

INTERNATIONAL BINDING MECHANISMS

Duncan French

University of Sheffield, UK.

Keywords: International law, treaties, States, international community, conservation, pollution control, dispute settlement, sustainable development and European Community.

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Summary

The increasing use of international law is an important development in the international community's attempt to resolve global environmental issues. Much of what the present system has accomplished is the result of a growing awareness within the international community of the seriousness of many environmental problems. It was quickly recognized that individual, piecemeal and somewhat uncoordinated action by States, whilst of some utility, was no replacement for concerted international effort. Nevertheless, international environmental law is not simply concerned with the continual adoption of environmental treaties. Issues of compliance and enforcement are also very important; the role of the International Court of Justice and ad hoc arbitration is particularly noted. Moreover, this paper provides the reader with case studies of the role and influence of international environmental law. The two chosen being the impact of sustainable development on international law, and the development of a European environmental policy.

1. Introduction

The increasing use of international law to tackle global environmental problems has become one of the most significant aspects of the work of the international community since the 1970s. And though there remain substantial problems in the creation, administration and enforcement of such law, the gradual development of international environmental law as a body of international law is a major achievement. Much of what the present system has accomplished is the result of an increasing awareness in the international community of the seriousness of environmental problems. It was quickly

recognized that individual, piecemeal and somewhat uncoordinated action by States, while of some utility, was no replacement for concerted international effort. The very nature of environmental problems – their ability to transcend national boundaries, and to cause damage to States and communities that had no role in their creation – meant that measures taken at a local level were constrained in their effectiveness by the ecological realities of the situation.

Moreover, international environmental law has not been confined to environmental issues that have an extraterritorial dimension. It was realized that even those environmental problems that were perceived to be purely local matters with no transboundary implications, were often ‘local’ to many, if not all, States; and this has resulted in a slow, but definite, movement towards international cooperation and regulation of what, only a few years ago, would have been considered issues outside the remit of international law. The 1992 Convention on Biological Diversity is an excellent example of this new concern at the international level for what occurs within the territorial jurisdiction of a State. This paper focuses upon this new concern within international law for environmental protection and sustainable development. The paper is divided into four sections. First, there is a discussion of the nature and history of international environmental law, with particular emphasis on the adoption of treaties and other institutional developments. Second, there is an analysis of dispute resolution in international law, with a discussion of some of the more important judicial decisions concerning environmental issues. Third, as a case study of the role of international law in environmental issues, the paper will analyse the relationship between the notion of sustainable development and international law. And fourth, the paper will introduce European environmental law and policy as an example of a regional system of international environmental law.

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Biographical Sketch

Dr Duncan French is a lecturer in law at the University of Reading, UK. He specializes in international environmental law. He has a Masters Degree in Environmental Law from the University of Nottingham, UK and with the benefit of a British Academy scholarship successfully defended a PhD at the University of Wales, Cardiff. His main interests are the legal implications of climate change and the "legal" elaboration of the concept of sustainable development.