in 1983. This is sole convention dealing with taking or harvesting of species from the wild. And this has been successful to an extent as it currently protects 173 migratory species from across the globe. It under the aegis of the United Nations Environment Programme (UNEP). There are 130 signatories to this convention including the EU. It is designed to conserve terrestrial, marine and avian migratory species throughout their range. It consists of two Appendices:

Appendix I- migratory species that are endangered or threatened with extinction.

Appendix II- migratory species that have unfavourable conservation status and which require international agreements for their conservation and management.

India became a party to the Convention in 1983 but India has signed a non legally binding Memorandum of Understanding (MoU) with CMS on conservation and management of Siberian Cranes (1998), Marine Turtles (2007), Dugongs (2008), and Raptors (2016). A proud moment of India is that it is going to host the 13th Conference of the Parties to the Convention on Migratory Species (CMS COP13) on the theme “Migratory species connect the planet and together we welcome them home”.

## **CONCLUSION**

Global environment has been adequately protected through International Treaties and Conventions which got recognition and observance in domestic laws and maintained the ecological balance particularly in India. The country like India was not much inclined towards environment protection just after independence as the main concern was Industrialization. But after the Stockholm Conference in 1984, India took a diversion and attempted to recognize the International conventions and have done so. Also, apart from the above discussed there are other many conventions such as the International Tropical Timber Agreement and The International Tropical Timber Organisation (ITTO), 1983, been ratified by India. Other agreements or conventions signed by India includes the Convention on Wetlands of International Importance, especially as Waterfowl Habitat (Ramsar, 1971); the Protection of the World Cultural and Natural Heritage (Paris, 1972); the International Plant Protection Convention (1951); the Convention on Early Notification of a Nuclear Accident (1986); the United Nations Convention on the Law of the Sea (Montego Bay, 1982) and many more.

India has observed these international conventions in domestic laws by virtue of Article 51 and 253 of Indian Constitution. India has enacted various enactments such as Environment Protection Act, 1986; Water (Prevention and Control of Pollution) Act, 1974; Air (Prevention and Control of Pollution) Act, 1981; Atomic Energy Act, 1982; The Wildlife (Protection) Act, 1972; the Forest (Conservation) Act, 1980 etc. Also, environmental protection has been granted a constitutional status including the same in Directive Principles of State Policy and Fundamental duties by 42nd Constitutional Amendment Act, 1976 and judiciary held a right to healthy environment a fundamental right under Article 21 of Indian Constitution.

Environmental laws have thus been greatly influenced by international legal developments. International conventions are thus not only the way or path to save the environment but also a good initiative by all the nations to get integrated.

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