

PROPOSED LEGAL PRINCIPLES FOR ENVIRONMENTAL PROTECTION AND SUSTAINABLE DEVELOPMENT¹

Adopted by the UNCED Experts Group on Environmental Law

I. General Principles, Rights, and Responsibilities

Fundamental Human Right

1. All human beings have the fundamental right to an environment adequate for their health and well being.

Inter-Generational Equity

2. States shall conserve and use the environment and natural resources for the benefit of present and future generations.

Conservation and Sustainable Use

3. States shall maintain ecosystems and ecological processes essential for the functioning of the biosphere, shall preserve biological diversity, and shall observe the principle of optimum sustainable yield in the use of living natural resources and ecosystems.

Environmental Standards and Monitoring

4. States shall establish adequate environmental protection standards and monitor changes in and publish relevant data on environmental quality and resource use.

Prior Environmental Assessments

5. States shall make or require prior environmental assessments of proposed activities which may significantly affect the environment or use of a natural resource.

Prior Notification, Access, and Due Process

6. States shall inform in a timely manner all persons likely to be significantly affected by a planned activity and to grant them equal access and due process in administrative and judicial proceedings.

Sustainable Development and Assistance

7. States shall ensure that conservation is treated as an integral part of the planning and implementation of development activities and provide assistance to other States, especially to developing countries, in support of environmental protection and sustainable development.

¹Ref A/42/427. Our Common Future: Report of the World Commission on Environment and Development

General Obligation to Cooperate

8. States shall cooperate in good faith with other States in implementing the preceding rights and obligations.

II. Principles, Rights and Obligations Concerning Transboundary Natural Resources and Environmental Interferences

Reasonable and Equitable Use

9. States shall use transboundary natural resources in a reasonable and equitable manner.

Prevention and Abatement

10. States shall prevent or abate any transboundary environmental interference which could cause or causes significant harm (but subject to certain exceptions provided for in #11 and #12 below).

Strict Liability

11. States shall take all reasonable precautionary measures to limit the risk when carrying out or permitting certain dangerous but beneficial activities and shall ensure that compensation is provided should substantial transboundary harm occur even when the activities were not known to be harmful at the time they were undertaken.

Prior Agreements When Prevention Costs Greatly Exceed Harm

12. States shall enter into negotiations with the affected State on the equitable conditions under which the activity could be carried out when planning to carry out or permit activities causing transboundary harm which is substantial but far less than the cost of prevention. (If no agreement can be reached, see Art. 22).

Non-Discrimination

13. States shall apply as a minimum at least the same standards for environmental conduct and impacts regarding transboundary natural resources and environmental interferences as are applied domestically (i.e., do not do to others what you would not do to your own citizens).

General Obligation to Cooperate on Transboundary Environmental Problems

14. States shall cooperate in good faith with other States to achieve optimal use of transboundary natural resources and effective prevention or abatement of transboundary environmental interferences.

Exchange of Information

15. States of origin shall provide timely and relevant information to the other concerned States regarding transboundary natural resources or environmental interferences.

Prior Assessment and Notification

16. States shall provide prior and timely notification and relevant information to the other concerned States and shall make or require an environmental assessment of planned activities which may have significant transboundary effects.

Prior Consultations

17. States of origin shall consult at an early stage and in good faith with other concerned States regarding existing or potential transboundary interferences with their use of a natural resource or the environment.

Cooperative Arrangements for Environmental Assessment and Protection

18. States shall cooperate with the concerned States in monitoring, scientific research and standard setting regarding transboundary natural resources and environmental interferences.

Emergency Situations

19. States shall develop contingency plans regarding emergency situations likely to cause transboundary environmental interferences and shall promptly warn, provide relevant information to and co-operate with concerned States when emergencies occur.

Equal Access and Treatment

20. States shall grant equal access, due process and equal treatment in administrative and judicial proceedings to all persons who are or may be affected by transboundary interferences with their use of a natural resource or the environment.

III. State Responsibility

21. States shall cease activities which breach an international obligation regarding the environment and provide compensation for the harm caused.

IV. Peaceful Settlement of Disputes

22. States shall settle environmental disputes by peaceful means. If mutual agreement on a solution or on other dispute settlement arrangements is not reached within 18 months, the dispute shall be submitted to conciliation and, if unresolved thereafter, to arbitration or judicial settlement at the request of any of the concerned States.