

an obligation "not to allow knowingly its territory to be used for acts contrary to the rights of other States."

In June, 1972, the UN Conference on the Human Environment adopted the Stockholm Declaration, Principle 21 of which provides:

"States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or areas beyond the limits of national jurisdiction."

Principle 21 obviously demonstrates a certain degree of internal tension. The reference to a sovereign right to exploit resources is contrasted with a responsibility -- which may limit that right -- to ensure that such activities do not cause damage to the environment beyond national borders. The effect of the juxtaposition of these elements is to suggest that some rule of reason must be applied, without offering guidance on how the two elements of Principle 21 are to be balanced. Nevertheless, Principle 21 is significant in that it reflects general consensus that States bear a certain legal responsibility for the protection of foreign environments.

More recently, the member countries of the OECD, including the United States and Canada, adopted a Recommendation on Principles Concerning Transfrontier Pollution and the subsequent Recommendation Relating to the Implementation of a Regime of Equal Rights of Access and Non-Discrimination in Relation to Transfrontier Pollution. Although they do not constitute international law on the matter, the recommendations state important elements which OECD countries believe should guide their conduct. The former recognizes the existence of transfrontier pollution problems and proposes specific measures both of a domestic and of a state-to-state nature for the protection and improvement of the environment. The latter focuses largely on procedural and other measures which would ensure that the citizens of an affected country are treated no less favourably than they would be under the laws of the country in which the pollution originates. The recommendations are not intended as a substitute for implementation of substantive state-to-state responsibilities relative to prevention of transboundary pollution damage, which has been the traditional focus of environmental relations between states, including the United States and Canada.