



ENVIRONMENTAL LAW

## UNIT – III

International environmental law • Stockholm to Rio • Transboundary harm

## Twenty slides in this unit

1. Why international law

2. Stockholm Declaration

3. Rio 1992

4. Johannesburg 2002 and later

5. Sustainable development in treaties

6. Transboundary harm

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9. CBD and biosafety (bridge to IPR/BD Act)

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# Why international law

Pollution and climate ignore borders. Treaties and soft declarations shape Indian statutes (Art. 253) and judgments (Vellore uses Rio).

## Stockholm 1972

UNCHE – environment on the global agenda.

## UNEP

Institutional follow-up.

## Soft law

Declarations that courts still quote.

## Hard law

Conventions India ratifies and implements.

# Stockholm Declaration

26 principles. Principle 21: sovereign use of resources + duty not to harm other States.

## Human environment

First global statement.

## India

Indira Gandhi's poverty-and-environment speech is often cited.

## Domestic echo

Wildlife 1972 and Water 1974 follow.

## Trail Smelter cousin

Transboundary harm idea.

## Rio 1992

UNCED. Agenda 21, Rio Declaration, climate and biodiversity conventions opened.

### Principle 2

Sovereignty + no harm.

### Principle 15

Precaution.

### Principle 16

Polluter pays.

### Agenda 21

Action plan, not a statute.

## Johannesburg 2002 and later

WSSD adds implementation and poverty. SDGs 2015 keep the frame.

### Johannesburg

Plan of Implementation.

### Rio+20

Green economy debate.

### SDG 13-15

Climate, oceans, land.

### Paris 2015

Climate – related but syllabus is older core.

## Sustainable development in treaties

The phrase migrates from Brundtland into almost every later instrument.

### Definition

Present needs without robbing the future.

### CBD 1992

Biodiversity + sustainable use + benefit sharing.

### UNFCCC

Climate as common concern.

### Indian courts

Treat SD as part of domestic environmental law.

## Transboundary harm

No State may use its territory to injure another. Due diligence is the current standard.

### Trail Smelter

Smoke from Canada to the US.

### Corfu Channel

Every State must not knowingly allow harm.

### Pulp Mills

Due diligence + EIA for shared rivers.

### Indian use

Ganga / haze / river-linking debates.



# Common law of the environment

Nuisance, trespass, Rylands – still pleadable beside statutes.

## Nuisance

Unreasonable interference.

## Rylands

Escape of dangerous things – now overshadowed by Oleum.

## Public nuisance s.268 BNS/IPC

Criminal side.

## Injunction

Quia timet in civil court.

## International criminal / serious harm ideas

Ecocide debates and Rome Statute do not yet make ordinary pollution an international crime. Domestic criminal law does (Water/Air/EPA offences).

### Do not overclaim

No general international crime of pollution.

### Domestic

Offence sections in Unit IV-V.

### Grave harm

Could be public nuisance + EPA.

### Corporate

Director liability in Indian statutes.

## CBD and biosafety (bridge to IPR/BD Act)

Convention on Biological Diversity 1992 is why India passed the BD Act 2002.

### Three pillars

Conservation, sustainable use, ABS.

### Nagoya

Access and benefit sharing protocol.

### Cartagena

Biosafety / LMOs.

### Indian statute

Unit of IPR-II / BD Act.

## Climate instruments in one box

UNFCCC, Kyoto, Paris – common but differentiated responsibility.

### UNFCCC 1992

Framework.

### Kyoto

Annex targets – old model.

### Paris

NDCs – current model.

### India

NDC + domestic energy cases.

## Customary rules courts like

No-harm, due diligence, EIA for significant transboundary harm, cooperation on shared resources.

### **Pulp Mills / Costa Rica v Nicaragua**

ICJ EIA language.

### **ITLOS advisory**

Climate and due diligence – emerging.

### **Domestic**

Vellore already planted precaution.

### **Art. 51(c)**

Respect for international law.

## Soft law Indian judges quote

Stockholm, Rio, UNGA resolutions appear in SC reasoning as aids.

### **Not a treaty**

Cannot override a clear contrary statute.

### **Fill gaps**

When EPA discretion is wide.

### **Vishaka method**

International norms as gap-fillers.

### **Caution**

Do not treat a declaration as an Act.

## Common concern vs common heritage

Atmosphere and biodiversity as common concern; deep seabed as common heritage. Different legal loads.

### Concern

Duty to cooperate, not joint ownership.

### Heritage

Shared property idea (seabed).

### Forests

Sovereign resource with global effects.

### Exam

Do not mix the two phrases.

## Transboundary rivers and air

Ganga-Brahmaputra, Indus, haze – law + diplomacy.

### Treaties

Indus Waters Treaty is the hard example.

### No general Asian water code

Mostly bilateral.

### Air haze

ASEAN / sub-regional soft tools.

### Indian statute

Water Act is domestic unless a treaty is added.



## How to write a Unit-III answer

Name the instrument, extract the principle, land it on an Indian section or case.

### **Stockholm / Rio**

Principles 21/2, 15, 16.

### **Trail Smelter**

Transboundary.

### **Vellore**

Domestic reception.

### **Art. 253 / 51**

Constitutional hooks.

## CASES

# Landmark authorities

**Trail Smelter (1941)**

Transboundary air pollution arbitration.

**Corfu Channel (1949)**

Duty not to allow territory to harm others.

**Pulp Mills (2010)**

Due diligence and EIA on a shared river.

**Vellore Citizens (1996)**

Rio principles received in India.

**Oleum (1987)**

Domestic absolute liability beside Rylands.

**Gabčíkovo-Nagymaros (1997)**

Environment and treaty performance.

## Key takeaways

**01** Stockholm 1972 and Rio 1992 are the two declarations to know.

**02** Precaution and polluter pays enter India through Vellore.

**03** Trail Smelter + due diligence = transboundary harm law.

**04** CBD explains the Biological Diversity Act.

**05** Soft law aids interpretation; it is not an Indian section.

**06** Always land an international principle on Art. 21 / EPA / Vellore.

# **End of UNIT – III**

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