

The Evolution of International Environmental Law

- Sources and Overview on Multilateral
Environmental Agreements (MEAs)

Multilateral Environmental Agreements

- Multilateral Environmental Agreements (MEAs) result from international action by States to develop standards through treaties or soft law instruments.
- MEAs can be binding or non binding also referred to as soft law.
- Multilateral Treaties need ratification after signature and or accession.

Sources of Multilateral Environmental Agreements

- The legally binding instruments include Multilateral Environmental Instruments that can be Global, Regional, Sub-regional Agreements or bilateral agreements.
- Non binding instruments include declarations, environmental action plans, principles, guidelines, codes of conduct, recommendations.

Multilateral Environmental Agreements

- Action required to implement MEAs at the national level depend on the MEA they range from action relating to:-
- Pollution control; natural resource conservation and use; protection of cultural and aesthetic value; activities that pose a danger to human health and the environment; threats to the environment caused by agricultural and industrial production, responding to scientific reports on the environment etc.

Introduction

- The evolution of international environmental law can be categorized into three distinct periods: -
- from 1900-1972,
- from 1972-1994;
- and from 1992-todate.

The Evolution of International Environmental Law

- As early as 1900 just after the Berlin Conference 1884 when parts of Africa were distributed to colonial powers the first treaties with standards for regulating wildlife including flora and fauna through protected areas were initiated.
- 1940s issues of navigation at sea, whaling and fishing brought in 4 treaties relating to the Law of the Sea.

The Evolution of International Environmental Law

- The Stockholm Conference of 1972 was responding to the effects of the industrial revolution to address pollution.
- The outcome documents of the Stockholm Conference including the principles bring out clear concerns then for natural resources depletion and pollution related issues.
- UN Environment established to address these.

Evolution

- From 1900-1972,
- Wildlife management;
- Natural resource conservation – regulating use;
Wetlands of International Importance;
- Marine resources, and navigation;
- UN General Assembly Resolutions including
resolution 2997 for establishing UNEP;

Evolution

- From 1972-1992;
- Convention on International Trade in Endangered Species (CITES); Wetlands; Heritage;
- Law of the Sea (UNCLOS), 11 Regional Seas Conventions; International Maritime Organization (IMO) Conventions, MARPOL, Oil preparedness.
- Stockholm Declaration with a set of global environmental principles;
- Vienna Convention Protection of Ozone Layer & Montreal Protocol plus amendments (Kigali); Basel Convention;
- 1987 Our Common Future- Brundtland Report defining Sustainable Development.

Sustainable Development

- The Brundtland report defined Sustainable Development as development that meets the needs of the present without compromising the future generation to meet their own needs.
- 1992 UN Environment and Development Conference; 2000 MDGs, CSD;
- 2002 World Summit on Sustainable Development
- 2012 UN Conference on Sustainable Development; SDG Conference, HLPF.

Evolution

- From 1992-todate;
- United Nations Conference on **Environment** and **Development**, Rio de Janeiro, Brazil, 1992
- Outcome- **Agenda 21** implemented in all countries including local authorities;
- **Rio Declaration**- with environment and development principles.
- Rio Conventions- CBD, UNFCCC, Forest Principles, Desertification,

Evolution

- Stockholm on POPs
- Rotterdam on PIC
- SAICM
- Minamata

Evolution

- Cartagena on Biosafety
- Nagoya
- Nagoya Kualalumpur
- Regional Agreements
- Rio +20
- SDGs targets, indicators

Overview of MEAs

- **Implementation** in terms of taking joint and individual action to convert commitments in MEAs into measures is required.
- **Compliance** is determined by countries adhering to agreement provisions and undertaking implementation measures (verification is through national reports).
- Countries need to take **legislative, policy or administrative** action to give effect to the treaty.
- **Effectiveness** can only be determined when one finds out whether an MEA resolves a problem that caused its creation.

Overview of MEAs

- Application at the national level by domesticating MEAs may be by monist or a dualist approach. It is important to note however since some MEAs are not self executing action may still be expected.
- Implementation at the national level is either by action taken by each party or collective action by parties.
- A party implementing a MEA may **adopt policies**, or **legislation** or may set up or strengthen the required institutions or take up **administrative action**.

Overview of MEAs

- When the provisions require the **adoption of policy** parties should adopt a clear policy basis with clear goals and procedures and practices to ensure coherence and predictability of the actions being taken, and the rights and obligations, efficiency of management and ease of implementation
- As for taking **administrative action** this may include action such as to prepare action plans, inventories, to designate sites, or appoint focal points

Overview of MEAs

- **Adopting legislation to implement MEAs.** - It is important to develop legislation where necessary because law can be used to define institutions and to empower government officials to act. Law also places limits on human actions and articulates policy in relation to the field of environment that is being regulated.
- Some international agreements eg. CITES are generally not self-executing, so legislation is needed to give effect to them at the national level.

Overview of MEAs

- Some Convention Secretariats and organizations such as UNEP do provide assistance for implementing MEAs. Including providing technical assistance & advisory services and preparing model legislation or guidance material to assist parties in developing legislation.
- Effective and enforceable legislation is that which seeks to provide practical solutions to a problem which is being regulated in accordance with the guidance provided by the provisions of the MEA taking into account a country's particular context and its human and other resources.

Overview of MEAs

- Effectiveness of Conventions is ensured by providing institutions to implement the Conventions such as the regular Meeting of the Parties and Convention secretariats; requirements for reporting to verify compliance; financial mechanisms to ensure that activities can be undertaken to fund measures to implement the Convention;

Overview of MEAs

- **Institutional framework for implementation of MEAs**
-Regular meetings/conference of the parties (COP) are important institutional frameworks for implementation of MEAs in that they review the implementation of the Convention and provide resolutions and decisions which guide parties on areas requiring action.
- The meetings also engage parties in various working groups in between sessions of the COP to continue working on pending issues. Some COPs of MEAs are held yearly, Some every two years & some meet every 3 years.

Overview of MEAs

- Many thanks