



## **Stockholm Declaration (1972) and Rio Declaration (1992)**

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## A. Introduction

**1** Environmental protection emerged as a matter of international concern in the 1960s, about the same time as it became the focus of law and policy within many States (see also Environment, International Protection). Public opinion, increasingly aware of environmental harm due to major oil spills and other sources of pollution, was a major factor in this development. In this context, the government of Sweden, in 1968, proposed that the United Nations convene an international conference on the human environment. The stated aim was to focus attention on the importance of environmental problems, in order to create a basis for comprehensive consideration of these problems by the UN. The UN General Assembly ('UNGA' United Nations, General Assembly) endorsed the proposal and convened an international conference (UNGA Res 2398 [XXIII] of 3 December 1968). The conference was held in Stockholm from 5 to 16 June 1972.

**2** Twenty years after the Stockholm Conference, the UN convened a second international meeting, the UN Conference on Environment and Development ('UNCED'), to assess events during the intervening years and to focus on the relationship between environmental protection and economic development (UNGA Res 44/228 of 22 December 1989; see also Sustainable Development). The UNGA identified nine environmental issues of major concern, namely protection of the atmosphere (see also Atmosphere, International Protection), freshwater resources (see also Groundwater Protection; Water, Right to, International Protection), marine environment (see also Marine Environment, International Protection), land resources (see also Nature, International Protection), and biological diversity (see also Biological Diversity, International Protection;); environmentally sound management of biotechnology and wastes (see also Genetically Modified Organisms; Hazardous Wastes, Transboundary Impacts); improvement of living and working environments; protection of human health (Health, Right to, International Protection); and improvement of the quality of life. UNCED took place in Rio de Janeiro, Brazil, between 3 and 14 June 1992, with representatives from 178 States.

**3** A decade later, the World Summit on Sustainable Development ('WSSD') was held in Johannesburg, South Africa from 26 August to 4 September 2002, in order to 'reinvigorate the global commitment to sustainable development' (UNGA Res 55/199 [2000] of 2 February 2001). The meeting sought to assess progress in the implementation of the outcome of UNCED and to identify areas where further efforts are needed to implement Agenda 21. It also sought to address new challenges and opportunities and was intended to result in renewed political commitment and support for sustainable development consistent with the principle of common but differentiated responsibilities.

**4** Each of the three conferences concluded with the participating States adopting final texts. The 114 States participating in the Stockholm Conference produced a declaration of principles, a resolution on institutional and financial measures, and an action plan containing 109 recommendations. Five texts emerged from UNCED. Three of these were non-binding instruments: the Rio Declaration on Environment and Development, Agenda 21, and the non-legally binding authoritative statement of principles for a global consensus on the management, conservation and sustainable development of all types of forests ('Forest Principles'; Forests, International Protection). In addition two treaties, the Convention on Biological Diversity and the Framework Convention on Climate Change (see also Climate, International Protection), were opened for signature at UNCED. The Stockholm and Rio texts have provided a foundation for the development of national and international environmental law and policy in the intervening years. The Johannesburg WSSD produced a political declaration known as the Johannesburg Declaration on Sustainable Development, a Plan of Implementation of the WSSD, and 'Type II' non-negotiated, partnership commitments by governments and other stakeholders, including business and non-governmental organizations.

## **B. Stockholm Declaration of 1972**

### **1. Origin, Purpose and Meaning**

**5** An Intergovernmental Conference of Experts on the Scientific Basis for Rational Use and Conservation of the Resources of the Biosphere, sponsored by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in September 1968, first suggested the idea of a declaration on the environment. Resolution 1448 of 6 August 1969 of the Economic and Social Council (see also United Nations, Economic and Social Council [ECOSOC]) and UNGA Resolution 2581 [XXIV] of 15 December 1969, convening the Stockholm meeting, supported the objective of adopting basic premises to guide the future actions on the environment. The resolutions also established a special committee of 27 States, advising the UN Secretary-General (United Nations, Secretary-General) to undertake preparations for the Stockholm Conference. The preparatory committee was able to resolve most issues facing the conference, leaving few matters to be debated by the Stockholm Conference itself.

**6** The preparatory committee initially had before it a background paper prepared by the UN Secretary-General recommending that it draft a declaration on the 'rights and obligations of citizens and Governments with regard to the preservation and improvement of the human environment' (UNGA Preparatory Committee for the United Nations Conference on the Human Environment: Report of the Preparatory Committee on its Fourth Session para. 16). After consulting Member States, the committee agreed on the objectives of a declaration: to have a document of basic principles, calling attention to environmental problems and to the rights and obligations of all parts of society in relation thereto; to stimulate public opinion and community participation for the protection and improvement of the environment in the interest of present and future generations (see also Public Participation in Environmental Matters); to provide guiding principles for governments to formulate policy; and to set objectives for future international co-operation. Throughout its text, the declaration was to take due account of the environmental stresses caused by differences in social and economic development (UN Doc A/CONF.48/PC/6 paras 27–38). On this basis and with suggestions from the Secretary-General as to the content, the preparatory committee established an intergovernmental working group to prepare a draft.

**7** The working group and the committee as a whole debated throughout the drafting process whether the declaration should primarily seek to outline broad goals and objectives, or whether it should embody legal principles elaborating the rights and duties of States with respect to the environment. In the end, the drafters merged the two approaches and opted to include specific guidelines for future action as well as statements primarily aimed at stimulating public and governmental awareness of environmental issues. The preparatory committee and the Declaration of the United Nations Conference on the Human Environment ('Stockholm Declaration') thus expressed their aim as providing 'a common outlook and common principles to guide the peoples of the world in the preservation and enhancement of the human environment' (preamble Stockholm Declaration).

**8** After the working group presented a first draft of 17 principles, many of which were contested, the preparatory committee instructed it to develop further the text based on well-established principles of international law (see also General International Law [Principles, Rules and Standards]). The working group returned with a new preamble and 23 principles, a text which the chairman said recognized the right of individuals to an adequate environment (see also Solidarity Rights [Development, Peace, Environment, Humanitarian Assistance]), State responsibility for extraterritorial damage to the environment, and the particular interests of developing countries (UNGA Preparatory Committee for the United Nations Conference on the Human Environment: Report of the Preparatory Committee on its Fourth Session para. 77). The committee forwarded the draft without change or comment to the conference.

**9** Several States at the Stockholm Conference sought to amend the draft and, at the request of the People's Republic of China, the conference established a working group on the declaration. Negotiations in the working group continued until the last day of the conference. The final text that emerged retained 21 of the committee's principles and added four new ones. One principle, on the duty of States to inform others of activities within their territories that might have an adverse extraterritorial effect, was removed and referred to the UNGA. The principle referring to nuclear weapons was referred to the plenary session for final decision and was ultimately retained as Principle 26, the concluding provision (see also Nuclear Weapons and Warfare). The plenary adopted the declaration and submitted it, along with other final texts, to the UNGA.

## **2. Stockholm Preamble and Principles**

**10** The lengthy preamble to the Stockholm Declaration begins with the statement that man is at once the creature and moulder of his environment. It adds that the natural element and the man-made are essential to human well-being and to the full enjoyment of basic human rights, including the right to life (see also Environment and Human Rights; Life, Right to, International Protection). Protecting the human environment is also viewed as a major issue for economic development. The preamble recognizes that the natural growth of world population continuously poses problems for preserving the environment, but expresses faith that scientific and social progress to improve the environment strengthens each day.

**11** The preamble reflects the divergent views of the participants at Stockholm on whether the Stockholm Declaration should be primarily inspirational or whether it should provide specific guidelines for action. It also reflects disagreement over whether the Stockholm Declaration should be addressed to governments, to individuals or to all parts of society (see also Environment, Private Standard-Setting; Environment, Role of Non-Governmental Organizations). The introductory phrases of the preamble recall the beginning of the United Nations Charter in referring to the peoples of the world, although most principles address governmental action.

**12** The second part of the Stockholm Declaration contains the 26 principles approved by the conference to inspire and guide future action. During the drafting, more than half a dozen delegations at the conference thought the Stockholm Declaration should begin with a general affirmation of every human being's right to a safe or wholesome environment, arguing that it was implicit in the right to an adequate standard of living recognized in Art. 25 (1) Universal Declaration of Human Rights (1948) (see also Standard of Living, Promotion of). The working group's initial text explicitly recognizing this right was rejected in favour of the current language, proposed by a group of developing countries:

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 1 Stockholm Declaration).

**13** Principle 1 Stockholm Declaration thus not only links human rights and environmental protection, but also refers to the most prominent international human rights problems of 1972, condemning apartheid, colonialism, and racial discrimination (see also Equality of Individuals; Racial and Religious Discrimination).

**14** The syntax of the first sentence of Principle 1 Stockholm Declaration has given rise to various interpretations. Read narrowly, it restates pre-existing international human rights guarantees of liberty, equality and an adequate standard of living, but innovates in adding that the exercise of these rights depends upon environmental conditions, reflecting the perception that environmental degradation can impair the full enjoyment of human rights. Read more broadly, Principle 1

Stockholm Declaration supported a growing movement to recognize the right to a safe and healthy environment as a human right. While some national constitutional provisions to this effect were drafted even prior to the Stockholm Conference, most of them were adopted afterwards, stimulated by Principle 1 Stockholm Declaration.

**15** Principles 2 to 7 Stockholm Declaration set forth the rationale for environmental protection and specific threats to the environment. They proclaim that the natural resources of the globe are not only oil and minerals, but also air, water, earth, plants and animals as well as representative samples of natural ecosystems. These should be preserved in the interest of present and future generations (Principle 2 Stockholm Declaration; Conservation of Natural Resources). Renewable resources must maintain their ability to replenish themselves and non-renewable resources should not be wasted (Principles 3–5 Stockholm Declaration). The Stockholm Declaration emphasizes the necessity of adequate resource management and the responsibility of mankind to protect wildlife and habitats (Principle 4 Stockholm Declaration). This section concludes by calling for a halt to the production of toxic wastes or other matters that cannot be absorbed by the environment and/or a prevention of marine pollution (Principle 6 Stockholm Declaration; see also Marine Pollution from Ships, Prevention of and Responses to). Principle 7 Stockholm Declaration is the only principle in this group that includes language of obligation, providing that States shall take all possible steps to prevent marine pollution, and may reflect the negotiations then concluding to adopt the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters.

**16** Principles 8 to 20 Stockholm Declaration identify means of environmental protection and their relationship to economic and social development. Four provisions concern the particular situation of developing countries. After stating that economic and social development is indispensable to an environment favourable to the existence and work of man (Principle 8 Stockholm Declaration), Principle 9 affirms that the best means to remedy underdevelopment is to enhance financial assistance and technical assistance. National environmental policies should assist the potential progress of poorer countries and they should be accorded supplementary international assistance. Principles 10 to 12 Stockholm Declaration concern international trade and economic consequences of environmental protection, particularly for developing countries (see also Trade and Environment). Principle 10 Stockholm Declaration provides that the stability of prices and an adequate remuneration for primary products and goods is essential for the management of the environment. Principles 13 to 15 Stockholm Declaration underline the necessity of integrated, co-ordinated and rational development planning. Demographic issues produced a simple recommendation in Principle 16 Stockholm Declaration in favour of policies which respect fundamental human rights and are judged adequate by the governments concerned. Principles 18 to 20 Stockholm Declaration mention other instruments of environmental policy: recourse to science and technology, exchange of information, and finally, teaching and information about environmental matters (see also Technology Transfer).

**17** The last group of principles, Principles 21 to 26 Stockholm Declaration, is of particular interest for the development of international law. Principle 21 is generally recognized today as expressing a basic norm of customary international environmental law (see also customary international law): States have, in accordance with the UN Charter 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 the 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 (Natural Resources, Permanent Sovereignty over). The provision was highly contested during the preparatory meetings and the Stockholm Conference itself. Some delegations, especially from developing countries, sought stronger almost unlimited expressions of national sovereignty, while other States considered the reference to State responsibility an important reflection of existing rules of international law. The resulting statement of rights and responsibilities in Principle 21 Stockholm Declaration was an essential and delicately preserved balance.

**18** The Stockholm Declaration further affirms that States should co-operate to develop international law regarding liability and compensation for victims of pollution and other environmental damage produced outside their boundaries (Principle 22 Stockholm Declaration; Access to Justice in Environmental Matters; Liability for Environmental Damage). They should define criteria and norms in environmental matters, taking into consideration the system of values prevailing in each country, in particular in developing countries (Principle 23 Stockholm Declaration). States should co-operate to protect and improve the environment and ensure that international organizations play a co-ordinated, effective and dynamic role in this field (Principles 24–25 Stockholm Declaration). The final principle condemns nuclear weapons and all other means of mass destruction (see also Weapons of Mass Destruction).

### **3. Legal Status**

**19** The Stockholm Declaration was not adopted as a treaty and is not legally binding as such (see also Environment, Multilateral Agreements Soft Law; Treaties). Moreover, few of the principles in the Stockholm Declaration purport to be normative. Instead, most of them represent an agreed statement of the environmental problems identified during the Stockholm Conference, the then-current understanding of the causes of these problems, and a set of relevant economic and political considerations to be taken into account in resolving the problems. Yet, at the plenary closing session which adopted the Stockholm Declaration, several delegates referred to the text as the starting point for the development of international environmental law. The chairman of the conference thought of the Stockholm Declaration as ‘a highly significant document reflecting a community of interests among nations’ (Report of the United Nations Conference on Human Environment para. 5; see also Community Interest).

**20** The UNGA adopted the conference report with the Stockholm Declaration on 15 December 1972, as Resolution 2994. The vote was 112–0, with 10 abstentions coming from the Soviet bloc, which did not attend the Stockholm Conference due to exclusion of the German Democratic Republic (see also Cold War [1947–91]), and South Africa, which objected to the condemnation of apartheid. During the discussion, representatives referred to the Stockholm Declaration as an acknowledgment of new principles of behaviour and responsibility to govern inter-State relations and to provide an indispensable basis for the establishment and elaboration of new codes of international law.

### **4. Legal and Practical Significance**

**21** Despite its formally non-binding character, the Stockholm Declaration is legally significant. The articulation of global values and policies it represents was a prerequisite to establishing international legal norms. Principles 2 to 4 Stockholm Declaration, for example, represented new values in affirming the importance of all components of the biosphere and the responsibility to safeguard them. This idea of conservation became the foundation of national and international measures over the succeeding decades. Further, the Stockholm Declaration stimulated joint action globally and regionally, as it stressed planning and co-operation, taking into account the needs of developing countries and future generations.

**22** Several Stockholm principles of normative content have emerged as legal norms. A majority opinion of the International Court of Justice (ICJ) declared in 1996 that the obligation of States to ensure that activities within their jurisdiction and control respect the environment of other States, a reformulation of Principle 21 Stockholm Declaration, ‘is now part of the corpus of international law relating to the environment’ (Legality of the Threat of Use or Use of Nuclear Weapons [Nuclear Weapons Advisory Opinions] 241–42; Gabčíkovo-Nagymaros Case 41). The duty to co-operate, contained in Principle 24 Stockholm Declaration, was called a ‘fundamental principle’ of international law by the International Tribunal for the Law of the Sea (ITLOS) (see also MOX Plant Arbitration and Cases [UK v Ireland] [Provisional measures] Order of 3 December 2001 [see also

Interim (Provisional) Measures of Protection]). Principle 22 Stockholm Declaration has led to the adoption of a growing number of treaties on responsibility and liability for extraterritorial environmental harm.

**23** The debate at Stockholm itself, even over principles deleted from the final text of the Stockholm Declaration, had an impact on the subsequent development of the law. The working group's original Principle 20, on the duty to inform, generated two UNGA resolutions on the duty to consult and to inform States about activities that might cause significant transboundary environmental harm (Air Pollution, Transboundary Aspects; Hazardous Substances, Transboundary Impact). Brazil presented a resolution, co-sponsored by other developing States, on the duty to co-operate in the field of the environment, including by the provision of information about activities, while strongly reaffirming State sovereignty over natural resources, including by their exploitation and development. Other States countered with a resolution affirming that no UNGA resolution could affect Principles 21 and 22 Stockholm Declaration. Both resolutions were adopted without dissenting vote (UNGA Res 2995 [XXVII] of 15 December 1972 and UNGA Res 2996 [XXVII] of 15 December 1972).

**24** The Stockholm Conference stimulated numerous international activities to protect the environment, bringing the topic fully onto the international agenda for the first time. The decision to convene the conference in itself stimulated action by intergovernmental organizations, national and international non-governmental organizations, and governments. Governments took action to counter marine oil pollution through preventive and remedial measures and concluded new instruments to conserve wild animals, in particular the 1972 London Convention for the Conservation of Antarctic Seals.

**25** The Stockholm Declaration provided agreed rationales for legal and political action to address the identified problems. The conference was global both in its planetary conception of the environment, and in its view of needed institutional structures and world policies. It was also global in addressing all the major environmental themes of the time. Institutions created after Stockholm, in particular the United Nations Environment Programme (UNEP), relied on the Declaration and Action Plan in developing their agendas.

**26** Stockholm also stimulated institutions concerned with other fields of international law to consider environmental issues. The International Maritime Organization (IMO), the Food and Agriculture Organization of the United Nations (FAO) and regional bodies such as the UN Economic Commission for Europe and the Association of Southeast Asian Nations (ASEAN) acted in response to the principles set forth in the Stockholm Declaration.

**27** The UN reaffirmed and developed the general principles of the Stockholm Declaration in 1982 when the UNGA adopted the World Charter for Nature (UNGA Res 37/7 of 28 October 1982). The Stockholm Conference also had an impact on legal developments in other fields of international law. Examples include the negotiations which began in 1972 at the UN Conference on the Law of the Sea (see also Conferences on the Law of the Sea). The resulting UN Convention on the Law of the Sea contains a part reaffirming and detailing global and regional regulations to combat marine environmental injury and explicitly affirming the principle that States have a general obligation to protect and preserve the marine environment. Similarly, Art. 30 Charter of Economic Rights and Duties of States (1974), adopted by the UNGA in 1974, proclaims that the protection, preservation and management of the environment for present and future generations is the responsibility of all States; they should strive to halt any detrimental policies in environmental matters and develop programmes conforming to this responsibility (UNGA Res 3281 [XXIX] of 12 December 1974). More generally, on 30 October 1980, the UNGA proclaimed the responsibility of States for the preservation of nature in the interest of present and future generations (UN Doc A/Res/35/7 (1981) 20 ILM 462).

## C. Rio Declaration of 1992

**28** In 1983, the UNGA voted to create the World Commission on Environment and Development, an independent body linked to but outside the UN system. Commonly known as the Brundtland Commission, its mandate was to examine critical environment and development issues and to formulate realistic proposals for dealing with them; to propose new forms of international co-operation on these issues to influence policies in the direction of needed changes; and to raise the levels of understanding and commitment to action of individuals, organizations, businesses and governments. The conclusions of the Brundtland Report stressed the need for an integrated approach to development policies and projects which, if environmentally sound, should lead to sustainable economic development in both developed and developing countries.

**29** The Brundtland Report led the UN to organize a second global conference on the environment in 1992 in Rio de Janeiro, the UNCED. The UNCED was originally designed as the successor to the Stockholm Conference, but legal and political developments as identified in the Brundtland Report shifted the focus of the conference. The convening resolution identified nine issues of major concern: *a*) protection of the atmosphere; *b*) protection of freshwater resources; *c*) protection of the marine environment; *d*) protection of land resources; *e*) conservation of biological diversity; *f*) environmentally sound management of biotechnology; *g*) environmentally sound management of wastes; *h*) improvement of living and working environments; and *i*) protection of human health and improvement of the quality of life. The UNGA created a preparatory committee open to all UN Member States, members of specialized agencies, and accredited observers (see also International Organizations or Institutions, Observer Status). UNCED represented one of the largest conferences ever held, with 172 States participating and some 116 heads of State or government attending.

### 1. Origin, Purpose and Meaning

**30** The three sessions of the preparatory committee negotiated legal, institutional and financial questions. One initial goal was to proclaim an Earth Charter, built on the foundation of the Stockholm Declaration, going beyond codification of existing norms to establish standards based on the best practices then emerging in environmental law and policy. After difficult negotiations, the idea of an Earth Charter was abandoned in favour of adopting a declaration of principles, a compromise between the developing countries who sought only political commitments and industrialized countries, mainly Member States of the Organization for Economic Co-operation and Development (OECD), which insisted on legal norms.

**31** There were competing views as well on the contents of a declaration: the industrialized countries considered it essential to include principles on public information and participation (Access to Information on Environmental Matters), precaution (Precautionary Approach/Principle), and the polluter pays principle, while developing countries demanded inclusion of the rights to development, poverty alleviation, and recognition of common but differentiated responsibilities.

**32** By the fourth and final session of the preparatory committee in March 1992, no single working text of the declaration had been agreed on. During that session an informal working group of representatives of seven industrialized and seven developing States met informally to elaborate a final text. The preparatory committee adopted it, as did the plenary conference, without amendment.

### 2. Rio Principles

**33** The Rio Declaration on Environment and Development ('Rio Declaration'), a short statement of 27 principles, has a composite and compromise character due to the competing aims and priorities of the participating States. The result represents a carefully negotiated balance between the priorities and interests of the developed and developing States. Given the number of participating States, it also represents the consensus of the time on the issue of integrating environment and



development. The result is a document of mixed content, with several principles reflecting a restatement of existing rules on transboundary environmental matters, other principles setting forth new or developing principles of law concerned with environmental and development, and yet a third set of principles proclaiming policy goals and ideals.

**34** The central concept of the Rio Declaration is sustainable development, as defined by the Brundtland Report, which integrates development and environmental protection. The new focus is seen in Principle 2 Rio Declaration, which repeats the formulation of Principle 21 Stockholm Declaration that balances sovereignty with the duty to prevent transboundary environmental harm, but adds the word 'developmental' in providing that States have the right to exploit their resources in accordance with their own environmental and developmental policies. Principle 3 Rio Declaration declares a right to development, while Principle 4 Rio Declaration affirms that environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it, in order to achieve sustainable development. Taken together, these principles reflect key concerns of the developing States.

**35** The linking of environment and development is also seen in Principle 7 Rio Declaration which addresses common but differentiated responsibilities. The principle bases the differentiated responsibility on two elements: *a*) responsibility for creating environmental problems and *b*) capacities of States to address or remedy the problems. Principle 8 Rio Declaration adds that States should reduce and eliminate unsustainable patterns of production and consumption and promote demographic policies. Although it is not made explicit, the first part of this principle mainly concerns industrialized States, while the second part is aimed at developing countries.

**36** The Rio Declaration also shifts away from the rights-based approach of the comparable opening provision in the Stockholm Declaration. It states: 'Human beings are at the center of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature' (Principle 1 Rio Declaration). This principle served to re-focus action away from environmental protection alone to environmental protection in the context of economic development, an approach reflected also in provisions concerned with the equitable demands of present and future generations (Principles 3, 5, 7, 11 Rio Declaration). Notions of inter- and intra-generational equity are central to the Rio Declaration (see also Intergenerational Equity).

**37** The Rio Declaration reiterates some existing legal norms and proclaims several new ones as well. Statements of obligation can be found in Principle 10 Rio Declaration, which affirms that States shall provide rights of public information, participation, and access to justice; Principle 13 Rio Declaration, which calls for the development of liability rules; and Principles 18 and 19 Rio Declaration, which require notifying other States about emergencies and projects that may affect their environment (see also Environmental Accidents).

**38** The formulation of then-emerging principles includes the precautionary principle (Principle 15 Rio Declaration), the 'polluter pays' principle that requires internalization of environmental costs (Principle 16 Rio Declaration) and the general requirement for an environmental impact assessment (Principle 17 Rio Declaration). Principle 11 Rio Declaration stresses the importance of enacting effective environmental legislation, although it notes that standards applied by some countries may not be appropriate to others because of the economic and social costs involved. These principles were not widely known or practised at the time of the Stockholm Conference, but became common in the intervening years and were thus included in the Rio Declaration. Some of the principles, especially Principle 17 Rio Declaration on environmental impact assessment, have been widely accepted since UNCED, while the normative status of the precautionary principle remains highly debated.

**39** Other principles are more in the nature of policy guidelines. Principle 3 Rio Declaration aims at the eradication of poverty, Principle 6 Rio Declaration claims special priority for the needs of developing countries, and Principle 9 Rio Declaration relates to the strengthening of endogenous

capacity-building for sustainable development by improving scientific understanding. Principle 12 Rio Declaration advocates a 'supportive and open economic system' and international consensus, and condemns discriminatory trade measures or disguised restrictions on international trade, as well as unilateral actions (see also Unilateral Trade Measures). Finally, Principle 14 Rio Declaration aims to discourage or prevent the relocation and transfer to other States of activities and substances that cause severe environmental degradation or are harmful to human health. A last group of principles concerns sectors of civil society. Principles 20 to 22 Rio Declaration stress the importance of the participation of women, youth and indigenous peoples (see also Environment and Indigenous Peoples).

**40** Several domains of environmental law failed to be mentioned in the Rio Declaration, although they appear in Agenda 21 and other texts adopted during UNCED. There is, for example, no reference to the conservation of nature or any of its elements, such as flora and fauna, habitats and ecosystems. The use of criminal law for environmental protection is also omitted (see also International Criminal Law).

### **3. Legal Status**

**41** Like the Stockholm Declaration, the Rio Declaration was not adopted as a legally binding instrument. Its preamble provides that the participating States reaffirm the Stockholm Declaration and aim to do two things: *a)* establish new and equitable partnerships and new levels of cooperation among States, key sectors of societies and peoples and *b)* work towards international agreements to protect the integrity of the global environmental and developmental system.

**42** Several principles repeat and confirm international legal rules widely contained in treaties and national law and, in some instances, recognized as customary international law. Principle 2 Rio Declaration and its predecessor Principle 21 Stockholm Declaration, in particular, are accepted statements of customary international law. Art. 3 Convention on Biological Diversity, the preamble of the Framework Convention on Climate Change, and Art. 1 (a) Statement of Forest Principles proclaim the same rule. The duty to co-operate, specified in Principle 24 Stockholm Declaration and Principle 7 Rio Declaration, derives from general international law and the UN Charter. Principle 24 Rio Declaration adds that co-operation shall be conducted in good faith (*bona fide*) and that it shall also include further development of international law in the field of sustainable development. Principle 14 Rio Declaration also refers to this principle.

**43** Other principles have inspired considerable developments in national law and international agreements, although their status as customary international law is less clear. Principle 10 Rio Declaration, establishing environmental rights, and Principle 7 Rio Declaration, on common but differentiated responsibilities, are the two most prominent examples. International rules of liability for environmental harm have been much slower to emerge.

**44** The precautionary principle is the most debated of the Rio Principles, to the point that some States refer to it as an 'approach' and deny that it is a legal principle. Its invocation has been particularly contentious in matters of international trade, where States cite precaution as a justification for trade restrictions (WTO EC: Measures Concerning Meat and Meat Products (Hormones)—AB—1997—4—Report of the Appellate Body). It has also been invoked to suspend the performance of treaty obligations or to demand that States demonstrate the lawfulness of certain activities (*Gabčíkovo-Nagymaros Case*; *Southern Bluefin Tuna Cases*; *Mox Plant Arbitration and Cases*).

### **4. Legal and Practical Significance**

**45** The Rio Declaration reiterated the key legal principles of the Stockholm Declaration, incorporated other legal principles that had emerged in the intervening 20 years in other contexts, and elaborated new principles. At the international level, it had great practical impact. In the

aftermath of Rio, virtually every major international convention concerning multilateral co-operation came to include environmental protection as one of the goals of the States Parties. A spike in the number of treaties adopted after the Rio Conference demonstrates the impact of the meeting and its concluding texts. The legal work of the UNEP, first set forth in 1981 in the Montevideo Programme for the Development and Periodic Review of the Environmental Law, was revised in September 1992 on the basis of the UNCED outcomes.

**46** The significance of the Rio Declaration also lies in the contents of the declaration. Sustainable development became the key organizing concept with environmental protection seen as one of its three pillars. The emergence of new principles between the Stockholm and Rio Conferences is reflected in the texts and has been echoed in numerous instruments since 1992. Like the Stockholm Declaration, the Rio Declaration has shaped international and national environmental law.

## **D. Evaluation**

**47** The Stockholm and Rio Conferences contributed to creating a global consensus on basic principles of international environmental law and led, directly or indirectly, to the conclusion of numerous global and regional environmental agreements. The declarations adopted by each conference evidenced agreement on certain normative issues and set forth aspirations for the direction the law should take in regard to other matters. The Rio Declaration, in particular, contains ‘fundamental principles for the achievement of sustainable development, based on a new and equitable global partnership,’ as the UNGA stated when it endorsed the Rio Declaration (UNGA Res 48/190 of 21 December 1993). As such, it significantly contributed to the codification and progressive development of international law relating to the environment.

**48** In the decades after the Stockholm and Rio Conferences, environmental concerns encountered increasing competition on the international agenda from economic globalization, an emphasis on free trade, and the development crises of poor countries. As one visible example, the UN convened a conference to mark the tenth anniversary of the Rio meeting, but failed to mention the environment in its name. Instead, it was convened as the World Summit on Sustainable Development.

**49** Between 26 August 2002 and 4 September 2002 the representatives of more than 190 countries met in Johannesburg, South Africa, in order to reaffirm their ‘commitment to the Rio Principles, the full implementation of Agenda 21 and the Programme for the Further Implementation of Agenda 21’ (Draft Plan of Implementation of the World Summit on Sustainable Development para. 1). At the end of the conference the participating governments adopted a Declaration on Sustainable Development affirming their will to ‘assume a collective responsibility to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development—economic development, social development and environmental protection—at local, national, regional and global levels’ (Johannesburg Declaration on Sustainable Development para. 5). The text recognizes that ‘the global environment continues to suffer’ (ibid para. 13), and acknowledges the loss of biodiversity, the depletion of fish stocks, the progress of desertification, the evident adverse effects of climate change as well as the pollution of the air, of water and of the sea. However, the declaration mainly focuses on development and poverty eradication, especially in the poorest countries.

**50** A lengthy plan of implementation mentions the principle of common but differentiated responsibilities and declares that ‘[p]overty eradication, changing unsustainable patterns of production and consumption, and protecting and managing the natural resource base of economic and social development are overarching objectives of and essential requirements for sustainable development’ (Draft Plan of Implementation of the World Summit on Sustainable Development para. 2). Another paragraph proposes to ensure access, at the national level, to environmental

information and judicial and administrative proceedings in environmental matters, as well as public participation in decision-making.

**51** The instruments adopted at the World Summit did not affect the validity of Agenda 21 which remains the key governing text for the environmental programme of international institutions and a general guideline for governments, regional and local authorities as well as for non-State actors. Indeed, the WSSD reaffirms the texts adopted at Rio and calls for priority attention to two matters: the implementation of and compliance with international environmental agreements by Contracting States, and the co-ordination among the secretariats of multilateral environmental agreements. This recommendation in itself is an affirmation of the growth and development of international environmental law, in which the Stockholm and Rio Declarations have been fundamental guiding documents.

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