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## IMPACT OF ACTIVITY OF INTERNATIONAL ORGANIZATIONS ON ENVIRONMENTAL LAW

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**Annotation.** The twentieth century has brought the tremendous development of multilateral or global agreements regarding global environmental challenges. The growth of the international environmental legal regulation requires the increase of institutionalization in the governance of legal and administrative mechanisms of international environmental law, consequently the number of different international organizations acting in the fields of negotiation, adoption, implementation, and enforcement of the rules, are being established during last twenty – thirty years. However, despite the impressive development of international environmental regulation there is still no single institution or organization that would play a role of the supervisor or would have the authorization of the highest hierarchical institution. Nonetheless, international environmental organizations may contribute to the legislation processes and implementation of international environmental law. They may raise concern about certain environmental problems, share information, present reports, lobby governmental actors to take actions on international environmental policy issues, act as an implementation and enforcement subjects of the multilateral or regional environmental agreements. Therefore the object of the research is the impact of the activity of international environmental institutions on development and implementation of international environmental law. The objective of this research therefore is to disclose the system of international environmental organizations and to analyze the impact of international environmental institutions on international environmental law.

**Keywords:** environmental law, international organizations, non – governmental organizations.

### INTRODUCTION

**Relevance of the Topic.** The twentieth century has brought the tremendous development of multilateral or global agreements regarding global environmental challenges. The growth of the number of multilateral environmental agreements, as well as the scope of covered by them issues, is dramatic. It has a direct influence on growth in numbers of actors involved in negotiating and implementing those agreements. As it is common for public international law, states are the most important and primary actors in international environmental governance, though changes in international legal system had influence also on the role of international organizations in this respect. The growth of the international environmental legal regulation requires the increase of institutionalization in the governance of legal and administrative mechanisms of international environmental law, consequently the number of different international organizations acting in the fields of negotiation, adoption, implementation, and enforcement of the rules, are being established during last twenty – thirty

years. However, despite the impressive development of international environmental regulation there is still no single institution or organization that would play a role of the supervisor or would have the authorization of the highest hierarchical institution, in the way, for example, that World Trade Organization has on implementation and enforcement of the concept of free trade. The institutions and organizations acting in the field of environment are fractured, usually regional, not possessing of real implementation mechanisms<sup>1</sup>.

Nonetheless mentioned above, international environmental organizations may contribute to the legislation processes and implementation of international environmental law. They may raise concern about certain environmental problems, share information, present reports, lobby governmental actors to take actions on international environmental policy issues, act as an implementation and enforcement subjects of the multilateral or regional environmental agreements. Global environmental issues need to be governed and managed with a great attention to cooperation and coordination among all involved subjects; this responsibility usually is laid on international environmental organizations. Therefore it is worthwhile to analyze what particular impact on development and implementation of international environmental law have international governmental and non – governmental organizations.

**The Object of the Research** is the impact of the activities of international environmental institutions on development and implementation of international environmental law.

**The Objective of this Research** therefore is to disclose the system of international environmental organizations and to analyze the impact of international environmental institutions on international environmental law. To achieve the aim further *tasks* are settled:

1. to analyze the system of international environmental organizations;
2. to reveal the features, aims and activity principles of the global (general), special, and non - governmental international environmental institutions;
3. to discuss the impact of different kind of international environmental institutions on development and implementation of international environmental law.

**Methodology of the Research.** . In the course of reaching the objective of the research both theoretical and empirical methods of scientific research were employed—the methods of comparative, systemic, analytical-critical, and linguistic analysis. In addition, the methods of documentary analysis and generalization were used.

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<sup>1</sup> Guruswamy L. D. *International Environmental Law in a nutshell. 4<sup>th</sup> Edition*. West Publishing, 2012, p. 61.

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## INTERNATIONAL ENVIRONMENTAL LAW: FEATURES AND TENDENCIES

Environmental issues pose significant challenges for the traditional international legal order: legislative, administrative and adjudicative functions of international law are reestimated; the manner in which international legal arrangements are currently organized also must be reviewed; the role of various actors who are considered to be members of international community and participants in various processes and practices of the international legal order must be reconsidered. “International law and its institutions serve as the principal framework for international cooperation and collaboration between members of the international community in their efforts to protect the local, regional and global environment”<sup>2</sup>. Increasing number of different actors in the field of environmental regulation and implementation of legal mechanisms make those processes even more complicated.

Development of environmental international law was one of the most important factors in protection of nature. International treaties are the most effective force in promoting environmental ideas. However it must be stated, that until 1970’s only occasional and fragmentary legal provisions regarding environmental issues have been passed in international level, and only a few specialized institutions were designated to solve environmental problems (for example, the International Whaling Commission<sup>3</sup>, set up under the International Convention for the Regulation of Whaling<sup>4</sup> in 1946). Not even the UN Charter<sup>5</sup>, Universal Declaration of Human Rights<sup>6</sup> or International Covenant on Economic, Social and Cultural Rights<sup>7</sup> include clearly expressed environmental provisions<sup>8</sup>. The major impetus for

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<sup>2</sup> Sands, P., Peel, J., Fabra, A., MacKenzie, R. *Principles of International Environmental Law. Third Edition.* Cambridge: Cambridge University Press, 2012, p. 10.

<sup>3</sup> The International Whaling Commission is the global intergovernmental body charged with the conservation of whales and the management of whaling. It is set up under the International Convention for the Regulation of Whaling signed in 1946. The Commission has a current membership of 89 Governments from countries around the World. *The International Whaling Commission* [interactive] [accessed 2012-11-05] <<http://iwcoffice.org/>>.

<sup>4</sup> International Convention for the Regulation of Whaling. 2<sup>nd</sup> December, 1946. *Official Gazette*, International Treaties 6 / 2006.

<sup>5</sup> The Charter of the United Nations, signed on 26 June 1945, came into force on 24 October 1945. [interactive] [accessed 2012-11-05] <<http://www.un.org/en/documents/charter/index.shtml>>.

<sup>6</sup> The Universal Declaration of Human Rights. *Official Gazette*, 2006, No. 68-2497. The only Article 25 in the Declaration has a slight reference towards environmental aspects: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control”.

<sup>7</sup> The International Covenant on Economic, Social and Cultural Rights. Adopted by General Assembly resolution 2200A (XXI) of 16 December 1966, entered into force 3 January 1976. *Official Gazette*, 2002, No. 77-3290.

<sup>8</sup> For example, The International Covenant on Economic, Social and Cultural Rights, which referees to economic and social human rights in the broadest and more specific terms, mentions environmental issues only as a part of a right of a human beings, for example, Article 1, Paragraph 2 states, that “All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of

development in international environmental law arose from the United Nations Conference on the Human Environment, which took place in Stockholm in 1972; therefore the origins of the modern international environmental law and policy are dated as far back as the Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration)<sup>9</sup>, later complemented by Rio Declaration on Environment and Development (Rio Declaration<sup>10</sup>). Those international treaties had the biggest impact on further development of international environmental law<sup>11</sup>. Later on many of the conventions have been promoted by United Nations or its organizations (such as United Nations Environment Programme (UNEP), the Organization for Economic Cooperation and Development (OECD), etc.). Of the utmost importance in developing environmental legislation also had some international conferences,

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international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence”; Article 11 of the Covenant states, that “1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent”; Article 12 states, that “1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness”.

<sup>9</sup> Declaration of the United Nations Conference on the Human Environment, adopted 16 June 1972 [interactive] [accessed 2012-11-05]

<<http://www.unep.org/Documents/Multilingual/Default.asp?documentid=97&articleid=1503>>.

<sup>10</sup> Rio Declaration on Environment and Development, adopted 14 June 1992 [interactive] [accessed 2012-11-05] <<http://www.unep.org/Documents/Multilingual/Default.asp?documentid=78&articleid=1163>>.

<sup>11</sup> The Stockholm and Rio Declarations are outputs of the first and second global environmental conferences, respectively, namely the United Nations Conference on the Human Environment in Stockholm, June 5-16, 1972, and the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, June 3-14, 1992. Other policy or legal instruments that emerged from these conferences, such as the Action Plan for the Human Environment at Stockholm and Agenda 21 at Rio, are intimately linked to the two declarations, conceptually as well as politically. However, the declarations, in their own right, represent signal achievements. Adopted twenty years apart, they undeniably represent major milestones in the evolution of international environmental law, bracketing what has been called the “modern era” of international environmental law. Stockholm represented a first taking stock of the global human impact on the environment, an attempt at forging a basic common outlook on how to address the challenge of preserving and enhancing the human environment. As a result, the Stockholm Declaration espouses mostly broad environmental policy goals and objectives rather than detailed normative positions. However, following Stockholm, global awareness of environmental issues increased dramatically, as did international environmental law-making proper. At the same time, the focus of international environmental activism progressively expanded beyond transboundary and global commons issues to media-specific and cross-sectoral regulation and the synthesizing of economic and development considerations in environmental decision-making. By the time of the Rio Conference, therefore, the task for the international community became one of systematizing and restating existing normative expectations regarding the environment, as well as of boldly positing the legal and political underpinnings of sustainable development. Although the compromise text that emerged at Rio was not the lofty document originally envisaged, the Rio Declaration, which reaffirms and builds upon the Stockholm Declaration, has nevertheless proved to be a major environmental legal landmark. [interactive] [accessed 2012-11-05] <<http://untreaty.un.org/cod/avl/ha/dunche/dunche.html>>.

during which some very important guidelines, principles or even treaties have been adopted, for example, 1983's [World Commission on Environment and Development](#), 1992's [United Nations Conference on Environment and Development](#) and 2002's [World Summit on Sustainable Development](#) have been particularly important.

It is worthwhile to mention, that there is no one clear standard regarding validity, enforcement level or obligatory powers of different international environmental conventions; whilst some may be limited in their application by different parameters<sup>12</sup>, others may extend to cover the whole international community or very important issues<sup>13</sup>. Bearing in mind different kind of environmental issues, covered by international conventions (multilateral treaties)<sup>14</sup>, it could be stated, that the most explicate regulation of international law has been established for the four “traditional sectors” of the environment: water, soil, atmosphere, and biological diversity<sup>15</sup>. Some authors point out that although the subjects matter and geographical scope of environmental treaties varies, such treaties have some common characteristics, use similar legal techniques, and often are interrelated. The main characteristics which these treaties share are as follows<sup>16</sup>: 1) an absence of reciprocity of obligations; 2) interrelated or cross-referenced provisions from one instrument to another; 3) framework agreements; 4) frequent interim application; 5) the creation of new institutions or the utilization of already existing ones to promote continuous cooperation; 6) innovative

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<sup>12</sup> For example, Paris Convention for the Protection of Environment of the North-East Atlantic (1992). [interactive] [accessed 2012-03-17] <[http://www.ospar.org/html\\_documents/ospar/html/OSPAR\\_Convention\\_e\\_updated\\_text\\_2007.pdf](http://www.ospar.org/html_documents/ospar/html/OSPAR_Convention_e_updated_text_2007.pdf)>.

<sup>13</sup> For example, United Nations Convention on the Law of the Sea (UNCLOS) (1982, entered into force November 16, 1994 ). [interactive] [accessed 2012-03-17] <[http://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf)>.

<sup>14</sup> We could suggest the list of the most important international conventions of the environmental law: Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989); Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft (Oslo, 1972); Convention on Supplementary Compensation for Nuclear Damage (1997); Convention on Biological Diversity (1992); Convention on the Prevention of Marine Pollution by the Dumping of Waste and Other Matter (1972); International Convention for the Prevention of Marine Pollution from Ships (1973); International Convention for the Prevention of pollution of the Sea by Oil (1954); International Convention on Civil Liability for Oil Pollution Damage adopted at Brussels, as amended by the Protocol signed in London on November 27, 1992 (Liability Convention); International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (1996); Kyoto Protocol (1998); Oslo-Paris Convention for Protection of the Marine Environment of the North East Atlantic (OSPAR) (1992); Paris Convention for the Protection of Environment of the North-East Atlantic (1992); United Nations Convention on the Law of the Sea (UNCLOS) (1982, entered into force November 16, 1994 ); Rio Convention on Biodiversity (Biodiversity Convention or CBD) (1992); United Nations Framework Convention on Climate Change (Climate Change Convention) (1992).

<sup>15</sup> Burnet-Hall, R., Jones, B. *Burnet-Hall on Environmental Law*. Second edition. London: Thomson Reuters, 2009, p. 2.

<sup>16</sup> Kiss, A.C., Shelton, D. *International Law*. Third edition. Transnational Publishers Inc., 2004, p. 70.

compliance and non-compliance procedures; 7) simplified means of modification or amendment.

States create legal mechanisms and instruments of international law, states are the subjects that negotiate international environmental agreements, and take measures to implement them in domestic law. Until 1970's states were considered not only the primary but almost the sole actors in international environmental law. Although it is states that actually agree to undertake international environmental commitments, there are a number of ways in which non – state actors (international organizations, non – governmental organizations, and industry actors) contribute to the making and implementation of international environmental policy<sup>17</sup>.

### **INTERNATIONAL ORGANIZATIONS IN ENVIRONMENTAL LAW**

It is obvious, that the international environmental law is gradually transferring from an approach that the states are the primary and leading subject of international law, that accepts, implements and enforces legal norms, towards a concept that the persons (both legal and natural) may have positive influence on law-making and law-enforcement processes regarding environmental issues. The approach is not unique, it is quite similar to the one applied in international human rights law. The role of international organizations in environmental law developed gradually. The first multilateral environmental agreements generally did not foresee establishment of administrative or enforcement bodies, which usually are corresponding international organizations. Later the number of such organizations increased, they were established to deal with specific environmental issues, or to administer and supervise implementation of international treaties. International organizations are one of the most important subjects of the modern international law, disposing all features of legal subjectivity<sup>18</sup>: the ability to have international rights and duties, and ability to protect its rights bringing international claims. However, despite the impressive development of international environmental regulation there is still no single institution or organization that would have governance and oversight over all existing global multilateral environmental agreements or would play a role of the supervisor or would have the authorization of the highest hierarchical

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<sup>17</sup> DeSombre, E. R. *The Global Environment and World Politics*. 2<sup>nd</sup> Edition. London, New York: Continuum, 1997, p. 81.

<sup>18</sup> The definition of the subject of international law was determined by the International Court of Justice in *Reparation for Injuries* case in 1949. *Reparation for Injuries Suffered in the Service of The United Nations. Advisory Opinion Of April 11th, 1949. I.C. J. Reports 1949, p. 174* [interactive] [accessed 2012-10-29] <<http://www.icj-cij.org/docket/files/4/1835.pdf>>

institution, in the way, for example, that World Trade Organization has on implementation and enforcement of the concept of free trade. The United Nations Environment Programme (UNEP) would appear to be the closest analogue, as it is the UN's systems designated entity for addressing environmental issues at the global and regional level. But the attempts to transform UNEP into supra-governing agency have failed<sup>19</sup>. The institutions and organizations acting in the field of environment are fractured, usually regional, not disposing of real implementation mechanisms. Most of today acting international environmental organizations have a highly specialized mandates. Non-governmental organizations also have a great impact on “the broadening spectrum of actors in international environmental law”<sup>20</sup>.

International environmental organizations (IEO) perform different functions in the fields of their activities (law-making and law-enforcement processes). Those functions depend on authority rendered to them and indicated in their establishing documents (statutes, charters, etc.). P. Sands, J. Peel, A. Fabra, R. MacKenzie<sup>21</sup> range those functions and determine five main groups of the functions. First of all, international environmental organizations provide a forum for co-operation and co-ordination between states on matters of international environmental management. They contribute to developing the international agenda, broadening the participation of interested states, and encouraging technical research and development. Secondly, IEO transfer information in a more informal way that states and their representatives. They also may provide formal or informal consultations to interested parties. The third group of functions of international environmental organizations is contribution to the development of international law, especially “soft law”. This function may be performed either in formal (if the organization is granted the power to pass legally binding provisions), or informal (when organization inspire other subjects to pass legal obligations) way. Probably one of the most important functions of IEO is associated with the implementation of the international treaties. Those institutions play a significant role in ensuring implementation of and compliance with the standards and obligations prescribed in corresponding international agreements. Assisting in implementation may be limited to receiving information from parties on an informal and ad hoc basis, it may also entail regular receipt and consideration of reports or periodic communications from parties of international treaties; it may also be executed through the provision of advice on technical, legal and

<sup>19</sup> Harris, F. (ed) *Global Environmental Issues*. Second Edition. Chichester: Wiley-Blackwell, 2012, p. 40.

<sup>20</sup> Beyerlin, U., Marauhn, T. *International Environmental Law*. Oxford: Hart Publishing, Verlag CH Beck, 2011, p. 246.

<sup>21</sup> Sands, P., Peel, J., Fabra, A., MacKenzie, R. *Principles of International Environmental Law. Third Edition*. Cambridge: Cambridge University Press, 2012, p. 55 - 56.

administrative or institutional matters. A fifth and also very important function of international organizations is to provide an independent forum for the settlement of disputes, either through the work of general bodies, or by the reference of an issue to a body created specifically to assist in dispute settlement through a judicial or quasi-judicial functions.

International organizations involved in environmental law are established at the global, regional, sub-regional and bilateral level. The doctrine of international environmental law usually classifies international environmental organizations as Global Organizations (acting in the field of environmental only occasionally), Regional Organizations, Specialized Organizations (or Treaty Specific Organizations), and Non-Governmental Organizations (NGO's)<sup>22</sup>. In this research the focal attention shall be addressed towards specialized international environmental organizations and NGOs, as the role of general international organizations in environmental law and policy making requires a separate research.

## **THE SHORT OVERVIEW OF THE ROLE OF GENERAL INTERNATIONAL ORGANIZATIONS IN ENVIRONMENTAL LAW**

The Stockholm Declaration in 1972 stated, that developing international environmental law and arising new global challenges in the environmental surrounding requires “extensive co-operation among nations and actions by international organizations in the common law” (Preamble, Para. 7). Following this provision, United Nations established the United Nations Environment Programme (UNEP<sup>23</sup>), and an Environment Co-ordination Board to coordinate and administer UN environmental activities. This organization is dedicated to environmental problems, hereby United Nations for the first time directly referred to environmental issues.

However, general organizations, established by UN, also address some of their activities towards environmental aspects. United Nations General Assembly, International Law Commission, UN Economic and Social Council (ECOSOC), UN Security Council, International Court of Justice (ICJ), UN Food and Agriculture Organization (FAO), UN Educational, Scientific and Cultural Organization (UNESCO), International Maritime Organization (IMO), International Labour Organization (ILO), World Meteorological Organization (WMO), International Civil Aviation Organization (ICAO), UNN Industrial development Organization (UNIDO), World Health Organization (WHO), International

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<sup>22</sup> Based on Guruswamy L. D. *International Environmental Law in a nutshell. 4<sup>th</sup> Edition*. West Publishing, 2012, p. 60-71; Hunter, D., Salzman, J., Zaelke, D. *International Environmental Law and Policy*. Fourth Edition. New York: Thomson Reuters/Foundation Press, 2011, p. 190-269.

<sup>23</sup> *United Nations Environment programme (UNEP)* [interactive] [accessed 2012-03-17] <  
<http://www.unep.org/>>.



Atomic Energy Agency (IAEA), World Bank (WB), International Monetary Fund (IMF), and World Trade Organization (WTO) have broadly interpreted their constituent treaties to adopt an environmental competence, anyhow those international organizations are not very relevant to development of international environmental law and faces environmental issues only fragmentally and in a very specific context.

Especially it is worthwhile to mention, that the World Bank had created an Inspection Panel<sup>24</sup> to provide independent forum for private citizens or NGOs, where they could present claims regarding violated interest because of projects financed by the World Bank. The WB executive body has reacted in a number of cases after the reports were transmitted to Inspection Panel. The conclusion thus could be made, that any environmental issue would be discussed in this Inspection Panel, therefore NGOs have possibility to present international claims regarding environmental issues. Since 1994 approximately 20 reports<sup>25</sup> (from the total amount of 82 reports) connected with environmental issues have been presented to Inspection Panel and investigated.

## SPECIALIZED INTERNATIONAL ENVIRONMENTAL ORGANIZATIONS

The list of other governmental and non-governmental organizations which have influence in modern environmental issues and creation of legal regulation is huge. The most important worldwide intergovernmental organizations are:

United Nations Environment Programme (UNEP) assists developing countries in implementing environmentally sound policies and practices. Its activities cover a wide range

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<sup>24</sup> The Inspection Panel was established by the Executive Directors of the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA) on September 22, 1993. The Resolution establishing the Inspection Panel specifies that the Panel has jurisdiction with respect to operations supported by the IBRD and the IDA. The Inspection Panel provides a forum for people who believe that they may be adversely affected by Bank-financed operations, by bringing their concerns to the highest decision-making levels of the World Bank. The Panel determines whether the Bank is complying with its own policies and procedures, which are designed to ensure that Bank-financed operations provide social and environmental benefits and avoid harm to people and the environment. The Inspection Panel has pioneered a new approach to achieving accountability among international financial institutions that goes beyond traditional “top-down” approaches. The work of the Panel aims to give affected people a greater voice in activities carried out by the World Bank that affect their rights and interests. In the process, the Panel brings greater transparency and effectiveness to World Bank-financed operations. The Panel’s work helps to ensure that the World Bank adheres to standards of accountability that are as high as the ones it demands from its clients and partners. This accountability is key to the Bank’s relations with its stakeholders. It improves the development effectiveness of investments and it ensures that the institution lives up to its mission of poverty alleviation. *The Inspection Panel* [interactive] [accessed 2012-03-17] <<http://web.worldbank.org/WBSITE/EXTERNAL/EXTINSPECTIONPANEL/0,,menuPK:64129249~pagePK:64132081~piPK:64132052~theSitePK:380794,00.html>>.

<sup>25</sup> *Summary of inspection panel cases, October 15, 2012* [interactive] [accessed 2012-11-05] <[http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Requests%20for%20Inspection/23296534/Summary\\_IPNcases\\_Oct2012.pdf](http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Requests%20for%20Inspection/23296534/Summary_IPNcases_Oct2012.pdf)>.

of issues regarding the atmosphere, marine and terrestrial ecosystems, environmental governance and green economy. It has played a significant role in developing international environmental conventions, promoting environmental science and information and illustrating the way those can be implemented in conjunction with policy, working on the development and implementation of policy with national governments, regional institutions in conjunction with environmental Non-Governmental Organizations. UNEP has also been active in funding and implementing environment related development projects. UNEP sponsors different environmental programs.

UN Development Programme (UNDP)<sup>26</sup>. Since 1966, the United Nations Development Programme (UNDP) has been partnering with people at all levels of society to help build nations that can withstand crisis and drive and sustain the kind of growth that improves the quality of live for everyone. UNDP works in four main areas: poverty reduction and achieving the Millennium Development Goals (MDGs); democratic governance; crisis prevention and recovery; environment and sustainable development. The organization is the [United Nations](#)' global development network. It advocates for change and connects countries to knowledge, experience and resources to help people build a better life. UNDP operates in 177 countries, working with nations on their own solutions to global and national development challenges.

The United Nations Commission on Sustainable Development<sup>27</sup> (CSD) was established by the UN General Assembly in December 1992 to ensure effective follow-up of United Nations Conference on Environment and Development (UNCED), also known as the Earth Summit<sup>28</sup>, and is responsible for monitoring the implementation of Agenda 21 (adopted at the Earth Summit in 1992) and the [Johannesburg Plan of Implementation](#) (adopted at the World Summit on Sustainable Development in 2002). From its inception, the CSD was highly participatory in structure and outlook, by engaging in its formal proceedings a wide range of official stakeholders and partners through innovative formulae.

Intergovernmental Panel on Climate Change (IPCC)<sup>29</sup> - a scientific intergovernmental body first established in 1988 by two United Nations organizations, the World Meteorological Organization (WMO) and the United Nations Environment Programme (UNEP), and later

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<sup>26</sup> *UN Development Programme* [interactive] [accessed 2012-11-05]  
<[http://www.undp.org/content/undp/en/home/operations/about\\_us.html](http://www.undp.org/content/undp/en/home/operations/about_us.html)>.

<sup>27</sup> *UN Commission on Sustainable Development* [interactive] [accessed 2012-11-05]  
<<http://sustainabledevelopment.un.org/csd.html>>.

<sup>28</sup> *Intergovernmental Panel on Climate Change (IPCC)* [interactive] [accessed 2012-03-17]  
<<http://www.ipcc.ch/>>.

endorsed by the United Nations General Assembly. Its mission is to provide comprehensive scientific assessments of current scientific, technical and socio-economic information worldwide about the risk of climate change caused by human activity, its potential environmental and socio-economic consequences, and possible options for adapting to these consequences or mitigating the effects. Thousands of scientists and other experts contribute (on a voluntary basis, without payment from the IPCC) to writing and reviewing reports. A main activity of the IPCC is publishing special reports on topics relevant to the implementation of the United Nations Framework Convention on Climate Change (UNFCCC), an international treaty that acknowledges the possibility of harmful climate change. Implementation of the UNFCCC led eventually to the Kyoto Protocol.

Earth System Governance Project<sup>30</sup> - it is a long-term, interdisciplinary social science research programme developed under the auspices of the International Human Dimensions program on Global Environmental Change, and started January 2009. It will conclude in 2018. The Earth System Governance Project currently consists of a network of ca. 300 active and about 1.700 indirectly involved scholars from all continents, and is the largest social science research network in the area of governance and global environmental change. The aim of the Earth System Governance Project is to address with cutting-edge science the large, complex challenge of governance in the face of intensifying global environmental change and earth system transformation, and to create a better understanding of the role of institutions, organizations and governance mechanisms by which humans currently regulate their relationship with the natural environment and global biochemical systems.

Global Environment Facility (GEF)<sup>31</sup> unites 182 member governments in partnership with international institutions, nongovernmental organizations, and the private sector — to address global environmental issues. An independent financial organization, the GEF provides grants to developing countries and countries with economies in transition for projects related to biodiversity, climate change, international waters, land degradation, the ozone layer, and persistent organic pollutants. Established in 1991, the GEF is today the largest funder of projects to improve the global environment. The GEF has allocated \$9.2 billion, supplemented by more than \$40 billion in cofinancing, for more than 2,700 projects in more than 165 developing countries and countries with economies in transition. Through its

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<sup>30</sup> *Earth System Governance Project* [interactive] [accessed 2012-03-17] <<http://www.earthsystemgovernance.org>>.

<sup>31</sup> *Global Environment Facility (GEF)* [interactive] [accessed 2012-03-17] <<http://www.thegef.org/gef/>>.

Small Grants Programme (SGP), the GEF has also made more than 12,000 small grants directly to nongovernmental and community organizations, totaling \$495 million.

## **NON – GOVERNMENTAL ORGANIZATIONS AND THEIR IMPACT ON INTERNATIONAL ENVIRONMENTAL LAW**

The role of non-governmental organizations has likewise contributed significantly to the development of international environmental law. The Rio Declaration affirmed the importance of cooperation between states and governmental international and regional organizations and non-governmental institutions, the aim of the Declaration is determined as “the goal [...] to establish a new and equitable global partnership through the creation of new levels of cooperation among States, key sectors of societies and people, work towards international agreements which respect the interests of all and protect the integrity of the global environmental and developmental system...”. Principle 5 of the Declaration states, that “all States and all people shall cooperate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world”.

Usually the role of NGOs is to identify issues requiring international legal intervention; they participate as observers in international organizations; and they participate (formally or informally) in international implementation of principles and provisions adopted at the regional or global level by other actors of the international law – the states. In some cases the international law even considers that NGO's has a right to obtain compensation in case of pure environmental damages<sup>32</sup>. Some international treaties also foresee the possibility for NGOs to act as a private attorney general protecting the international environment. For example, the International Atomic Energy Agency (IAEA)<sup>33</sup> has granted consultative status to NGOs having special competence in the nuclear field<sup>34</sup>. The regional [Convention for the Protection of the marine Environment of the North-East Atlantic](#) (the OSPAR<sup>35</sup> Convention<sup>36</sup>) foresees

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<sup>32</sup> This would also place the compensation for the states of NGO's nationality. Also such a claim would only be possible if it proven that the violation was made by a State and it constituted violation of State's international obligation. Kerbrat, Y., Maljean-Dubois, S. *The Transformation of International Environmental Law*. Oxford, Paris: A. Pedone & Hart, 2011, p. 229.

<sup>33</sup> *International Atomic Energy Agency* [interactive] [accessed 2012-11-05] <<http://www.iaea.org/>>.

<sup>34</sup> Rules on Consultative Status of NGOs with the Agency, IAEA doc. INFCIRC/14. 7<sup>th</sup> November, 1959. Approved by the General Conference on 1 October 1958 (GC(II)/RES/20) [interactive] [accessed 2012-11-05] <<http://www.iaea.org/Publications/Documents/Infcircs/Others/infcirc14.pdf>>.

<sup>35</sup> OSPAR is the mechanism by which fifteen Governments of the western coasts and catchments of Europe, together with the European Community, cooperate to protect the marine environment of the North-East Atlantic. It started in 1972 with the Oslo Convention against dumping. It was broadened to cover land-based sources and the offshore industry by the Paris Convention of 1974. These two conventions were unified, up-dated and

even more authority to NGOs – it grants NGOs observer status, which entitles them to actually participate in the work of the organization and to submit reports (but not to vote).

Another remarkable example of changing concept of NGOs' role in international law and particular impact on environmental law is the UNECE<sup>37</sup> Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention<sup>38</sup>). NGOs, as well as all citizens, have a right to access the information and it is allowed for them to participate in implementation processes. Article 15 of the Aarhus Convention requires “establishment, on a consensus basis, optional arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance with the provisions of this Convention. These arrangements shall allow for appropriate public involvement and may include the option of considering communications

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extended by the 1992 OSPAR Convention. The new annex on biodiversity and ecosystems was adopted in 1998 to cover non-polluting human activities that can adversely affect the sea. *OSPAR Commission* [interactive] [accessed 2012-11-05] <[http://www.ospar.org/content/content.asp?menu=00010100000000\\_000000\\_000000](http://www.ospar.org/content/content.asp?menu=00010100000000_000000_000000)>.

<sup>36</sup> The [Convention for the Protection of the marine Environment of the North-East Atlantic](#) (the OSPAR Convention), entered into force on 25 March 1998 [interactive] [accessed 2012-11-05] <[http://www.ospar.org/html\\_documents/ospar/html/ospar\\_convention\\_e\\_updated\\_text\\_2007.pdf](http://www.ospar.org/html_documents/ospar/html/ospar_convention_e_updated_text_2007.pdf)>. Article 11 of the Convention states, that “The Commission may, by unanimous vote of the Contracting Parties, decide to admit as an observer: (a) any State which is not a Contracting Party to the Convention; (b) any international governmental or any non-governmental organisation the activities of which are related to the Convention. 2. Such observers may participate in meetings of the Commission but without the right to vote and may present to the Commission any information or reports relevant to the objectives of the Convention. 3. The conditions for the admission and the participation of observers shall be set in the Rules of Procedure of the Commission”.

<sup>37</sup> The United Nations Economic Commission for Europe (UNECE) was set up in 1947 by [ECOSOC](#). It is one of five regional commissions of the United Nations. The others are the [Economic Commission for Africa \(ECA\)](#), [Economic and Social Commission for Asia and the Pacific \(ESCAP\)](#), [Economic Commission for Latin America and the Caribbean \(ECLAC\)](#), [Economic and Social Commission for Western Asia \(ESCWA\)](#). UNECE's major aim is to promote pan-European economic integration. To do so, it brings together [56 countries](#) located in the European Union, non-EU Western and Eastern Europe, South-East Europe and Commonwealth of Independent States (CIS) and North America. All these countries dialogue and cooperate under the aegis of UNECE on economic and sectoral issues. Over 70 international professional organizations and other non-governmental organizations take part in UNECE activities. As a multilateral platform, UNECE facilitates greater economic integration and cooperation among its member countries and promotes sustainable development and economic prosperity through: policy dialogue, negotiation of international legal instruments, development of regulations and norms, exchange and application of best practices as well as economic and technical expertise, technical cooperation for countries with economies in transition. UNECE also sets out norms, standards and conventions to facilitate international cooperation within and outside the region. *United Nations Economic Commission for Europe* [interactive] [accessed 2012-11-05] <<http://www.unece.org/about-unece.html>>.

<sup>38</sup> The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, adopted on 25th June 1998. I.L.M. 517. The Convention was adopted in the Danish city of Aarhus at the Fourth Ministerial Conference in the 'Environment for Europe' process. The Aarhus Convention is a new kind of environmental agreement. The Convention: links environmental rights and human rights; acknowledges that we owe an obligation to future generations; establishes that sustainable development can be achieved only through the involvement of all stakeholders; links government accountability and environmental protection; focuses on interactions between the public and public authorities in a democratic context. The subject of the Convention goes to the heart of the relationship between people and governments. The Convention is not only an environmental agreement, it is also a Convention about government accountability, transparency and responsiveness. The Aarhus Convention grants the public rights and imposes on Parties and public authorities obligations regarding access to information and public participation and access to justice. [interactive] [accessed 2012-11-05] <<http://www.unece.org/env/pp/introduction.html>>.

from members of the public on matters related to this Convention”. The most essential provision is the establishment of Compliance Committee and the requirement, that all members of the Committee be independent experts rather than representatives of the State parties<sup>39</sup>.

There is a huge number of NGOs acting in environmental issues, it is worthwhile to mention the most influential ones. The International Union for the Conservation of Nature<sup>40</sup> (once known as the World Conservation Union, IUCN) is a unique organization, comprised of both non-governmental organizations and governments. Established in 1948, it is one of the oldest conservation organizations, and, arguably, the most influential. International Union for Conservation of Nature and Natural Resources (IUCN) is an international organization dedicated to finding pragmatic solutions to our most pressing environment and development challenges. The organization publishes the IUCN Red List, compiling information from a network of conservation organizations to rate which species are most endangered. The IUCN supports scientific research, manages field projects all over the world and brings governments, non-government organizations, United Nations agencies, companies and local communities together to develop and implement policy, laws and best practice. IUCN is the world’s oldest and largest global environmental network - a democratic membership union with more than 1,000 government and NGO member organizations, and almost 11,000 volunteer scientists in more than 160 countries. There also are many NGOs acting in different fields of environmental protection, for example, Anti-nuclear movement, Bioversity International, Conservation International, Earth Charter Initiative, Forests and the European Union Resource Network (FERN), Fauna and Flora International, Friends of Nature, Friends of the Earth, Green Cross International, Greenpeace, International Union for Conservation of Nature (IUCN), International Network for Sustainable Energy (INFORSE), Society for the Environment (SocEnv), The Climate Project, The Nature Conservancy, The Resource Foundation, Wildlife Conservation Society, World Conservation Union (WCN), World Resources Institute (WRI), World Union for Protection of Life (WUPL), World Wide Fund for Nature (WWF), etc. All those institutions are notable actors forming the concepts and regulation of modern environmental law.

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<sup>39</sup> *Second meeting of the Working Group on Compliance and Rules of Procedure* [interactive] [accessed 2012-11-05] <[http://www.unece.org/fileadmin/DAM/env/pp/compliance/compiled\\_version.pdf](http://www.unece.org/fileadmin/DAM/env/pp/compliance/compiled_version.pdf)>.

<sup>40</sup> *The International Union for the Conservation of Nature* [interactive] [accessed 2012-03-17] <<http://www.iucn.org>>.

Environmental NGOs usually work to raise concern about environmental problems, both domestically and by sharing information across borders. They can also lobby government actors to take action on international environmental policy issues. Once an international organization exists to address a global environmental issue, NGOs may be invited to participate as observes<sup>41</sup>. NGOs have an essential impact on monitoring compliance and reporting on states' behaviour on the international level when international environmental multilateral or regional agreements are passed. Therefore the conclusion could be made, that participation of NGOs in discussing the environmental problems and implementing legislation shifted the traditional hierarchical structure of international subjects, allowing persons to take part in those processes through activities of NGOs. Furthermore, particularly NGOs have played a major role in organizing the forums and conferences of scientists, where the effect of various problems were analyzed, and considered by governments as of minor importance issues concerning environmental protection were raised. Some NGOs (for example, World Conservation Union, Greenpeace, Friends of the Earth) have enough mechanisms and power to exert pressure on states' governments. However, it is of the utmost importance to mention, that NGOs do not have the status of a subject of international law in the broad sense of this meaning. This fundamental conceptual incongruity in modern international law definitely will need to be reconsidered in the nearest future.

## CONCLUSIONS

The international environmental law is gradually transferring from an approach that the states are the primary and leading subject of international law, that accepts, implements and enforces legal norms, towards a concept that the persons (both legal and natural) may have positive influence on law-making and law-enforcement processes regarding environmental issues. The role of international organizations in environmental law developed gradually. However, there is still no single institution or organization that would have governance and oversight over all existing global multilateral environmental agreements or would play a role of the supervisor or would have the authorization of the highest hierarchical institution. International environmental organizations (IEO) perform different functions in the fields of their activities (law-making and law-enforcement processes). Those functions depend on authority rendered to them and indicated in their establishing documents (statutes, charters, etc.). First of all, international environmental organizations provide a forum for co-operation

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<sup>41</sup> DeSombre, E. R. *The Global Environment and World Politics*. 2<sup>nd</sup> Edition. London, New York: Continuum, 1997, p. 81.

and co-ordination between states on matters of international environmental management. Secondly, IEO transfer information in a more informal way that states and their representatives. Thirdly, they contribute to the development of international law, especially “soft law”. This function may be performed either in formal or informal way. Fourth function of IEO is associated with the implementation of the international treaties. Those institutions play a significant role in ensuring implementation of and compliance with the standards and obligations prescribed in corresponding international agreements. A fifth function of international organizations is to provide an independent forum for the settlement of disputes, either through the work of general bodies, or by the reference of an issue to a body created specifically to assist in dispute settlement through a judicial or quasi-judicial functions. Environmental NGOs usually work to raise concern about environmental problems, both domestically and by sharing information across borders. They can also lobby government actors to take action on international environmental policy issues. Therefore the conclusion could be made, that participation of NGOs in discussing the environmental problems and implementing legislation shifted the traditional hierarchical structure of international subjects, allowing persons to take part in those processes through activities of NGOs. Furthermore, particularly NGOs have played a major role in organizing the forums and conferences of scientists, where the effect of various problems were analyzed, and considered by governments as of minor importance issues concerning environmental protection were raised. However, it is of the utmost importance to mention, that NGOs do not have the status of a subject of international law in the broad sense of this meaning.

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## TAPTAUTINIŲ ORGANIZACIJŲ VEIKLOS ĮTAKA APLIKOSAUGOS TEISEI

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### Santrauka.

XX amžius atnešė didžiulę daugiašalių ar globalių susitarimų įvairiais aplinkos apsaugos klausimais plėtrą. Tarptautinio aplinkosaugos teisinio reguliavimo augimas suponuoja ir teisinių bei administracinių institucinių mechanizmų aplinkos apsaugos teisės srityje skaičiaus didėjimą, atitinkamai pastaruosius dvidešimt – trisdešimt metų gausėja įvairių su aplinkosaugos teise ir teisės normų priėmimu, įgyvendinimu, vykdymu susijusių tarptautinių ir regioninių institucijų. Tačiau nepaisant išpūdingos tarptautinio aplinkosaugos reguliavimo plėtros vis dar nėra vieningos institucijos, kuri atliktų tarptautinio administratoriaus vaidmenį ar turėtų aukščiausios hierarchinės institucijos įgaliojimus. Vienok tarptautinės aplinkos apsaugos organizacijos gali prisidėti prie teisės aktų kūrimo procesų, o taip pat daryti įtaką teisės normų įgyvendinimo priežiūrai. Šios institucijos gali kelti klausimus dėl tam tikrų aplinkosaugos problemų, dalintis informacija, pateikti įvairias ataskaitas, vykdyti lobistinę veiklą vyriausybių atžvilgiu, veikti kaip tarptautinių daugiašalių ar regioninių susitarimų įgyvendinimo ir priežiūros subjektai. taigi šio tyrimo objektas yra tarptautinių aplinkos apsaugos institucijų įtaka aplinkosaugos teisei. Šio darbo tikslas yra atskleisti tarptautinių aplinkosaugos institucijų sistemą ir išanalizuoti šių institucijų įtaką tarptautinei aplinkos pasaugos teisei.

**Pagrindinės sąvokos:** aplinkosaugos teisė, tarptautinės organizacijos, nevyriausybines organizacijos.

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