A Survey of International Environmental Conventions Relevant to the Promotion of Global Peace in the 21st Century

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Abstract
The paper examines the legal framework for the promotion of global peace through international conventions on the use of the environment. The threat of environmental pollution is a global concern. This paper examines the strides the United Nations and the world have made in putting the global environment under an effective legal control beginning with the United Nation's conference on the Environment in 1972. This paper finds that the lack of fulfillment of the obligations of sovereign states under international conventions on the environment and global environmental treaties are the greatest impediment to the achievement of the objectives of international environmental stability and sustainable development. Furthermore, most sovereign states are yet to domesticate the conventions as national laws as required under the conventions.

Key Words: *Environment, International, Environmental treaties, Global peace, and Conventions.*

Introduction

The world environment is regarded as a common resource. This is because the features of the world's environment are no respecter of the artificial demarcations into sovereign states made by man in the course of his nation building enterprise. Furthermore, pollution of the world's environment consisting of land, air and water, may occur in such a way as to affect shared environmental resource beyond national boundaries. The beginning of global concern for the world's environment dates back to the Stockholm Conference of 1972. This conference was followed by a series of other conferences aimed at devising effective legal framework for settling global environmental disputes. The United Nations about this same period declared that environmental problems and other non-military sources of instability had become a veritable threat to global peace and security. Consequently, it convened the United Nations Conference on the Environment and Development (UNCED) in Rio de Janeiro, Brazil in 1992. The purpose of that conference was to brainstorm on how to evolve an effective global legal framework for the settlement of global environmental disputes while respecting existing bilateral treaties for dispute settlement.

The new wave of global environmental problems and disputes in the 20th and 21st century was occasioned by the increased demand for access to natural resources found in the world's environment as a result of the radical increase in the world's population coupled with advances in technology. Three approaches have emerged as means of resolving global environmental disputes. The first approach is what has become known as the incremental approach. This involves the use of existing global institutions such as the United Nations and

the International Court of Justice at The Hague as well as regular diplomatic practices through existing conventions for the settlement of global environmental disputes. The second approach is what is referred to as the global partnership approach. This is a situation where the developed countries assist the developing ones in realizing their national economic objectives in exchange for acceptance of global best practices on environmental preservation by the developing countries. In other words the developing countries are to refrain from national economic activities that harm the global environment while developed ones support them economically. The third approach is the positivist approach which prescribes the setting up of a World Environmental Dispute Legislative Assembly to make global environmental regulations for the world's environment. Out of these three approaches, the development of a legal framework for regulation of the use of the world's environment through bilateral conventions has been the most generally accepted. An attempt shall now be made to review the key provisions of some of the relevant conventions.

The Continental Shelf Convention Of 1958

This was an international treaty created for the purpose of codifying the rules of international law relating to the use of the continental shelf. The treaty established the rights of sovereign states not just over their territorial waters but also the continental shelf surrounding such a sovereign state. The treaty came into force in 1964 and was ratified by Nigeria in 1961.

The framework for the treaty was agreed upon as one of the three by the first United Nations Conference on the Law of the Sea (UNCLOS I). The Convention has been superseded by the UNCLOS II. The Convention replaced the earlier practice whereby nations exercised sovereignty over only a narrow strip of the sea surrounding them and anything beyond that strip was considered international waters. The background to this treaty was the declaration in 1945 by American President, Harry Truman that the continental shelf contiguous to the United States belonged to the United States. (Continental Shelf Convention (1958)

> The Treaty defined the continental shelf
> "to be the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea to a depth of 200 meters or beyond that limit where the depth of the superjacent waters admits of the exploitations of the natural resources of the said areas (Continental Shelf Convention (1958) or "to the sea bed and subsoil of similar submarine areas adjacent to the coasts of islands"

Thus the Treaty defined the Continental Shelf in terms of the possibility of exploitation of natural resources. The continental shelf by virtue of the treaty shall not be used in such a way as to interfere with navigation, fishing or the conservation of the resources of the sea or with fundamental oceanographic or other scientific research undertaken with an intervention of open publication (Continental Shelf Convention (1958).

The Coastal State is entitled to erect installations in the Continental Shelf for the purposes of exploration and exploitation of natural resources and can build safety zones of about 500 metres around such installations(Continental Shelf Convention (1958).But the installations do not assume the status of Islands territorially.(Continental Shelf Convention (1958). Due notice of the installations must be given to ship at sea and such installations must not be established to interfere with recognized sea lanes essential to international navigation (Continental Shelf Convention (1958). Again, an installation which has been abandoned or is disused must be removed (Continental Shelf Convention (1958). The Coastal State is expected to undertake in the safety zone all appropriate measures to ensure the protection of living resources of the sea from harmful agents (Continental Shelf Convention (1958). The Coastal State's consent must be sought and obtained before any research concerning the

Continental Shelf can be taken albeit the consent should not be refused in the case of a qualified institution which intends to undertake a purely scientific research and the Continental Shelf can join in the research if it so desired (Continental Shelf Convention (1958).

The Convention's only provision for the protection of environmental pollution is that which mandates the coastal state laying claim to a continental shelf to take appropriate measures to protect the living resources of the sea from harmful agents. It does not contain any elaborate provisions for other environmental pollutants such as solid waste, hazardous chemicals, and oil and gas. The fact that mineral resources mining are the major economic activities that are carried out in the Continental Shelf, an elaborate provision on the prevention of environmental pollution at sea is a necessity in any global treaty efforts on the use of the Continental Shelf. There are 58 state parties to the Convention

Convention on the High Sea, 1958 (GENEVA)

This Convention was aimed at codifying international law relating to the High Sea and entered into force in 1962. The Convention recognized the High Sea as the Common heritage of mankind which is accessible to all nations. The High Sea was defined as all parts of the sea that are not included in a country's territorial sea or inland waters(Convention on the High Sea (1958). The Convention placed on all contracting parties(Convention on the High Sea (1958) to the Convention an obligation to draw up regulations to prevent the pollution of the sea by oil from ships or pipelines or resulting from the exploration or exploitation of the sea and its subsoil, taking into account existing treaty provisions on the subject(Convention on the High Sea (1958). The Convention further requires parties to take measures to prevent the pollution of the sea by radioactive waste taking into account any standards and regulations which may be formulated by competent international organizations (Convention on the High Sea (1958). Nigeria acceded to the Convention on 18th April, 1971.

The Convention made some provisions with respect to placing on contracting parties the obligation to enact relevant regulations for the prevention of pollution of the sea by discharge of oil from ships, pipelines and aircrafts; it did not make any express provisions for the prevention of the generic pollution of the sea. Its major emphasis was on the use of the navigable sea by ship and the airspace of the sea by aircrafts. It left the task of making specific regulations for the all forms of pollution with other international institutions and state bodies. To this extent, the Convention may strictly be viewed as that providing for the manner of use of the sea by ships and aircrafts. In any case, the Convention achieved the goal of promoting global peace by avoiding international conflicts among nations in the use of the High Sea. There were 63 state parties to the Convention as at 2013.

Convention on the Prevention of Marine Pollution and Dumping of Wastes and Other Matters, 1972

This Convention is also known as the "London Dumping Convention". The Contracting parties to the Convention traced marine pollution to sources such as dumping and discharges through the atmosphere, rivers, estuaries, outfalls and pipelines, and undertook individually and collectively to promote the effective control of all sources of pollution of the marine environment (London Dumping Convention (1972). They also pledged to take all effective steps of prevent the pollution of the sea by the dumping of waste and other matter which are hazardous to human health, living resources and marine life damage amenities or interfere with the legitimate use of the sea.

The Convention defined dumping as:

(i) Any deliberate disposal at sea of wastes or other matter from vessels, aircraft,

platforms or other manmade structures at sea;

(ii) Any deliberation disposal at sea of aircraft, platform or other manmade structures at sea. It however does not include:

(a) The disposal at sea of waters or other matters incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man made structure at sea and their equipment, other matters transported by or to vessels, aircrafts, platforms or other manmade structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;

(b) Placement of matter for a purpose other than the more disposals thereof, provided that such placement is not contrary to the aim of the Convention. The disposal of waste or other matter directly arising from, or related to the exploration, exploitation and associated off shore processing of sea-bed mineral resources is not covered by the Convention (Convention on the Prevention of Marine Pollution and Dumping of Wastes and Other Matters,(1972).

From the foregoing provisions, it is clear that what the Convention intends to prohibit is the use of the sea as a dumping ground for wastes and other allied matters. This is quite understandable because if all the waste generated on land is moved into the sea, it will get to a point when the sea will no longer be navigable or will require dredging before ocean going vessels can pass through it.

The Convention further requires each party to it to designate an appropriate authority that will issue permits, keep records and monitor the conditions of the sea (Convention on the Prevention of Marine Pollution and Dumping of Wastes and Other Matters (1972). The Convention enjoins parties with a common interest in a particular geographical area to protect the marine environment of that particular area and to enter into regional agreements for the prevention of pollution (Convention on the Prevention of Marine Pollution and Dumping of Wastes and Other Matters (1972). Article 9 of the Convention encourages parties to collaborate in research and the training of personnel, supplying equipment for research and monitoring of wastes and their disposal.

The parties in the concluding sections of the Convention pledged a common commitment to the protection of the marine environment against pollution caused “inter alia” by hydrocarbons, including oil and their waste (Convention on the Prevention of Marine Pollution and Dumping of Wastes and Other Matters (1972). The area covered by the convention includes the Atlantic and Arctic oceans as well as the Baltic and Mediterranean Sea it is a common ground by parties that the Marine Environment must be protected against all forms of pollution so as to leave it as beneficial as possible to mankind.

Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircrafts, 1972

This Convention classified fixed and floating platforms within its definition of ships and aircraft. The parties to the Convention pledged themselves to promote within the competent specialized agencies and other international bodies measures for the protection of the marine environment against pollution by oil and oil wastes, other noxious substances and radioactive materials. The Convention also made provisions for the issuance of permits and approval for dumping wastes at sea which will cover the characteristics of the waste sought to be dumped in terms of toxicity, accumulation, and persistence among others. The Convention also characterizes dumping sites and the method of deposits.

There are three implications to the provisions of the Convention. The first is that not all manner of wastes is permissible for dumping at sea. Second, not all the areas of the sea are allowable for approved dumping. Finally, there are approved methods of dumping approved wastes so as not to pollute the sea irreversibly, endanger the navigation of the sea by ships and injure the biodiversity of the sea. Thus, it shall be unlawful for any of the contracting parties to the Convention to breach or violate any of the provisions of this Convention.

Convention for the Prevention of Marine Pollution from Land Based Sources. (The Paris Convention, 1974)

This Convention was amended by a Protocol in 1986.It aims at controlling freshwater limits in the high seas and waters on the landward slide. The Conventions placed limits on discharge controls from off shore installations in the North East Atlantic including the North Sea, Irish Sea, English Channel and Arctic Oceans. It classified substances used in those installations into grey lets and classifies radioactive substances according to toxicity levels, bio accumulation levels and their persistence in the marine environment.

The main objective of this Convention is to encourage contracting parties to initiate measures to reduce discharges of oil from offshore locations.

Convention for Co-Operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region, 1981

This Convention was ratified by Nigeria on 5th August, 1984. It is a Regional Convention aimed at protecting the marine environment of the coastal zones and related internal waters that are in the West and Central African Region (Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region, (1981).

The Contracting Parties undertook under the Convention to adopt (Convention for Co-Operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region, (1981) all necessary measures to prevent, reduce and combat of their areas with particular emphasis on prevention of pollution arising from the exploitation of the seabed as well as atmospheric pollution. Their other objectives include the reduction, contracting and control of Coastal erosion, preservation and protection of rare or fragile ecosystem as well as the habitat of depleted, threatened or endangered species and other marine life in specially protected areas; co-operation in dealing with pollution emergencies in the Convention area; the exchange of data and other scientific information and the development of technical and other guidelines regarding environmental impact assessment of their development projects.

Finally, the Convention aimed at establishing rules for the payment of compensation for pollution damage of the Convention area. A Protocol to the Convention for Co-operation for the Protection and Development of the Marine and Coastal Environment of the West and Coastal African Region also came into place in 1981. It was designed to protect the marine environment, the coastal zones and related internal waters of the region against pollution in cases of emergency.

The Protocol provided for co-operation by the contracting States in the protection of their respective coastlines and related interest from the threat and effect of pollution as a result of marine emergencies by the exchange of information and inter-state assistance on demand. Contracting states are also expected to maintain and promote marine emergency Contingency plans as well as take appropriate measures to prevent, reduce combat and control the effects of pollution, including surveillance and monitoring of marine emergencies.

The United Nation's Convention on the Law of the Sea, (1982) (UNCLOS III)

This Convention has a positivist approach to the law relating to the regulation and control of marine pollution. Whereas, States in the previous Conventions were free to determine the extent they wanted to control and regulate marine pollutions, they are to do so on terms laid down by the provisions of the Convention under UNCLOS. UNCLOS entered into force on 18th November1994. The convention was ratified by Nigeria in August 1984 10 years before it entered into force. Under the Convention, "States" and not "State parties" have an obligation to protect and preserve the marine environment (UNCLOS III, (1982).

The reference to State here extends beyond the signatories to the Convention to all the nation States who are members of the United Nations. The language used thus denotes a codification of a customary norm not to degrade the marine environment to be observed by all nations under the United Nations. Article 193 recognized the right of individual States to exploit its natural resources subject however to its obligation not to degrade the marine environment as provided for under Article 192.

The next Article requires States to take individually or jointly all measures consistent with the Convention that are necessary to prevent, reduce, and control pollution of the marine environment, from any source using the best practicable means at their disposal and in accordance with their capabilities. The measures to be taken pursuant to Article 194 shall include inter-alia those designed to minimize to the fullest possible extent "pollution from installations and devices used in the exploitation and exploration of the natural resources of the sea bed and sub-soil". In particular, the measures are to build up capacity for preventing accidents and dealing with emergencies, ensuring the safety of operation at sea and regulating the design, construction, equipment, operations of such installations and devices.

In taking measures to prevent, reduce and control marine pollution, States shall do so in a manner as not to transfer directly or indirectly damage or hazards from one area to another or transform one form of pollution to another (UNCLOS 111(1982). States are also obligated to reduce, minimize and control marine pollution resulting from the use of technologies under their jurisdiction or control or the intentional or accidental introduction of species, alien to a particular part of the marine environment so as to jeopardize that environment (UNCLOS111 (1982). This provision is not to affect however the provisions of the Convention regarding the prevention reduction and control of pollution(UNCLOS111 (1982).

The Convention commands that states shall co-operate on a global basis, directly or through competent international organizations, in formulating and collaborating international rules, standards and recommended practices consistent with the Convention for the protection and preservation of the marine environment taking into account characteristic regional features (UNCLOS111 (1982). States are also required to adopt laws to prevent, minimize and control pollution of the marine environment from land based sources including rivers, estuaries, pipelines and outfall structures, taking into account internationally agreed rules, standards and recommended practices and procedures (UNCLOS111 (1982). By the provisions of Article 207 (2), States are required to adopt laws and measures that may be necessary to prevent, reduce and control such pollution.

The Convention further calls for regional harmonization of state policies (UNCLOS111 (1982). In doing this, States are required to take into account characteristic regional features, the economic capacity of developing States and the need for economic development(UNCLOS111 (1982). Article 213 requires States to enforce their laws and regulations made under Article 207. The Convention also provides that the provisions of

UNCLOS are themselves "without prejudice to the specific Conventions and agreements concluded previously which relate to the protection and preservation of the marine environment and to agreements which may be concluded in furtherance of the general set forth in the Convention"(UNCLOS111 (1982). The Convention established a Tribunal to be known as the UNCLOS tribunal and stated that the tribunal shall apply the Convention and other rules of international law not incompatible with the tribunal (UNCLOS111 (1982).

It has been contended that Article 207 of the Convention is vague and may be impracticable in view of the existence of scanty land marine pollution law and the resistance to more exacting measures by developing countries. The Convention probably aimed at providing constitutive law that will evolve together with international standards (Ring, 2012). The use of the words "State Parties" is a clear indication that the Convention intends to apply to all the countries that are members of the United Nations. The implication of this is that the Convention can apply to even regional treaties providing for environmental protection. It is little surprising that a former U.S Secretary of State described the Convention as "… the strongest comprehensive environmental treaty now in existence or likely to emerge for quite some time and can be the foundation of a Constitution for the Oceans"(Boyle, 2002).

Other commentators have said that it "not only a treaty but a codification and articulation of the present state of the rules applicable to oceans, and that it has ascended to the status of customary international environmental law, binding on both signatories and non-signatories," (Guruswamy, 1999). The UNCLOS is of great relevance to oil and gas pollution in view of the massive offshore activities going on in the sector.

The United Nation's Framework Convention on Climate Change (UNFCC (1992).

The UNFCC of 1992 represents the first manifestation of the global concern for the challenge of climate change. It was adopted at the 1992 United Nations' Conference on Environment and Development (UNCED) known as the Earth Summit which was held in Rio de Janeiro, Brazil. Nigeria ratified the Convention in August, 1984. The Convention set as its ultimate objective the stabilizing of greenhouse gas emissions "at a level that will prevent dangerous anthropogenic (human induced) interference with the climate system" (UNFCC (1992). The Convention also states that such desired level of gas emission should be achieved within a time frame sufficient to allow ecosystem to adapt naturally to climate change, to ensure food production is not threatened and to enable economic development to proceed in a sustainable manner" (UNFCC (1992).

The essence of the climate policy is both to reduce Co_2 emissions and also to do so in a cost-effective and sustainable manner. The UNFCCC laid down the principles that should guide this process. The laid down principles include common but differentiated responsibilities, precaution, cost effectiveness and 'sustainable development.' The parties committed themselves to:

> Take climate change considerations into account, to the extent feasible in their relevant social economic and environmental policies and actions, to the extent feasible, in their relevant social, economic and environmental policies and actions, and employ appropriate methods, for example impact assessments, formulated and determined nationally, with a view to minimize adverse effect on the economy in public health and on the quality of the environment of projects or measures undertaken by them to mitigate or adapt to climate change(UNFCC (1992).

The parties to the Convention are also to:

> Formulate, implement, publish and regularly update national and, where appropriate,

> regional programs containing measures to mitigate climate change by addressing anthropogenic emissions by sources and removal by acts of all greenhouse gases not controlled by the Montreal Protocol and measures to facilitate adequate adaptation to climate change (UNFCC (1992).

Parties are then required to develop and periodically put their national inventions of anthropogenic emissions by sources (UNFCC (1992). There are financial provisions under the auspices of the Global Environment Facility (UNFCC (1992) to assist developing country parties in carrying out some of their commitments under the Fund. The parties are classified by the Convention into Annex I and Annex II countries. The classification was done according to the party's level of industrialization and emission reduction responsibilities and commitments (UNFCC (1992). In applying the principle of common but differentiated responsibilities, the Convention put the lion share of responsibility and cost for battling climate change on the industrialized Countries (UNFCC (1992).

Nigeria is not an Annex I Country but it has the responsibility to perform its obligation under the Convention including the phasing out of gas flaring, a major contributor to climate change. The Protocol that followed elaborated on the measures to be taken by State parties for the achievement of the objectives of the Convention through the participation of both the developed and developing countries.

The Kyoto Protocol (KP) 1997

This Protocol to the UNFCC entered into force on 14th February, 2005 and strengthens the commitments of the UNFCCC especially those enshrined in Articles 4(2) (a) and (b). The Protocol set out a firm schedule for the reduction of GHG emissions by Annex I countries and firm targets to be met within an agreed period. These specific commitments of Annex Countries are as set out in Annex to the Protocol. The target is to reduce overall GHG emissions by at least 5.2% below 1990 levels over the period 2008-2012 (KP, 1997).

The Protocol considered that non-Annex I Countries did not contribute to the deterioration of the climate to the present condition and so did not require them to make binding GHG emission regulation commitment for the period (KP, 1997). The Protocol then called the Annex I Countries to:

> Strive to implement policies and measures to combat climate change under this Article in such a way as to minimize adverse effects including the adverse effect of climate change, effects on international trade, and social environmental and economic impacts on the parties, especially developing countries parties (KP, (1992).

Annex I countries are expected to perform the bulk of the emission reduction through their domestic policies. However, the protocol developed international options to be used as supplementary mechanisms (KP, 1992) for the attainment of UNFCCC's objective. These mechanisms are the Emission Trading (ET), Joint Implementation/fulfilment (JI) and the Clean Development Mechanism (CDM). Although developing Countries are not required by the Protocol to undertake specific commitments, they are encouraged to participate in the CDM. The CDM mechanism redistributes emissions reductions from developed to developing countries. The developing countries could therefore collaborate with the Annex I Countries under the CDM to earn carbon credits for effective regulation or control of gas flaring (KP, 1997).

Nigeria ratified the KP in 2004. It could initiate a project to phase out gas flaring and attract Annex I countries under the UNFCCC for sponsorship. Interested Annex I countries

could then assist Nigeria with the technology needed to control the flaring by converting the flared gas to less harmful gases or by harnessing the gas. Any success achieved will be quantified into emission reduction credit in favour of the sponsoring Annex I country.

The successful implementation of the KP will however depend upon the domestic measures introduced by its signatories towards the realization of its objectives (KP, 1997). Where the domestic measures succeed, the Protocol could achieve an emission reductions level of up to about 10% for developed countries for the period 2008-2012(KP, 1007). It is noteworthy that the USA which is the highest emitter of GHG has not ratified the Protocol as according to them, it is fundamentally flawed by exonerating the developing Countries from binding emission reduction commitment (KP, 1997). The Kyoto Protocol has been described as a complicated agreement that has been slow in coming (KP, 1997).

Conclusion

This paper examined the role of international environmental conventions in the promotion of global peace though consensual regulation of the global environment. The effectiveness of the role of international institutions and conventions is hampered by the level of fulfillment of the obligation of sovereign states under international treaties and conventions. The first step is for sovereign states to sign up as signatories to these international conventions. They must also as a requirement of the law, move on to ratify the convention before they become binding on them in disputes between them and other contracting states. Furthermore, for these conventions to become applicable as national laws, they need to be domesticated as local legislation by contracting states.

In Nigeria, international conventions are not applicable as national laws unless they have been domesticated as Acts of the National Assembly. From the foregoing, it becomes clear that the greatest setback to the effectiveness of international law in the efforts to promote global environmental stability and prevent ad control oil and gas pollution lie in enforcement. While the United Kingdom has a commendable practice of updating its anti-pollution laws by writing into them, the provisions of international conventions, most developing countries do not emulate this practice. There is also currently an advocacy and campaign going on for the total ban of nuclear arms. However, the United States, the United Kingdom and France have declared that they will not join such a ban.

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