



## INFLUENCE OF INTERNATIONAL OBLIGATIONS IN SHAPING INDIA'S LEGISLATION TO REGULATE CLIMATE CHANGE MITIGATION\*

### ABSTRACT

This article intends to analyse the role of different International legal regimes to control environmental pollution in respect to governance of clean energy technologies for prevention of climate change. To understand the position and objectives of the legal regimes in compliance to climate change and its inter relation with the clean energy technologies each legal regime has been analysed to understand the basis of its conception and its objective. The take on climate change intends to understand the provisions from the point of view of air pollution control and prevention of climate change. Its effect over the control environmental pollution in respect to governance of clean energy technologies for prevention of climate change is discussed in details in the third section of each Declaration. The effect of the international regimes is witnessed over time and the evolution of the effect of the same over time can be seen keeping in account the economic development of India.

"Nature does not wait for us. Nature does not negotiate with us,"  
- United Nations Secretary-General Ban Ki-moon<sup>1</sup>

### INTRODUCTION:

The whole world is suffering from allied woes. Currently the most pressing among them being climate change mitigation. The reasons for climate change are many; the most vital is to develop environment friendly technologies and find renewable sources of energy to avoid any adverse effect on the environment and economic development. Steps need to be taken proactively to avoid further degradation to the environment and harm to living plants and animals. As the whole world is endangered, so the need to restraint and mend any further injury to the environment due to climate change becomes responsibility of the World as a whole. So at the International platform many treaties, protocols and conventions have been drafted either keeping in mind the global rise in temperature or in some cases to directly combat climate change.

### LEGISLATIONS

STOCKHOLM DECLARATION, 1972

### History

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<sup>1</sup>In India, UN chief commends country's leadership on climate change, UN News Centre, 13 January 2015 available at <http://www.un.org/apps/news/story.asp?NewsID=49790>.

India was among the original members of United Nation in the year 1945. India's critical concerns in environment related issues and international co-operation can be traced back to 1972. United Nations Conference on Human Environment, which was convened in Stockholm in June, 1972.<sup>2</sup>The objective of this declaration was to consider the need for a common outlook and for common Principles to inspire and guide the peoples of the world in the preservation and enhancement of the human environment.

It contained seven proclamations realizing the current state of environment and setting goals in that regard. It also contains twenty six Principles iterating some common convictions that need to be adopted.

### Take on climate change

Stockholm Declaration doesn't directly focus on climate change. It deals with environmental problems at large, on the need to conserve environment and steps that need to be taken for that. But inadvertently does mention the critical role that science and technology plays in this respect.

Principle 5 of the Stockholm Declaration clearly foresaw the future crisis of non renewable energy sources and focused on its conservation. The inevitability of the fossil fuel crisis might be well conceived but an alternative solution was not proposed in this regard.

Principle 8 very interestingly acknowledges the need for economic and social development in assurance for better life and working environment for mankind. It states the necessity but doesn't focus clearly on the kind of improvements.

Principle 11 advises all states to inculcate environmental policies to enhance rather than worsen the developmental chances. Directly it might not seem to be related but in advertently it can be perceived as to be contrary to the current scenario of the effect of international climate change obligations on the economic development of developing countries. Thus though stated otherwise in the Principle as of date the developing countries are under a heavier pressure to bring down the global GHG emission rates.

Principle 14 focuses on sustainable development. The words used in this Principle are "rational planning..... Reconciling any conflict between the needs of development and the need to protect and improve the environment." It can be perceived as the solution for attaining the balance between economic development and environmental conservation.

Principle 18 justifies the position of science and technology to bring across economic development by ensuring control over environmental risks. In the current scenario the effect of renewable energy technology to reduce GHG emission in order to control climate change without affecting the economic and social development of the country is comparable.

Principle 20 focuses on the promotion of national and multinational scientific research and development promotion especially for developing countries and its importance in the control of environmental conservation and stability of economy. Currently even Intellectual property rights and research promotions in collaboration with multinationals are being encouraged for better conservation of environment to avoid further change in climate.

Principle 21 strictly encompasses the concept of state restricted policy and exploitation of resources should not have any trans-boundary effects whatsoever. The interesting point that needs

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<sup>2</sup> Günther Handl *DECLARATION OF THE UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT (STOCKHOLM DECLARATION), 1972 AND THE RIO DECLARATION ON ENVIRONMENT AND DEVELOPMENT, 1992*, United Nations Audiovisual Library of International Law available at [http://legal.un.org/avl/pdf/ha/dunche/dunche\\_e.pdf](http://legal.un.org/avl/pdf/ha/dunche/dunche_e.pdf)

to be noted here is that in this respect the extensive air pollution caused due to GHG emission has not only cause the reactions in the countries which have caused such high level pollutions but has also resulted to global climatic changes hampering the life and living of mankind who had no contributions to such levels of pollutions at all as well such as Ireland, Luxemburg etc.

### Discussion

In this conference for the first time the global human impact on the environment was analyzed. It is very clear that the Stockholm Declaration mostly convenes broad policy goals and objectives for environmental preservation. The challenges of conserving the environment for enhanced life quality were realized. Pertaining to the global realization and acknowledgement of the problems for the first time, Stockholm Declaration doesn't have a detailed normative structure.

This declaration had no legal implications as it was not a treaty. The global impact of the declaration has been very impactful and transboundary and cross sectoral regulations in relation to international environmental law had drastically changed the global outlook.

India post 1972 had come up with most of the environmental legislations:

The different statutes / legislations enacted in India exclusively for environment protection are<sup>3</sup>

- The Water (Prevention and Control of Pollution) Act, 1974
- The Water (Prevention and Control of Pollution) Rules, 1975
- The Water (Prevention and Control of Pollution) Cess Act, 1977
- The Water (Prevention and Control of Pollution) Cess Rules, 1978
- The Air (Prevention and Control of Pollution) Act, 1981
- The Air (Prevention and Control of Pollution) Rules, 1982
- The Environment (Protection) Act, 1986
- The Environment (Protection) Rules, 1986
- Hazardous Wastes (Management and Handling) Rules, 1989
- Manufacture, Storage and Import of Hazardous Chemical Rules, 1989
- The Forest (Conservation) Act, 1980
- The Forest (Conservation) Rules, 1981
- The Wildlife Protection Act, 1972
- The Wildlife (Transactions and Taxidermy) Rules, 1973
- The Wildlife (Stock Declaration) Central Rules, 1973
- The Wildlife (Protection) Licensing (Additional Matters for Consideration) Rules, 1983
- The Wildlife (Protection) Rules, 1995
- The Wildlife (Specified Plants - Conditions for Possession by Licensee) Rules, 1995
- The Public Liability Insurance Act, 1991
- The Public Liability Insurance Rules, 1991
- The National Environment Tribunal Act, 1995
- The National Environment Appellate Authority Act, 1997

Thus the impact of Stockholm declaration in India is clearly evident.

VIENNA CONVENTION, 1985:

#### History:

The Vienna Convention was conceived through a period of ten years post the 1974 path breaking research by scientists revealing the effect of chemicals, Chlorofluorocarbons (CFC's) on the stratospheric Ozone layer. The convention was adopted in 1985 and entered into force on 22

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<sup>3</sup> The Environmental laws of India available at <http://www.environmentallawsofindia.com/the-environment-definitions-and-acts.html>

Sep 1988<sup>4</sup>. Post that research in the year 1977 UNEP came up with a World plan of Action on the Ozone layer for monitoring and researching of the ozone layer. Following that, in the year 1981, authorized by the UNEP Governing Council, UNEP drafted an international framework for convention on Ozone layer protection. Thus in 1985 came into existence the Vienna Convention. The convention had 187 parties. The parties to the convention completely agree that Ozone layer modification is causing harmful impact on human health and the environment<sup>5</sup>. The convention also acknowledges the urgency to come together in the international platform and monitor and conduct scientific research for the protection of the Ozone layer. The preamble of the convention makes its members mindful of the precautionary measures at national and international platforms in order to avoid further degradation of the ozone layer. Thus the main objective is the protection of human health and environment.

The Convention did not require countries to take immediate tangible actions to manage ozone-depleting substances. On the contrary, the Convention has a provision which states that Protocols to control ODS's would be adopted if and when warranted.<sup>6</sup>

#### Take on Climate Change:

The Vienna Convention was mandated to protect the Ozone layer of the atmosphere from degradation by the chemicals, CFC's and HFC's. It can be effective to state that Vienna convention and climate change are not directly correlated<sup>7</sup>. But the reason for concern in the case of climate change arises as all these chemicals are also green house gases. So in one hand as the CFC's effect the atmosphere by breaking down the ozone layer on the other hand the effect on the increase of temperature causing climate change is equally strong and undeniable. With the rampant use of CFC's and HFC's in our daily lives, the concern for the atmosphere is ever increasing. Thus even if not directly correlated, we definitely cannot say that they are unrelated too. Ozone depleting substances have been proven to contribute to positive direct radioactive forcing and hence directly contributing to the increase in world's average surface temperature. In the further discussion, the extent of the contribution of Vienna Convention in combating climate change has been assessed.

#### Discussion:

##### Article 1:

Article 1 deal with the definitions that is applicable for the interpretation of the provisions under the Convention. Under Article 1 (2) definition of "adverse effect" clearly indicates the consideration of changes in climate. So considering that the Ozone depleting substances are also green house gases, the inclusion of climate change as one of the adverse effects is undeniable. The definition also helps in linking the two as inter related. Owing to this definition, the significance of the same can be interpreted.

##### Article 2:

This article talks about the obligation the parties to the convention hold towards human health and environment. This article successfully incorporates the areas of limitation in very affirmative statements which gives the countries leverage on the countries means and capability to dispose the same. Article 2-2(a) (b) (c) (d) clearly iterates the responsibilities of the countries as well, which calls for co-operation in systematic observation, research, information exchange, harmonizing appropriate policies to control, limit, reduce, control or prevent human activities

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<sup>4</sup>The Vienna Convention For The Protection Of The Ozone Layer <http://ozone.unep.org/en/treaties-and-decisions/vienna-convention-protection-ozone-layer>

<sup>5</sup> Preamble Vienna Convention available at <http://ozone.unep.org/en/treaties-and-decisions/vienna-convention-protection-ozone-layer>

<sup>6</sup>Vienna Convention available at [http://www.sviva.gov.il/English/env\\_topics/InternationalCooperation/IntlConventions/Pages/ViennaConvention.aspx](http://www.sviva.gov.il/English/env_topics/InternationalCooperation/IntlConventions/Pages/ViennaConvention.aspx)

<sup>7</sup>With regard to climate change, UN General Assembly Resolutions 43/53 and 44/207, as well as the preamble of the 1992 UN Framework Convention on Climate Change (UNFCCC) recognize that "climate change is a common concern of mankind", whereas the 1985 Vienna Convention for the protection of the ozone layer and the 1997 Montreal Protocol acknowledge the adverse effects on human health and the environment through the modification of the ozone layer.

under their jurisdiction, formulation of agreed measures, procedures, standards for the implementation and co-operation with competent international bodies to implement effectively this convention. At the same time Article 2-3 keeps provision for countries who intend to adopt in accordance with international law or additional domestic measures.

So, though mandating measures, it does keep room for domestic level accommodation for the Convention adaptation. Thus we can say that the Convention does keep enough room for the member states to design the policies as per the state's requirement for better human health and environment.

Article 3:

This article further elaborates Article 2. It deals with the provisions relating to the research and systematic observations. While iterating this section as to the kind of observation and research that the member states are expected to be indulging in, one very important part is mention of the climatic effects that can result from the modifications of the Ozone layer. It also focuses on research on human health and biological effects of ozone layer depletion.

It can be emphasized that though the focus of research under the Convention focuses more on the effects of the depleting ozone layer on the human health, especially the effects of UV-B, but the research on climate also finds a place in order to understand the effect on the health, environment and ecosystem of humans.

So though inadvertently, the Vienna Convention too is concerned with the concurring climatic changes accompanying ozone layer depletion. This is further elaborated in the Annexure 1 of the Convention.

Annexure 1:

Research

Annexure 1 states elaborately about the extent of research that is expected under the Convention. It focuses on theoretical and observational studies concerning the radioactive effects of ozone and other trace species accompanied with its impact on the climate parameters. The climate parameters such as surface temperatures of the land and oceans, precipitation patterns, exchange between the troposphere and the stratosphere are taken into consideration. It also indulges in the investigation on the climatic impacts and its effect on various aspects of human activity.

Scientific Information

While elaborating the term scientific information mentioned under Article 2 of the Convention, data, scientific results, ongoing research are all accounted for in the Annexure 1. But when it comes to explaining, the convention mentions that the literature available on the physics and chemistry of the Earth's atmosphere and its susceptibility to change is much included as part of scientific information. Emission data is also collaborated for the same purpose.

Thus we can say that the Convention did have a substantial focus on the climate change that was effected by the emission of the ozone depleting greenhouse gases, the ODS's.

As a resultant of the Vienna Convention, came into effect was of the most important protocols, The Montreal Protocol. The Parties to the Vienna Convention meet once every three years, with the Parties to the Montreal Protocol, in order to take decisions in order to administer the Convention<sup>8</sup>.

**MONTREAL PROTOCOL:** [www.lawmantra.co.in](http://www.lawmantra.co.in)

History:

Montreal protocol on substances that deplete the ozone layer was first introduced in the year 1987. The treaty was opened for signature on September 16th, 1987, and it came into force on January 1st, 1989. With 197 members ratifying, by far it has been one of the most successfully implemented International Protocol. The protocol does have its own share of conflicts and dilemmas but the probability of its role in climate change cannot be neglected. This is one such protocol where both the developed and developing countries have met their targets on time. This is one protocol which solely is concerned about the ozone depleting substance control. It phases

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<sup>8</sup>The Vienna Convention for the protection of Ozone Layer available at <http://ozone.unep.org/en/treaties-and-decisions/vienna-convention-protection-ozone-layer>

out the use and the release of the CFC's in the atmosphere. But controversies are in the air about the effect that the Protocol is capable of contributing to climate change mitigation. This protocol can be said to be the instrumental mechanism of the Vienna Convention. The protocol has successfully phased out majority of the ODS's. The protocol is unique as its phase out capacity is different for developed and developing nations. To facilitate the implementation of the Montreal Protocol in developing nations, the Protocol under its purview brings the "Multilateral fund for the implementation of the Montreal protocol"<sup>9</sup>. This exclusively facilitates the phasing out of all the Article 5 listed countries.

With many positive aspects and a few more aspects that need to be in the alms of the protocol, in the further section we intend to discuss about how far the protocol has succeeded and what all needs to be done for better climate change mitigation under the Montreal Protocol.

#### Take on Climate Change:

As discussed earlier itself that the Protocol is definitely not oblivious of the climatic repercussions of the ODS's. So if not with the intent to mitigate climate change but inadvertently it does have its contributions. Considering the fact that all CFC's are greenhouse gases, the reduction in emission of the same definitely acts as a step forward for controlling climate change. Thus it is a very common controversy regarding the role that the Protocol can play to fast forward the climate change mitigation process. It has also been proven through studies that "Without the Montreal Protocol we did be warmer than we are now"<sup>10</sup>. As far as the Protocol goes its success is a proof that "it's possible to have an international agreement that works".

#### Discussion:

##### Preamble

The preamble of the Montreal Protocol itself is explanatory in themselves as to its stand on climate implications. It acts as a gentle reminder of the climate implications of the CFC emissions. It acts as both a reminder and keep room for further broadening the spectrum of the Protocol.

##### Targets:

As discussed earlier, the Protocol has been by far the most successful ambitious international platform. Originally when the Protocol first came into action the obligations agreed upon globally constituted of 50% reduction in the production and consumption of some CFC's by mid-1999 and a complete ban on the use of some halons as provided in it. In 1990 itself it elevated its stricture effective from 1992 and the addendum came in the form of the need to completely phase out some selected controlled substances by 2000. The levels were further raised when in the 1992 meeting the protocol implemented the accelerated phase out of some substances accompanied by the complete banning on some others in 2 phases; 1994 and 1996. This meeting also mandated the inclusion of some more substances for phase out.

Thus the progressively increasing targets of the Montreal Protocol are very evident from the above discussion.

##### India and the Montreal Protocol:

India has by far met all the necessary deadlines as implemented by the Montreal Protocol. In fact India is among the few countries who have even managed to exceed the set Montreal Protocol targets in 1992. At present India consumes less than 3 grams of ODS per capita. The countries commitment is evident from the very fact that India has not crossed 20 gms between 1995 and 1997 as against 300gms that were permitted under the Protocol. India as of date uses 7 of the 20 listed controlled substances under the protocol.

India has set up the India Country Programme (CP) under the Protocol in order to minimize the economic damage and maximize the indigenous productivity that can be caused by the technology shift, i.e., from ODS to non ODS. So far the CP has been very successfully

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<sup>9</sup>Multilateral fund for the implementation of Montreal Protocol available at <http://www.multilateralfund.org/default.aspx>

<sup>10</sup>Hannah Hoag, *Ozone-hole treaty slowed global warming Montreal Protocol helped to curb climate change and so did world wars and the Great Depression*. Nature International Weekly Journal of Science, 10 November 2013 available at <http://www.nature.com/news/ozone-hole-treaty-slowed-global-warming-1.14134>

operating and up gradations is done to the programme in consultation with the Confederation of Indian Industry (CII).

The phase outs have been very well handled. As a party to this treaty, India had set up an "OZONE CELL"(OC) under the Ministry of Environment and Forests. It is the national unit looking after and rendering the necessary service for the proper implementation of the Montreal Protocol and its various ODS phase outs<sup>11</sup>. Apart from all this, OC also conducts awareness programmes in collaboration with UNEP, UNIDO, and WB etc. Currently it runs a set of 7 programs. Besides the OC the other very important and effective step was the setting up of the Empowered Steering Committee. This Steering Committee is supported by three Standing Committees: technology and Finance Standing Committee, Committee for Small Scale Industry and Monitoring and Evaluation Committee. These Committees work at the national level to facilitate proper implementation of the Montreal Protocol.

India has also come up with the Ozone Depleting Substances (Regulation and Control Rules, 2000). This regulation operates under the Environment (Protection) Act 1986. This just catapulted the policies and suggestions to mandatory legal regulations, thus binding and it just shows greater commitment to the Protocol. India has been very dedicated to the commitments and the proof for that can be cited with India incorporating The Ozone Depleting Substances (Regulating and Control) Rules, 2000. The intention of the rule was to regulate every stage of the ODS, starting from Production and Consumption (Sec 3), export and import from countries not listed in schedule VI (Sec 4), regulation on purchase (Sec 7), regulation on use (Sec 8), regulation on new investments (Sec 9), regulation of import, export and sale of products made with or containing ODS (Sec 10), regulation on reclamation and destruction (Sec 11), regulation on manufacture, import and export compressors (Sec12), requirements of monitoring and reporting (Sec 14) And it also provides with a list of exhaustible 96 ODS's. This is to explain that all aspects to control Ozone depletion and restrict the release of ODS in the atmosphere is directed under this rule.

But in 2013 at the UNFCCC meeting, India's protest for phasing out of HFC's under the Montreal Protocol, suggested by the USA and ratified by 110 more members have been very clearly protested by the then Minister of Environment MsJayanthi Natarajan. She had quoted "We are unable to fathom what prevents addressing this issue under this convention," Her concern stemmed from the fact that India currently neither by way of technology nor economy has clarity and so concern for the people of India is eminent by the following statement made by her, "The transfer of the mandate of phase-down of HFCs is simply not possible unless we have complete clarity on identified substitutes, costs, safety and economic feasibility. It will very adversely impact our people and our countries."

## RIO DECLARATION, 1992

### History

The initiation of Rio Declaration can be traced back to the thirty fifth general assembly session, 1980. In the plenary session, General assemble examined an agenda entitled "International Co-operation in the field of environment"<sup>12</sup>. The assembly had adopted resolution 35/74 entitled the same. A series of sessions and UNEP Governing Council's recommendation to set up a special commission for proposing long term environmental strategies for attaining sustainable development to the year 2000 and beyond, The Environmental Perspective, lead to the World Commission on Environment and Development.

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<sup>11</sup>Ministry of Environment, Forest and Climate Change, Montreal Protocol and Ozone Cell available at <http://envfor.nic.in/division/montreal-protocol-ozone-cell-oc>

<sup>12</sup>Rio Declaration On Environment and Development, United Nations Audiovisual Library of International Law available at [http://legal.un.org/avl/pdf/ha/dunche/rio\\_ph\\_e.pdf](http://legal.un.org/avl/pdf/ha/dunche/rio_ph_e.pdf)

In March 1987 this world commission issued the report "Our Common Future"<sup>13</sup>. In this report the commission had recommended the consolidation of legal Principles based on Stockholm in a new Charter to guide state behaviour for smoother transition to sustainable development.

A conference was held on Rio De Janeiro 3rd to 14th of June proposing to build on the existing Stockholm Declaration<sup>14</sup>. Finally, General Assembly on 22nd of December 1992 adopted resolution 47/190. In this resolution it endorsed Rio Declaration on Environment and Development.<sup>15</sup>

The goal of this declaration was to create a vast equitable global partnership in order to create new levels of cooperation among States, key sectors and people. The key factor that it included was to enter into international agreement keeping in consideration and protecting global environmental and developmental system, acknowledging the fact that Nature is integral and interdependent. India was a signatory to the same and has agreed to all the Principles mentioned and Agenda 21.

#### Take on climate change

Being party to Rio, India had until recently refused to quantify the green house gas reduction targets citing the ground that it would jeopardize national poverty alleviation goals.<sup>16</sup> But post the Bangkok Climate Change conference in September 2009, India's position has overturned. India along with other developing countries "are making very significant efforts to show what they are doing to address climate change and indicate what more they are willing to do," according to U.N. climate chief Yvo de Boer.<sup>17</sup> The overture of India confirms India's stronger foothold to curb climate change as of date.

In January 2015, United Nations Secretary-General Mr Ban Ki-moon had welcomed India's use of innovative technologies as efforts to curb climate change. He had inaugurated the Canal Top Solar Power plant at Gujrat in January 2015. Mr Ban had commended the leadership roles of Prime Minister Narendra Modi and Environment Minister Javadekar. He had insisted that he counted on the country's ongoing efforts to tackle climate change – a "defining issue of our times."

#### Discussion

The whole reason for bringing into consideration international cooperation is to ensure that development of any country is not stepped over by the mandates. But in doing so it is very difficult to reach a consensus.

Article 3 of the Declaration focuses on the fact that developmental and environmental needs of present and future generations need to be met equitably. Bearing sustainable development in mind for a developing country like India it had over whelming effects post Rio Declaration where the Government themselves having previously given permissions to industries. Post Rio in reply to a PIL had moved/ banned industries in urban areas, focusing on sustainable development as is evident in cases such as *M.C.Mehta vs. Union Of India*<sup>18</sup>, *Vellore Citizen Welfare Forum vs. Union of India*<sup>19</sup>.

Principle 4 clearly mentions that in order to achieve sustainable development, environmental protection shall constitute a focal point of developmental process and cannot be considered in

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<sup>13</sup>Report of the World Commission on Environment and Development: Our Common Future available at <http://www.un-documents.net/our-common-future.pdf>

<sup>14</sup>Rio Declaration on Environment and Development available at <http://www.unep.org/documents.multilingual/default.asp?documentid=78&articleid=1163>

<sup>15</sup>Report Of The United Nations Conference On Environment And Development, 28 September 1992 , available at <http://www.un.org/documents/ga/conf151/aconf15126-4.htm>

<sup>16</sup>Anna da Costa, *India Steps Up Climate Change Efforts* "India cannot and will not take emission reduction targets because poverty eradication and social and economic development are first and over-riding priorities," Environment Minister Jairam Ramesh , June available at <http://www.worldwatch.org/node/6278> 2009

<sup>17</sup>Anna da Costa, *India Steps Up Climate Change Efforts* available at <http://www.worldwatch.org/node/6278> 2009

<sup>18</sup>*M.C. Mehta v Union of India*[1991] 2 SCC 137

<sup>19</sup>*Vellore Citizen Welfare Forum v Union of India* [1996] 5 SCC 647

isolation. Thus any decision that is taken has to be in parity with its effects on the environment. The fact that clean energy technologies are

Principle 8 focuses on sustainable development with higher quality of life for all. To conform to that, it discourages the use of unsustainable patterns of production and consumption and promotes appropriate demographic policies. So to widely suggest that the unsustainable pattern of production and consumption as proposed in the Principle can be applicable for the energy sector as well. Hence it can be deduced to be conforming to the focus of generation and use of clean energy.

Principle 9 focuses on achieving co-operation for the purpose of strengthening national capacity building through development, adaptation, diffusion and transfer of technologies, with specially emphasis on innovative technologies. It also encourages exchange of scientific and technological knowledge. The directed at attaining sustainable development. The whole focus of Principle 9 is on incorporating the use of innovative technologies to attain sustainable development. Thus in the area of energy the development, adaptation, diffusion and transfer of innovative technologies emphasizes the use of clean energy technologies and the fact that use of clean energy technologies has been foreseen to curb the emission of GHG and at the same time maintain the flow of energy that is required for economic development of the states.

Principle 13 of the declaration focuses on the development of national laws to conform to the international laws regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control areas beyond their jurisdiction. The reason this Principle has been included separately is to focus on the fact that unlike Stockholm, Rio did have a particular normative structure.

Principle 17 of Rio declaration insists on incorporating environmental impact assessment as a national instrument for assessing the negative impact on the environment. The intention was to provide centralized powers to the nations to curb any negative effect by any project on the environment in order to avoid further pollution and climate change. Post Rio Declaration all the relevant national laws were amended to incorporate provisions for impact assessment. Though India the process is very elaborate but unfortunately EIA applies to only to new projects or expansion or modernization of existing project or any change in product<sup>20</sup>. Thus the limited use of EIA rules affects the expected outcome to very high extent.

Principle 27 being the last Principle urges all the states and people to cooperate in good faith and with a spirit of partnership to fulfill all the obligations of the declaration. The last Principle urges the states to unify in the decision relating to environment and sustainable development putting aside their differences and the probable effects on other facets of international ties. In doing so it allows non related or otherwise economically or trade rival countries to keep aside their rivalry and focus on sustainable development and cooperate even with their rivals at this platform.

## CONCLUSION

The above discussion draws an outline indicating the changes that has occurred in the Indian Legal Scenario due to International Obligations that India had committed to. Kyoto Protocol has been the follow-up to the same. But the main pillars of regimes to control environmental pollution in respect to governance of clean energy technologies for prevention of climate change is based on Stockholm and Rio Declarations. With the change in the economic scenario with time there have been changes in the regime shifting the focus from economic development to environmental

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<sup>20</sup> Requirements of prior Environmental Clearance (EC) available at <http://envfor.nic.in/legis/eia/so1533.pdf> 2006 notification.

stability. The shift in focus has helped India to balance economic development and focus on reduction in environmental pollution and climate change mitigation. But keeping in mind India's, India needs to take some drastic decisions regarding the mitigation of climate change and bring in new legislations such as Renewable Energy Act and Clean Energy Act in order to meet the current obligations at Kyoto II.



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