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United Nations Environmental Programme and the Role of UNEP in the Development of International Environmental Law

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ABSTRACT

Under International Law, there are two types of law- the hard law and – the soft law. The hard law refers to agreements or principles that are directly enforceable by a national or international body and soft laws are agreements and principles that are meant to influence the nation to take action for the betterment of the country and the people. The United Nations Environment Programme was established in 1972 to address environmental issues at the global and regional level. The UNEP generally consists of soft laws, laws based on treaties, conventions but in case of extra territorial damages and when countries are binding under a treaty and there is a breach in it, matters can be brought under International Court of Justice. United Nations Environment Programmes mission is to care for the environment, safeguard the environment, and protect the rights of human to a proper and clean environment for the present and future generation. UNEP provides leadership and encourages partnership with different countries for the protection of the environment in a global and regional level. The UNEP is governed by the United Nations Environmental Assembly (UNEA), it addresses the critical environmental challenges, make laws and creates agendas for preserving and rehabilitating the environment. This paper has been written on non-doctrinal research basis and consists of a detailed study of the functioning of UNEP, the established norms under international law and UNEP. It's role in the sustainable development of the economy, contribution to green economy and to combat climate change. The paper also signifies the role of United Nations Environment Programme in the development of International environmental law.

Keywords: *International law, UNEP, Sustainable development, Safeguarding, Global.*

I. INTRODUCTION

The United Nations environmental programme came into existence on 15th December 1972, after the United Nations conference on the human environment. The UNEP is responsible to

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address the issues impacting the environment and aid in the development of environmental policies and practices. UNEP's mission statement clearly lays down what is UNEP made for and its objective². The UNEP have several divisions under it, which helps in influencing the different aspects of environmental protection i.e. Early warning and assessment (DEWA), Environmental policy implementation (DEPI), Technology, industry and economics (DELIC), Regional cooperation (DRC), Environmental law and conventions (DELIC), Communications and public information (DCPI), Global environmental facility coordination (DGEF)

The sovereign council held its first session in Geneva in June 1973. In its third session which was held in Nairobi in Kenya from 17th April to 2nd May 1975, Mr. Maurice Strong, the then executive director while addressing the session said that the concept of UNEP. As a leader, catalyst and coordinator in effect the hub of the environmental action had begun to become a reality. He mentioned that UNEP's task is to help in assuring that environmental factors are given adequate attentions in taking decisions concerning such activities and also to improve the quality of decision by which the environment is affected³. Under various norms of international law, under the UNEP, Stockholm declaration on the human environment of 1972, principal 21⁴ states that every nation should be responsible of resource management of their own country and shall not cause damage to the environment of other states. Also Adopted the world charter for nature and principles of sustainable development UNEP believes and supports that every nation state should take proper measures in accordance with the United Nations to safeguard the environment and support sustainable development. On October 1982, United Nations general assembly adopted the world charter for nature and principles of sustainable development. The principle was acknowledged in the 1987 report of 'our common future' published by the United Nations commission on environment and development. In 2002, the Paris Agreement was made, where the UNEP with the Partnership of governments under the United Nations framework convention on climate change (UNFCCC) aimed to enhance the implementation of preventing climate change and to recognize the threat that climate change possesses on the world. The issue of climate change has been increasing over the years in a rapid way resulting in the rise of temperature all over the world and the melting of ice caps. The head of the UNEP, in the Paris agreement mentioned the urgent action needed for the restoration of the biodiversity and the safeguard of our natural resources to avoid any further climate degradation which will effect in hunger,

² "To provide leadership and encourage partnership in caring for the environment by inspiring, informing, and enabling nations and peoples to improve their quality of life without compromising that of future generations".

³ UN. Monthly Chronicle, Vol.XII, No.5(May1975).

⁴ Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration, 1972)

poverty, illness and natural catastrophes⁵. In between 2003-2010, UNEP has taken up several projects among which are protection of the arctic marine environment, ecosystem management to conserve biodiversity, implement the Stockholm convention on Persistent Organic Pollutants (POP's), the goal for green economy and sustainable development, combating desertification through sustainable management of land resources. Voluntary United Nation's environment fund is established and the funds finances these projects, ranging from marine pollution, soil degradation, maintaining biodiversity, alternative energy resources and is also developing a global environment monitoring system to detect impending environmental changes.

II. CONFERENCES, DECLARATIONS AND FUNCTIONS UNDER UNEP:

The first known dispute which led the foundation of development of law relating to environment internationally was in 1906 known as the "trail smelter arbitration case"⁶. The case created a milestone for looking into environmental matters more seriously. Since 30th July 1968 Economic and Social Council recommended the General Assembly of United Nations to consider UN conference on the problem of the human environment, and on 5th June, 1972 United Nations Environmental Programme came in to existence. The conference of Stockholm in 1972 was the first conference to establish UNEP as a part of the United Nations. This conference known as the Magna Carta of environment worked in a systematic manner for the need of intensified action at the national, regional and international level in order to limit or eliminate the threat to the environment. The conference brought the Stockholm declaration of 1972 which consisted of 26 very important principles⁷ which paved the path for establishing proper and important guidelines for the stability and sustainability of the environment. The main objectives of the Stockholm were development of the environment, international organizational implication of actions, natural resource management, planning and management of human settlements, identifying and control of pollutants and nuisance of broad and international significance, increasing education on environmental issues. The Stockholm conference was thus followed by several conferences and deliberation in the international field in order to arouse consciousness worldwide, and to

⁵ "We must take urgent action. If we don't, we will mourn the loss of biodiversity and Natural resources. We will regret the economic fallout. Most of all, we will grieve over the avoidable human tragedy; the growing numbers of climate refugees hit by hunger, poverty, illness and conflict will be a constant reminder of our failure to deliver...As the Paris Agreement legally enters into force, we sincerely hope this report will be a wakeup Call to the world." -Erik Solheim (Evans). The Paris Agreement.

⁶ Trail smelter case (United States, Canada) 16 April 1938 and 11 March 1941, NATIONS UNIES - UNITED NATIONS Copyright (c) 2006. , https://legal.un.org/riaa/cases/vol_III/1905-1982.pdf (1st Oct., 8.20pm)

⁷ Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration, 1972), <http://docenti.unimc.it/elisa.scotti/teaching/2016/16155/files/file.2017-03-11.7227158899> (1st Oct., 9.20pm)

take forward the principles of the Stockholm declaration⁸. To celebrate the 10th anniversary of Stockholm conference, the United Nations Environmental Programme convened an international conference at Nairobi in 1982, held between 10th to 18th May. This conference adopted a declaration which created a special commission to frame long term environmental strategies for achieving developments upto the year 2000 and beyond. Keeping intact the principles of Stockholm conference, they provided a basic code of environmental conduct for years to come. Two more important events were held in 1982, the UN General Assembly adopted the World Charter for Nature⁹ and an international conference on environmental education and awareness was held in New Delhi, India in December 1982, for a massive programme on environmental education and monitoring system. In 22nd March 1985, the Vienne Convention, which was the first step towards international co-operation for the protection of the Ozone layer, was held.

Proof of Ozone depletion was received when experts found the Ozone hole in Antarctica in the 1970's¹⁰. It obliged the parties to takes measures to look into such actions which were causing the Ozone layer depletion and to protect health and environment. Guidelines were laid down relating to research, transmission of information, co operation in the legal and scientific field. In 1987, in the World Commission on Environment and Development, the environmental world got introduced to the theme of Sustainable Development in a report for the General Assembly entitled as 'Our Common Future' or the 'Brunt land report'. After two decades of the Stockholm Conference in 1972, another International conference at Rio De Janerio, in Brazil was held in 1992. The goal was to establish a new equitable and global platform through new levels of co-operation among states and to freshly lay down some more important principles and to work towards international agreement for protection of the environment. The Summit adopted two very important international document namely- Agenda21 and Rio declaration on environment and development, which included the 27 principles of the Rio declaration¹¹. Agenda 21 was the comprehensive blue print for action

⁸ The Convention for the prevention of Marine Pollution by Dumping of Waste and other Matter, 1972
The Convention for the protection of the World Culture and Natural Heritage, 1973
The Convention on International Trade in Endangered species of Wild Fauna and Flora, 1973
The International Convention for the Prevention of Marine Pollution from Land base d sources, 1974
Convention on Large range Trans boundary Air Pollution, 1979
The United Nations Convention on the Law of the Sea, 1982.

⁹ World Charter For Nature (1982),

<https://medium.com/@timboucher/world-charter-for-nature-1982-93cc3d41ff79> , (1st Oct., 1.44 am)

¹⁰ Scientists from British Antarctic Survey (BAS) began monitoring ozone during the International Geophysical Year of 1957-58. In 1985, scientists discovered that since the mid-1970s ozone values over Halley and Faraday Research Stations had been steadily dropping when the Sun reappeared each spring. Something in the stratosphere (about 20km above Earth) was destroying ozone- Report from the British Antarctic Survey Team.

¹¹ Rio Declaration on Environment and Development, <https://www.cbd.int/doc/ref/rio-declaration.shtml> ,

into the 21st century by the implementation of Sustainable development. The Rio conference also adopted a non binding statement on forest principles and two international convention, climate change convention and convention on biological diversity. A review conference was held after five years at Kyoto (Japan) on 1st December 1997, here the reports in the five years was laid down and concern was raised because of the warming of the world due to industrial gasses having an inverse effect on the environment known as the greenhouse effect. A future plan was chalked out asking the developed countries to contribute for the improvement of the improvement of the environment in the upcoming year. After ten years of the Rio Conference, the World Summit on Sustainable Development was held at Johannesburg, South Africa from August to September in 2002, to reaffirm the commitment of Sustainable development. The main action plan of the Johannesburg Declaration was poverty eradication and human development, also it focused to restore the worlds depleted fisheries for 2015. The third international conference on Sustainable development known as Rio+20 held in Rio De Janerio, the outcome document included systematic scrutiny of the pattern of production particularly of toxic substance and disposal of radioactive waste and alternative sources of energy and securing the scarcity of water. The recent Sustainable development summit was held in 2015 in New York, the outcome document included ‘Transforming our World; the 2030 Agenda for Sustainable Development’¹².

III. UNEP TOWARDS A GREEN ECONOMY- SUSTAINABLE DEVELOPMENT AND POVERTY ERADICATION

Since the Brunt land commission report of 1987, UNEP has been working towards the goal of sustainable development, economic development by conserving the natural resources for the present and future generation. The world summit on sustainable development in Johannesburg South Africa, 2002 reaffirmed the commitment towards sustainable development and in 2015, 17 sustainable development goals or SDG’s¹³ were endeavored unanimously by all countries to end poverty, protect the planet and ensure prosperity for all. The green economy project is UNEP’s key contribution to the Rio+20 process and the overall good for eradicating poverty and aiming for a sustainable 21st century. The green economy agendas do not favors one political perspective from another, it is relevant to all economies and is aimed at amplifying the implementation of Agenda 21 of 1992. UNEP has described green economy is made for improving the living state of human beings while

(1st Oct., 02.12 am)

¹² United Nations Sustainable Development Summit 2015, 5 - 27 September 2015, New York
<https://sustainabledevelopment.un.org/post2015/summit> , (1.22 am, 2nd October)

¹³ THE 17 GOALS, [HTTPS://SDGS.UN.ORG/GOALS](https://sdgs.un.org/goals) , (2ND OCT, 05.58PM)

reducing environmental risk and ecological scarcities. To change it to a green economy the basic requirements are national regulations, policies, international market and legal infrastructure, trade and aid protocols. Reports towards a green economy, focuses on ten key economic sectors including human well being, social equity, reducing environmental risk and ecological scarcities to generate positive outcome for increased GDP, growth in economic output, decent employment and reduced poverty. Other sector specific investment opportunities includes renewable energy and resource efficiency. The report for the last quarter of a century showed 60% of the world's major ecosystem goods and services which hold up the livelihood have been degraded or used unsustainably¹⁴. The key findings showed that greening of the economy or positive economic management for the environment as well as the people not only generates increase in wealth but also produces a higher rate of GDP growth. Also in a transition to a green economy, new jobs are created and poverty eradicating is boosted when the benefit flows from natural capital that is received directly by the poor. Forest are key to ecological infrastructure that supports human well being and helps in increasing the quality of human well being. Reducing deforestation is required. The current high rate of deforestation is because of demand for wood products, pressure of land use. A green economy transition not only recognizes and demonstrates the value of natural capital but also builds up natural capital for sustainable economic progress. When it comes to agriculture the challenge is to feed nine billion people by 2050 without damaging the ecosystem. The current farming practices use over 70% of global freshwater resources¹⁵. A green economy can generate growth and employment while yielding environmental and social benefits, but this will require more active participation, world leaders, civil society, leading business to engage in the transition and contribution from the developed countries.

IV. UNEP AND CLIMATE CHANGE

UNEP established the inter governmental panel on climate change (IPCC) in the 1980's and conducted assessments for scientific understanding of the climate change for the 1992 UN, conference on environment and development. The Climate Change Convention¹⁶ was prompted by several scientific studies which indicated that increased level of carbon dioxide in the atmosphere was causing global warming to rise. This increase in temperature was attributing to the greenhouse effect. In addressing the issue the international community

¹⁴ Ecosystem and Human Well-being: Synthesis. Millennium Ecosystem Assessment (2005). p. 1.

¹⁵ Securing the Food Supply, World Water Assessment Program. UNESCO, (2001), pp. 192-93, <http://www.unesco.org/water/wwap/wwdr/pdf/chap8.pdf>, (2ND OCT, 06.28PM)

¹⁶ UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE, https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf (3rd October, 1.58am)

chose to follow the process successfully employed in the ozone/CFC context. The Climate Change Convention was only a broad blueprint, but some significant provisions and principles were underlined and negotiated. UNEP is working and making efforts to reduce emission of greenhouse gasses and also supporting the negotiation of the UN framework convention on climate change in 1994. UNEP's work area on climate change includes linking climate change to other environmental and developmental issues, a science based approach for improving the issues of climate change, raising public awareness on environment and climate change issues. Climate change poses an enormous threat to the lives of individuals. There harmful impact includes events like natural catastrophes, global warming, melting of ice caps that poses a direct threat to human lives as well as gradual forms of environmental degradation that undermines access to clean water, food and healthy habitat. The direct affected areas due to climate change are fresh water resources, Terrestrial ecosystem, coastal areas and low lying areas, food security, Polar Regions. The UN General Secretary has identified five fuscous areas around which coordination is required for climate change activities. Reducing emission from deforestation and degradation, public awareness about the need of sustainable environment, capacity building with United Nations Development Programme (UNDP) and working towards a climate neutral UN. The fourth assessment report of IPCC (AR4) clearly states that the facts of climate change are now certain, what is required now is to emphasize how much change can be brought in a short time action plan¹⁷. The 15th conference of parties in Copenhagen in December in 2009 is critical when addressing climate change that was made keeping in mind the goals of sustainable development, and much importance was given for the conditions of climate change and the effect it is having on the present and future generation. The eight Secretary General of UN. Ban Ki-moon, made climate change one of the three priorities for the UN. System and has addressed to Global Warming on a very serious note¹⁸. UNEP plans to build on in areas of finance which includes the Kyoto protocol's clean development mechanism, biodiversity, clean energy, ecosystem and regional support for technology transfer and capacity building. UNEP has created a comprehensive climate change programme and will enhance the programme by bringing together projects and funds from multiple sources to deliver results. UNEP's work on climate change is also guided by the Medium Term Strategy 2010-2013,

¹⁷ AR4 Climate Change 2007: Synthesis Report
<https://www.ipcc.ch/report/ar4/syr/> , (2nd October, 11.52pm)

¹⁸ Climate change poses 'defining challenge' of our time
<https://news.un.org/en/story/2008/10/276912-climate-change-poses-defining-challenge-our-time-ban-says>
(2nd October, 11.58pm)

climate change is one of the six cross cutting thematic priorities in UNEP's Medium Term Strategy programme. The UNEP will also complement the activities of the other UN agencies for issues on environment like UNDP, World Bank in achieving the goals under climate change. UNEP is supporting national governments in efforts to develop integrated coastal zone management plans as well as conducting assessment on marine diversity. UNEP has partnered with UNFCCC in a joint programme for 2008-2009 which included strategic communication, assisting developing countries.

V. ROLE OF UNEP IN THE DEVELOPMENT OF INTERNATIONAL ENVIRONMENTAL LAW:

In the last few years in International field environmental concern have emerged as a major topic of discussion and importance. When it comes to International environmental law, the general norm is the duty of a state to be an active part of the environmental conventions and declarations and apply the principles in the respective countries and to protect the fact that every citizen has a right to a decent and healthful environment. Environmental justice became one of the most sensitive issues since the 1990's; it underlined almost all of the negotiating sessions and the disputes leading upto international environmental agreements. Since the beginning of UNEP in 1972, it has played a significant role in the development of international environment law. It has negotiated and adopted nearly thirty binding multilateral instruments and non-binding others. In 1987, Montreal Protocol on substances that deplete the Ozone layer¹⁹ and ten sets of non binding guidelines were adopted, this protocol turned out to be one of the important step for looking into the ozone layer and climate change situation. UNEP is composed of 58 states which are not necessarily members of the UN., the Governing Council of UNEP meets at headquarters in Nairobi, to deliberate policy making matters, issues, decisions and set UNEP's agenda. In areas of environmental law, UNEP has the authority to undertake direct implementation. Currently UNEP has concentrated on a broad range of environmental problems, including protection of the Ozone layer and transforming the brown economy to a green economy for sustainable development and serves as the Secretariat for these agreements. UNEP also serves as the Secretariat to the principle binding legal instrument on wildlife protection, the Convention on International Trade in Endangered Species of Wild Fauna and Flora and the Convention on Conservatory of Migratory Species²⁰. UNEP is developing an umbrella convention for dimensions which are

¹⁹ Montreal Protocol on Substances that Deplete the Ozone Layer, adopted and opened for signature Sept. 16, 1987, (entered into force Jan. 1, 1989)

²⁰ Convention on the Conservation of Migratory Species of Wild Animals, June

lacking in existing international regimes for preservation of biological diversity. It has developed non binding guidelines on Environmental Impact Assessment (EIA)²¹, the governing council of UNEP is seeking the views of governments for the need of future development in the EIA sector. In accordance with UNEP's mandate for special consideration of situation of developing countries, UNEP provides legal assistance to such countries on request. In order to control the activities and find solutions, UNEP has developed a strategy which usually begins by seeking scientific view and strategies on a particular environmental problem, then identifies the constituencies whom are needed to be involved and whose all political support will be important. UNEP then formulates its legal strategy convenes legal working group to issue papers and drafts of legal documents prepared by the law unit. The Secretariat of UNEP participates actively in all the sessions and meetings. When the control measures are adopted, UNEP primarily targets for reducing pollutant emissions and puts control on trade like in waste, chemicals or endangered species.

The problems and drawbacks of international environmental law is that although these agreements, conventions and treaties sometimes oblige countries to adopt implementing legislation, they are not usually enforceable on their own in a court. Nations are bound by treaties and conventions in international forums only, such as the International Court of Justice (ICJ), only when the countries gets into agreement and consent to being sued. The important question in the jurisdictional arena is who may bring a suit, often only countries may sue countries, individual citizens and nongovernmental organizations cannot. Also for a country to have a stake in the outcome of the subject matter, some harm may have to cross the boundaries of the violating country in the other country. The 1992 convention on the conservation of biological diversity, created a new international legal body, the Committee on Sustainable Development (CSD), but the CSD lacks the power to bring enforcement power against governments or private parties but the CSD helps in monitoring national compliance efforts by requiring member nations to take steps and submit annual reports.

VI. CONCLUSION- SUPPORTING THE 2030 AGENDA AND “THE FUTURE WE WANT”

The current unemployment rate, climate change, resource scarcity, food insecurity and the current pandemic situation calls for an immediate radical change in our society. To bring the change United Nations must face the challenges and come up with effective agendas for a sustainable development. The 2030 agenda was agreed by 193 countries at the UN.

23, 1979, art. 9, Para. 2 (entered into force Nov. 1, 1983)

²¹ Goals and Principles of Environmental Impact Assessment, U.N. Doc. UNEP/GC.14/17, Annex III (June 1987), reprinted in ENVIRONMENTAL IMPACT ASSESSMENT, UNEP GUIDELINE SERIES

Sustainable development summit in September 2015, it supported the involvement of civil society organizations, private sectors, academics and scientific research organization. The 2030 agenda was made keeping in mind the many challenges that the world is facing today and will be facing in the future within the year 2030. The agendas and goals are not country specific or on political basis, they are set of comprehensive goals for the development on a global basis especially for the developing and the underdeveloped countries²². The SDG's are the core of this programme for development. The agenda will provide opportunities for engagement and new partnerships to address the global challenges. The important advantage of this agenda is that it is applicable to all countries, developing, developed and under developed. The 2030 Agenda announces a plan of action for the people, the planet and prosperity; it recognizes eradicating poverty globally and in all forms. The 2030 Agenda for its current under developed and poor economic and hygiene condition and also other similar condition countries and intends to build and develop on the existing national policies and bodies. The 2030 agenda integrates the three basic and important dimensions of Sustainable Development, social, economic and environmental. It is based on the concept of global partnership, supported by different countries and by putting in all means of implementation. The main objective of this wide and focused plan is to safeguard the environment and improve the human condition globally for the present and future generation, it also has scope for dealing with issues and problems that will be arising within 2030.

²² Transforming our world: the 2030 Agenda for Sustainable Development
<https://sustainabledevelopment.un.org/post2015/transformingourworld> , (3rd October, 09/08pm)