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International Protection of the Environment: Conservation in Sustainable Development

By Aaron T. Laur
Under the Auspices of the International Council of Environmental Law

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INTERNATIONAL PROTECTION OF THE ENVIRONMENT:
Conservation in Sustainable Development

A global knowledge product of
The International Council of Environmental Law
and the IUCN Environmental Law Programme

Aaron T. Laur, editor

Updates through 2016 by Wolfgang E. Burhenne

Volume 1
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Introduction

*International Protection of the Environment: Conservation in Sustainable Development* is the most recent addition to the comprehensive coverage of environmental legal developments at Thomson Reuters. The first series of *International Protection of the Environment* covers 30 bound volumes, with a subject index in the concluding volume. It is an historical compendium of environmental treaties and related legal documents from 1754 to the early 1980s, edited by Bernd Rüster and Bruno Simma, both of whom were members of the International Council of Environmental Law.

As the pace of international environmental law development accelerated in the period after the 1972 UN Stockholm Conference on the Human Environment, Rüster and Simma prepared their six-volume looseleaf series, Oceana's *International Protection of the Environment*, second series, covering the years after 1981. This series is accessed through a topical table of contents.

A new synthesis of environmental protection with socio-economic development emerged from the 1992 UN Conference on Environment and Development in Rio de Janeiro. *Agenda 21 & The UNCED Proceedings*, the third series of Oceana's *International Protection of the Environment*, is a six-volume set elaborating the *travaux préparatoires* for *Agenda 21*, the action plan adopted by the Rio de Janeiro Conference. This series was edited by Nicholas A. Robinson, in cooperation with Parvez Hassan and Françoise Burhenne-Guilmin, each also a member of the International Council of Environmental Law.

All of these prior Oceana series were continued and kept up to date through this current post-UNCED Series, *Conservation in Sustainable Development*, edited by Wolfgang E. Burhenne and Nicholas A. Robinson until 2012. Maintained under the sole editorship of Wolfgang E. Burhenne until 2017, it continued to incorporate in the title of "conservation" the rich ecological and social processes that govern the equitable use of nature and natural resources. The title "sustainable development" reflects the consensus embodied in *Agenda 21*, renewed in "The future we want," and activated through the *2030 Agenda for Sustainable Development*.

The present series of *International Protection of the Environment* from Thomson Reuters maintains the relevance of the prior series by correlating their policy and legal documents to the post-Rio Sustainable Development Criteria. A chronological index at the outset of this series expressly cross-references the Rüster/Simma series, indicating
where documents can be located in the series.

Conservation in Sustainable Development features the decisions and action plans that implement Agenda 21 as the framework “soft-law” instrument for both developing and implementing international environmental law. These legal and administrative decisions fall between the hard law of treaties and the soft law of policy decisions. They constitute incrementally the determinations to cooperate across international organizations, treaty regimes, and other institutions to implement and follow legally nonbinding instruments.

Traditionally, international law has neglected the record of such decisions, action plans and programmatic undertakings. This level of state conduct was minimal in the 18th, 19th and early 20th centuries. Today it has become pervasive and must be monitored. It is the analogue at the intra-state level. Nowhere is this more evident than in environmental law. International institutions for the regulation and administration of global and transboundary environmental issues continue to expand the use of nonbinding instruments as supplemental to binding ones. The resolutions, declarations, recommendations, communiqué, memoranda of understanding, and guidelines curated in this collection define concrete measures and procedures for both States and private actors.

Agenda 21 and the 2030 Agenda for Sustainable Development recognize the importance of cross-cutting and bold actions. In their form, as “Action Plans,” they are more than just two of the longest “soft law” instruments. They call for measured actions based on indicators and are the basis for annual reports of States, and annual follow-up evaluations by the High-level Political Forum on Sustainable Development. They have been embraced as the core of implementing the objectives of the United Nations and promoting international peace and security. The global trends undermining both environmental quality and economic development are gradual, not cataclysmic events. The UN World Commission on Environment & Development in its 1985 report, Our Common Future (Oxford University Press) articulated these trends as problems, just as Agenda 21 outlined the solutions to arrest or reverse them. Today, there are immense challenges to achieving sustainable development, while immense opportunities exist to build just and inclusive societies within ecological limits. As this series documents the incremental progress toward attaining “sustainable” development, the goal is support and enhance the likelihood of successfully reaching the constructive integration of environmental protection with cultural, social and economic development.

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Wolfgang E. Burhenne and Aaron T. Laur
About the International Council of Environmental Law and the IUCN Environmental Law Programme

The International Council of Environmental Law (ICEL) is pleased to cooperate with Thomson Reuters in continuing its *International Protection of the Environment* series. ICEL was established in 1969 as a membership organization with global geographic representation. For nearly 50 years, it has applied its expertise to promote the exchange of information on the legal, administrative and policy aspects of environmental conservation and sustainable development. It has participated actively in the field and supports new initiatives encouraging advice and assistance in the interest of the development, negotiation, review and implementation of international, regional and national environmental laws and policies. The Council is an International Non-governmental Organization (INGO) registered in Geneva (Switzerland) as an International Association under Chap. 2, Art. 60 Swiss Civil Code. With elected Individual and Corporate Members from more than 60 States covering six continents, ICEL conducts membership elections on an annual basis and is governed by a Board of Governors.

The International Council of Environmental Law (ICEL) has a long and successful track record of bringing eminent individuals and institutions together to drive the development and implementation of environmental law and policy at national, regional and international levels. The Council closely coordinates its work with the IUCN Environmental Law Programme since 1970, and the United Nations Environment Programme (UNEP) since 1974.

The synergy amongst ICEL and the IUCN Environmental Law Programme has led to major accomplishments such as the African Convention on the Conservation of Nature and Natural Resources, the Convention Trade in Endangered Species of Flora and Fauna, the Convention on Migratory Species, the UN’s World Charter for Nature, the Convention on Biological Diversity, and other major multilateral agreements. Additionally, the
ICEL/IUCN Environmental Law Library is one of the world’s largest physical collections of its kind, catalogued through the Environmental Law Information System (ELIS), and comprehensively referenced in the free online knowledge platform “ECOLEX.” The Draft International Covenant on Environment and Development builds upon the World Charter for Nature and continues to serve as a blueprint for crafting environmental law and policy across the world.

The IUCN Environmental Law Programme (ELP) consists of the World Commission on Environmental Law (WCEL) and the Environmental Law Centre (ELC). The Commission was founded in 1963 and is now one of six IUCN commissions. As a primary resource to IUCN in its role as official observer to the UN General Assembly, the commission consists of over 1200 members in more than 110 countries led by a Steering Committee. The objective of the programme is to promote ethical, legal and institutional concepts that advance environmental, social, cultural and economic sustainability and to strengthen the capacity of governments, the judiciary, prosecutors, and other stakeholders as they develop and implement environmental law. To do so most effectively, emphasis is on Information production, collection and dissemination; providing principal legal advice to IUCN, its Members, and associated institutions; developing, drafting and implementing international instruments; and supporting governments, intergovernmental organizations, and NGOs to improve and develop legal structures.

The IUCN World Declaration on the Environmental Rule of Law is a landmark achievement reflecting the leadership of the IUCN Environmental Law Programme. The Declaration emphasizes the fundamental role of the environmental rule of law as the legal foundation for promoting environmental ethics and achieving environmental justice, global ecological integrity, and a sustainable future for all at. It elaborates the foundations of the Environmental Rule of Law, 13 general and emerging substantive principles for promoting and achieving environmental justice, and means for implementation.
About the Editor

Wolfgang E. Burhenne (1924-2017) was the ICEL Executive Governor and Editor-in-Chief of “Environmental Policy and Law: The journal for decision-makers.” He was also responsible for *International Environmental Law: Multilateral Treaties* in English, French, Spanish, and German when available.

He was the recipient of the 1976 Elizabeth Haub Prize and Gold Medal of the Université Libre de Bruxelles, as well as the United Nations International Environmental Prize, together with Françoise Burhenne-Guilmin (awarded by the UN Secretary General Peres de Cuellar through the Executive Director of UNEP) in 1991, and the Honorary member of the International Alpine Commission in 1992.

Dr. Burhenne became the third recipient of the German Alpine Prize on 25 November, 2011 for service as cofounder and first General Secretary of the international mountain conservation organization “CIPRA,” as well as for longtime engagement in the field of international environmental conservation. Furthermore, he was the second recipient of the Harold Jefferson Coolidge Medal, which is one of the International Union for the Conservation of Nature and Natural Resource’s (IUCN) highest Awards. The medal is presented every four years on the occasion of IUCN’s World Conservation Congress “to recognize an individual who has made internationally significant contributions to effective conservation, and whose conservation efforts embody Dr. Coolidge’s approach and achievements....”