PRINCIPLES OF PREVENTION AND PRECAUTION IN INTERNATIONAL ENVIRONMENTAL LAW: TWO HEADS OF THE SAME COIN

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Abstract

There is no gainsaying that environmental matters, management and control are all governed by environmental law principles. Environmental principles have become established features of international environment, more especially since after 1992 Rio Conference (the Rio declaration). This paper examined the role and importance of preventive and precautionary principles in international environmental law, the institutional and legal frameworks upon which these principles have found their expressions. The paper has also examined the laws regulating to environmental matters in Nigeria and concluded by making some recommendations for better enforcement of international environmental laws both national and international jurisdictions.

Introduction

Modern environmental law has been shaped by the design and application of set of principles and concepts outlined in publications such as our common future,[1] which was published by the World Commission on Environment and Development and, Earth Summit (Rio Declaration). These legal principles govern environmental laws and their enforcements; they are generally and universally applicable across the range of activities in respect of the protection of all aspects of the environment. According to Philip Sands[2] principles and rules of public international law provide a legal framework within which the various members of international community may cooperate, establish norms of behavior and resolve their differences.

This means that there are legal principles and rules imposing obligations, requiring states and other members of international community to conform to certain norms of behavior.[3] These principles limit the conducts of permitted activities because of its impacts on the environment within the states of its borders. It also makes it mandatory for administrative machineries to ensure that standards, principles and rules are adhered to, while the courts settle deviation by interpreting and applying the rules of international environmental law. There are several international environmental principles that have been laid down for member states to apply in matters of environmental standards. The major concern here for purposes of this paper is to take a critical look at prevention and precautionary principles with reference to Nigeria as a member of international community.

Environmental Challenges

Given that the land, the sea and the air spaces of the planet earth are shared and are not naturally distributed amongst the states of the world, and given that the world transforming activities, especially economic activities can have direct effects or cumulatively on large parts of the world

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[1]Report of the World Commission on Environment and Development (1987), titled: Our Common Future in Brundtland, United Nations Conference on Environment and Development (UNCED, 1992)

[2]S Philips, *Principles of International Environmental Law* 2nd edn,(Cambridge University Press 2004) 12.

[3]C A Omaka, *Municipal and International Environmental Law* (Kingdom Age Publications 2012) 31.

environment, how can international law reconcile the inherent and fundamental interdependence of the world environment? How could legal control of activities adversely affecting the world environment be instituted, given that such activities may be fundamental to the economics of a particular state?[4]

It is widely recognized that our environment faces diverse and growing range of environmental challenges which could only be addressed through international cooperation, such concerns as acid rain, ozone depletion, climate change, loss of biodiversity, toxic and hazardous products and wastes, pollution of rivers and depletion of freshwater resources are some of the issues which international law is called upon to address. The conditions which have contributed to the emergency of international environmental law are easily identified; environmental issues are known by the fact that ecological interdependence does not respect national boundaries and those environmental issues previously considered to be domestic concern, have their international implications, it may be bilateral, sub regional or global, these concerns can only be addressed by international environmental laws, regulations and principles.

The growth of international environmental issues is reflected in the large body of principles and rules of international environmental law which apply bilaterally, regionally and globally and reflects international interdependence in a globalizing world.

As stated earlier, environmental matters do not know any boundary, either national or international; polluted water or air in Nigerian water or air space will finds its way to other countries of the world in just few limns, that is why the world body (United Nation) has demonstrated her commitment in environmental issues by organizing various world conferences on environment to discuss, address issues and find solutions on environmental challenges.

Towards the Establishment of Environmental Principles

It is a general principle that states have permanent sovereign light over their natural resources and at the same time have concomitant responsibility not to use the activities of those resources in such a way that it will cause damage to the environment of other states or areas beyond national jurisdiction. This principle allows states to conduct their activities as they choose within their territorial jurisdiction, including their own environment. The principle of permanent sovereignty over natural resources found its widest acceptance in the Stockholm conference of 1972 in its principle 21, which provides *inter alia*

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

This principle was reaffirmed in Rio Declaration[5], principle 2 which states that:

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

[4]P A Eunomia, *Principles of International Environmental Law* 2nd Edn (Cambridge University Press 1990) 1.
[5]United Nation Conference on Environment and Development, 1992.

Having declared earlier in Principle 1[6], that

> Human beings are at the centre of concern for sustainable development. They are entitled to a healthy and productive life in harmony with nature. The development of the environment should meet the needs of the present without compromising the ability of the future generations to meet their own needs.

This principle was also reaffirmed by the WCED,[7] report on sustainable development. It is noteworthy that what might be called the basic principles of international environmental law that is the sovereign right to states over the natural resources within their jurisdiction has also placed a very strict duty or responsibility on the states not to use those resource in such a way as to cause damage to other states outside their boundary or jurisdiction. It is these duties or obligations on the states that have been formulated as principles of international environmental law, for which we shall now turn to, for further discussion.

As noted earlier, the basic principle of international environmental law, states that, states have unfettered right to exploit their natural resources within their territory, but must exercise reasonable care to ensure it does not damage areas outside their jurisdiction or areas belonging to other states.

Several other principles have been enunciated by various world conferences on environmental matters, we shall outline those principles and thereafter discuss the principles of prevention and precaution in international environmental law.

By Rio Declaration of 1992[8] which was a follow up to 1972 Stockholm[9] conference, the following were declared principles in international environmental law, as prerequisite to achieving sustainable development in environment and every state was enjoined to apply them in their jurisdictions:

16. Precautionary principle
17. The prevention principle
18. The polluter pays principle
19. The integration principle
20. The public participation principle

Prevention Principle: In International Environmental Law

The principle of prevention or 'no harm' as international environmental law has its historical development in the *Trail Smalter* case.[10] In this case, the tribunal stated that

> No state has the right to use or permit the use of its territory in such a manner as to cause injury by fumes in or to the territory of another or the properties or persons therein, when the case is of serious consequence and the injury is established by clear and convincing evidence.

This principle was confirmed in 1947 by ICJ in Corfu Channel case.[11] The decisions in these two cases were used as a primary norm to determine the responsibility of a state for

[6]Ibid.
[7]Brundtland Commission: World Commission on Environment and Development (WCED) 1987.
[8]United Nations Conference on Environment and Development, held in Rio de Janeiro 1992 (Earth Summit).
[9]World Conference on Environment held in Stockholm, Sweden in 1972.
[10]*United States v Canada* (1905).
[11]*United Kingdom v. Albania,* referring to the existence of certain general and well recognized principles namely: every state's obligation not to allow knowingly, its territory to be used for acts contrary to the rights of other states.

damages caused to another state. The fundamental requirement of this principle is the prevention of damage to the environment and or otherwise reduces, limit or control the activities which might cause such damage, which can be achieved through appropriate regulation, administrative and other policies by the states. This principle also requires urgent preventive action to be taken before the occurrence of the damage. In the case of *Gabeikorovo v. Nagymaros*,[12] ICJ noted that

> It was mindful that in the field of environmental protection, vigilance and protection is required on account of the often irreversible character of damage to the environment and the limitation, inherent in the very mechanism of reparation of this type of damage.

The economic need and development by the state should as much as possible avoid wherever possible, environmental damage or change that would be difficult or impossible to repair, that is the need to balance economic development and environmental protection to the benefit of man.

Principle 1 of the Stockholm Declaration of 1972[13] provides a solemn responsibility to protect and improve environment for the present and future generations. This principle has been incorporated in other treaties. Prevention principle is the fundamental notion behind laws regulating the generation, transportation, treatment and disposal of hazardous waste and laws regulating the use of pesticides, the principle was the foundation of the Basel Convention on the control of transboundary movements of hazardous wastes and their disposal,[14] which sought to minimize the production of hazardous waste and to combat illegal dumping.

Article 3 of the climate change convention,[15] enshrines the protection of climate for the benefit of present and future generations, the principle of common but differentiated responsibilities and respective capabilities, the related principle of equity, the principle of full consideration to the specific needs and special circumstances of developing countries parties, the precautionary principle, the concept of sustainable development and the principle of supportive and open international economic system. In fact, the preamble of climate change convention referred to Principle 1 of Stockholm Declaration (Sovereign right of states to exploit their natural resources and the responsibilities 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).

Article 3 of the Biodiversity[16] convention includes the text of principle 21 of the Stockholm declaration as the sole principle. Other instruments adopted at United Nations Conference on Environment are also considered as setting out principles in the field of sustainable development (Rio Declaration), the Agenda 21 and the Forest Principles.

Article 193 of the United Nations Convention on the law of the Sea (UNCLOS)[17] provides that 'states have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment.' The core reasons behind the principle of prevention in international environmental

[12]*Hungary v Slovakia* (ICJ) Judgment.
[13](n 5) Principle 1.
[14]Basel Convention: Protocol on Liability and Compensation for damage resulting from Transboundary Movements of Hazardous wastes and their disposal.
[15]United Nations Framework Convention on Climate Change (1992), available at <https:en.wikipedia.ng/wiki/unitednations-framework-convention-on-climate-change> accessed 20 August 2019.
[16]United Nations Convention on Biological Diversity (1992)
[17]United Nations Convention on the Law of the Sea, 10th December, 1982 (UNCLOS)

law are prevention of damage to the environment or otherwise reduce or control the activities that might cause such damage.

For effectiveness, the prevention in principle must be applied in conjunction with Principle 10[18] of Rio Declaration which enjoins all slate patties to handle environmental issues with the active participation of all concerned citizens, at the relevant levels, 'both national and individual shall have access to information, concerning the environment, including participation ill decision making processes, there should also he awareness and widely information dissemination, effective access to judicial awareness and administrative proceeding, including remedy for damage. The preventive principle of international environmental law is not sufficient enough for total prevention of environmental damage, hence there is need for states to apply precautionary measures in matters of environmental activities, because there cannot be absolute eradication or stoppage of environmental damage, but there could be a measurable level of mitigation, reduction and control of environmental impact of activities that might lead to environmental damage. This brings us to another principle in international environmental law.

Precautionary Principle

Precautionary principle in international environmental law, is based on the philosophy that if absolute prevention cannot be achieved in environmental damage, it can be controlled or reduced to its bearest minimum, if appropriate measures are taken from the onset. It looks at environmental risk management, rather that total eradication of all risks associated with environmental activities. Principle 15 of Rio Declaration provides: that

> In order to protect the environment, the precautionary approach shall be widely applied by states according to their capabilities where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for post point cost-effective measures to prevent environmental degradation.

The European Union Treaty[19] in its Article 174(2) adopted the United Nations Convention on climate change on precautionary principle when it provided that

> Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing such measures, taking into account that policies and measures to deal with climate change should be cost effective so as to ensure global benefits at the lowest possible cost.

The precautionary principle is an appeal to prudence addressed to policy makers who make decision about the activities that could be seriously harmful to public health and environment. This principle provides course of action in confronting situations of potential risks. It is an open ended and flexible principle that creates a possibility and an incentive for social learning.

This principle states that evidence of harm rather than definitive proof of harm should promote policy action. It makes it clear that those decisions and developments in science and technology are primarily based on value and only to a lesser extent on scientific facts and

[18]United Nation Conference on Environment and Development, 1992
[19]European Community Treaty (2007).

progress. It embodies the notion rather than awaiting scientific certainty, that regulators should act in anticipation of environmental harm to ensure that this harm does not occur.

In other words, where a policy or an action has a suspected risk of causing harm to the public or the environment in the absence of scientific certainty or uncertainty, that the action or policy is harmful, the burden of proving that the said action is not harmful rests on those taking the action. It implies a social duty or responsibility to protect the public from exposure to harm, when scientific investigation had found plausible risk, except where it proves otherwise that there is sound evidence that no harm will result.[20]

Precautionary principle is a caution in advance or caution practiced in the context of prevention. It presupposes anticipation of harm before its occurrence and the responsibility of the proponent to establish that the proposed activity will not or is unlikely to result no significant harm or damage to the public or environment.

It places a higher burden of control to the proponent of any activity, if the level of possible harm and degree of uncertainty is likely. This principle applies where scientific evidence is inconclusive or uncertain and preliminary evaluation indicates that there are reasonable grounds for concern that the potential dangerous effects on the environment, human, animal or plant health may be inconsistent with the high level of protection chosen by European Union and indeed all concerned.[21]

The 1985[22] Vienna Convention and 1989[23] Montreal Protocol were also in support of the precautionary measures aimed at protecting the ozone layer from global emission of substance that deplete it. This principle has also been applied in the case of *EFFA Surveillance Authority v. Norway,*[24] where it was stated that

> When the insufficiency or the inconclusiveness or imprecise nature of the conclusion to be drawn from those considerations make it impossible to determine with certainty the risk of hazard, but the likelihood of considerable harm still persists were the negative eventuality were to occur, the precautionary principle would justify the taking of restrictive measure.

This principle was also supported in the New Zealand case in 1995,[25] when it emphasized that it is a very widely accepted operative principle of law. The ICJ accepted same and shifted the onus of proof on France to prove that the said test would not give rise to environmental damage.

Machiavelli opined that all wise princes should:

> Not have to watch out for trouble at hand, but also for those ahead, and endeavour diligently to avoid them; for once trouble is foreseen, it can be easily remedied; however, if you wait for it to become evident, the medicine will be too late, for the disease will have become incurable[26].

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[20]1974 Paris Convention, where it allows parties to take additional measure, if scientific evidence has shown that a serious hazard may be created by that substance and it urgent action is necessary.

[21]European Commission Communication on Precautionary Principle (Cartagena Protocol of Bio Safety 29th January 2000).

[22]The Vienna Convention for the Protection of the Ozone Layers, a multilateral agreement that acts as a framework for the efforts to protect the ozone layer.

[23]This Protocol was on substance that depletes the ozone layer, it is a global agreement to protect stratospheric ozone layer by phasing out the production and consumption of ozone depleting substances (ODS).

[24](2001) 2 CMLR 47.

[25]*New Zealand v. France* (1974) ICJ 457, Nuclear Test case D Mackay Report 1995, para 105.

[26]Machiavelli, *The Prince* (1513).

The foregoing envisioned as a general rule of good governance has become one of the cardinal standards of international environmental law; that is, prevention. It can be said that the Principle implies that 'prevention is better than cure'. Given the sensitive nature of the environment, prevention appears to be the only responsible and reasonable approach because damage is often times irreparable. This assertion finds expression and support in the International Court of Justice opinion in Gabcikovo Nagymaros Project case (*Hungary v Slovakia*)[27] where it held that:

> In the field of environmental protection, vigilance and prevention are required to take account of the often irreversible character of damage to the environment and of the limitations inherent in the very mechanism of reparation of this type of damage.

The Rio Declaration provides a widely recognized definition of precaution:

> In order to protect the environment, the precautionary approach shall be widely applied by states according to their capabilities. Where there are serious or irreversible damage, lack of scientific certainty shall not be used as a reason for postponing cost effective measures to prevent environmental degradation[28].

At present, this principle finds expression in several environmental legislations. For instance, the Helsinki Convention on the Protection and use of Trans-boundary Watercourses and International Lakes states that:

> The parties shall be guided by the precautionary principle, by virtue of which action to avoid the potential trans boundary impact of the release of hazardous substances shall not be postponed on the ground that scientific research has not fully proved a casual link between those substances, on the one hand, and the potential trans boundary impact, on the other hand[29].

The Vienna Convention for the Protection of the Ozone Layer[30] and the Montreal Protocol on Substances that Deplete the Ozone Layer[31] also represent this principle. Elsewhere, it has been asserted that:

> The duo stands out as an attempt at giving life to the "precautionary principle" which embodies the idea that action should be taken by states without full scientific certainty so as to prevent an emergency problem from becoming a crisis.

In the light of the foregoing, this study posits that the Precautionary Principle is necessary to protect the environment from serious damage.

The precautionary approach is widely accepted as a fundamental concept of national environmental laws and regulations in order to protect the environment. It is elaborated, for instance in the water law and planning law of Israel,[32] in the Environmental Protection Act of the

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[27]Gabcikovo – Nagaymaros Project (*Hungary v Slovakia*) 37 ILM 162 (1998) (Sept. 25, 1997) Para.140
[28]Rio Declaration, 1192, principle 15, P Sands (n18) 266.
[29]1992 ILM 1312, art. 2(5)
[30]Adopted March 22, 1985, 1513 UN 323.
[31]Adopted September 16, 1987, 26 ILM 1541.
[32]Water Law, 1958, Art 157, creates a framework for control of freshwater resources management, water charges policy and planning water conservation zone.

Czech Republic and is included in numerous draft environmental laws currently under consideration, for example in the Pakistan Draft Environmental Act of 1996.[33]
In Nigeria, the principles have been applied through legislations and the constitution, the extent of its implementation and effectiveness is what will engage our next discussion in this discourse.

Institutional and Legal Framework Established to Manage and Implement Prevention and Precautionary Principles in Nigeria

The implementation of these principles in Nigeria can only be appreciated by considering the various institutional/legal frameworks that have the responsibility for the implementation in order to achieve environmental sustainable development.

Section 20[34] of the Constitution of Federal Republic of Nigeria provides that 'the state shall protect and improve the environment and safeguard the water, air, land, forest, and wild life of Nigeria'. Nigeria as a member of international bodies has as an obligation, the duty to respect and apply international laws and treaties ratified and domesticated by her under Section 19(d) of the constitution which provides that 'Nigeria shall have respect for international law and treaty obligations as well as seeking of settlement of international disputes by negotiation, mediation, conciliation, arbitration and adjudication.[35]

The precautionary principle 15 of Rio Declaration, 1992 has found its expression in the Nigeria's Environmental Impact Assessment (EIA) Decree No. 5 of 1992[36] which was the outcome of her participation in the United Nations Conference on Development and Environment (UNCED) also known as Earth Summit held in Rio de Janeiro, Brazil, specifically, Principle 17 of the Declaration provides, 'Environmental impact assessment as a national instrument shall be undertaken for proposed activities that are likely to have significant adverse impact on the environment and are subject to a decision of a competent national authority'.[37]

Section 1 of the EIA Act, Cap E12 Laws of the Federation (LFN) 2004, entitled Goals and Objectives of Environmental Impact Assessment, captures the intendment of Principles 15 and 17 of Rio Conference, when it outlined the following goals and objectives of EIA Act as follows:

a. To establish, before a decision is taken by any person, authority, corporate body or unincorporated body, including the government of the federation, state or local government intending to undertake or otherwise authorize the undertaking of any activity, those matters that may likely or to be a significant extent affect the environment or have an environmental effect on those activities and which shall first be taken into account.
b. To promote the implementation of appropriate policy in all federal lands, however, acquired, states and local government areas, consistent with all laws and decision-making processes through which the goal and objective in paragraph (a) of this section may be realized.
c. To encourage the development of procedures for information exchange, notification and consultation between organs and persons when proposed activities are likely to have significant environmental effects on boundary or towns, state or on the environment of bordering town and villages.

[33]Pakistan Environmental Protection Act (PEPA) 1997 provides for the protection, conservation, rehabilitation and improvement of the environment for the prevention and control of pollution and promotion of sustainable development.
[34]CFRN 1999 (as amended).
[35]*Ibid*, under her Foreign Policy Objectives.
[36] EIA, Cap E12 LFN (2004), No. 2
[37]Ibid.

It must be noted that these aims and objectives of EIA Act has taken into consideration, principles 10, 15 and 17 of Rio declarations, that is, principle of public participation, access to information and policy formations, the precautionary principle in principle 15 has also been taken care of and principle 17, which takes care of EIA Act.

Going further, Section 2(2) of EIA Act provides that 'where the extent, nature or location of a proposed project or activity is such that it is likely to significantly affect the environment, its environmental impact assessment shall be undertaken in accordance with the provisions of this Act.

Section 2(3) of EIA provides that 'the criteria and procedure under this Act shall be used to determine whether an activity is likely to significantly affect the environment, and is therefore subject to an environmental impact assessment.

Section 2(4) of the EIA Act provides that, 'all agencies, institution (whether public or private) except it exempted pursuant to this Act, shall before embarking on the proposed project apply in writing to the agency, so that subject activities can be quickly and surely identified and environmental assessment applied as the activities are being planned.

To ensure effective implementation of the aims and objectives of EIA Act, the federal government in 1988 promulgated Decree No. 58[38]establishing Federal Environmental Protection (FEPA) Agency, the Decree was followed up by an (amendment Decree) No. 57, although these Decrees were promulgated before, the EIA Act Decree came into **be** in 1992.

These agencies were empowered to manage the activities relating to environment. Specifically, FEPA was charged with the responsibility of managing, protecting and preserving the environment, as a regulatory body, it was its further responsibility to protect and develop the environment in Nigeria. It published the Nigeria's National policy on environment and Nigeria's National Agenda 21 in respect of environmental assessment process and practice. The National Oil Spill Detection and Response Agency (NOSDRA) Act 2006 and National Environmental Standards and Regulations Enforcement Agency (NESREA) of 2007, which repealed the FEPA Act[39] 1988.

NOSDRA is empowered to coordinate and implement the National Oil contingency plan for Nigeria[40] while NESREA was established and empowered to have responsibility for the protection and development of the environment, biodiversity conservation and sustainable development of the natural resources, environmental technology, to coordinate and liaison with other relevant stakeholders within and outside Nigeria on issues of compliance, monitoring and enforcement of environmental standards, regulations policies and guidelines.[41]

In May 1988, the Federal Military Government promulgated decree No. 42 entitled: "Harmful waste (special criminal provisions etc) decree". This decree was meant to check illegal dumping, storage or disposal of any form of harmful waste in the Nigeria territory.

Other sectorial policies and guidelines have been made to check, reduce mitigate the effect of development projects in Nigeria in line with the aims and objectives of various international environmental laws and principles which enjoins state parties to conscientiously apply these principles of international environmental law in their various countries for sustainable development in environment. It can rightly be said that Nigeria has demonstrated

[38]Decree No. 58 (1988) which later became an Act of the National Assembly as Cap F10 LFN 2004, repealed by virtue NESREA Act, 2007, S 36.
[39]Cap F10 LFN (2004)
[40]NOSDRA Act, 2006, S 5
[41]NESREA Act, 2007, S 2

great commitment in issues relating to prevention and precaution principles in environmental matters, but a greater commitment is still required of her in this regard.

Conclusion

Having appraised the concept of principles and rules of international environmental law, particularly, prevention and precautionary principles, it is obvious that these principles have contributed immensely to shaping the thinking of policy makers in environmental matters, even our courts, both international and national judicial interpretations on environmental cases in arriving at their decisions. It has also helped states to know the limits of their actions that will cause damage to their environment and outside their territorial boundaries.

It must be noted that the application of these principles still suffer serious commitment from member states, these principles have been practiced more in theory than in practical terms, especially in the developing countries like Nigeria and other African countries (for instance the suit) that has been in Rivers State for a long time now, with seemingly no practical solution to it. The application of these principles to proof environmental offences shows that in the determination of facts with uncertainty, when applying legal principle, the same problem confronts both administrative decision makers and adjudicators. The international Tribunals are yet to determine precisely the time and circumstances in which states may take measures over activities outside its territorial boundaries in relation to conservation of shared resources. In the fisheries jurisdiction case[42] where Spain challenged the application and enforcement by Canada of its fisheries conservation legislation in area beyond its exclusive economic zone, the ICJ declined jurisdiction and the case was therefore not determined on its merit. These limitations notwithstanding, the principles nevertheless have come to be used as an international benchmark to measuring the minimum standard required of a state to apply in any environmental issues or matters.

Recommendations

Having observed lack of serious commitment on the part of member states to totally apply these principles in their various jurisdictions, it is therefore recommended as follows:

1. That a special monitoring body be set up by the United Nations through the environmental agencies to monitor and enforce the observance of these principles by member states.
2. That a special International Environmental Court (IEC) be set up to try any member state that violates any of these principles.
3. That a time limit be given to member states within which to domesticate these laws in their various jurisdictions.
4. That some level of sanctions should be attached to any form of environmental violation by any state member.
5. That in the light of technological advancement, states should be legally compelled to procure and update their environmental monitoring equipment, training, research and development.

[42]Fisheries Jurisdiction Case.