However, the issue becomes more complicated in those cases where it is quite impossible to determine from which country a particular form of environmental pollution has emanated. This would be the case, for example, with ozone depletion.

Second, the question of the relationship between the protection of the environment and the need for economic development is another factor underpinning the evolution of environmental law.
The correct balance between development and environmental protection is now one of the main challenges facing the international community and reflects the competing interests posed by the principle of state sovereignty on the one hand and the need for international co-operation on the other. It also raises the issue as to how far one takes into account the legacy for future generations of activities conducted at the present time or currently planned.

1.2.4 Historical Development of International Environment Law

Throughout history national governments have passed occasional laws to protect human health from environmental contamination. For example, in about 80 AD the Senate of Rome passed legislation to protect the city's supply of clean water for drinking and bathing. In the 14th century England prohibited both the burning of coal in London and the disposal of waste into waterways.

In 1681 the Quaker leader of the English colony of Pennsylvania, William Penn, ordered that one acre of forest be preserved for every five acres cleared for settlement, and, in the following century, Benjamin Franklin led various campaigns to curtail the dumping of waste. In the 19th century, in the midst of the Industrial Revolution, the British government passed regulations to reduce the deleterious effects of coal burning and chemical manufacture on public health and the environment.
Yet, despite this long history of environmental legislation, the field of environmental law is remarkable for its relative youth and its rapid rise to prominence beginning in the late 20th century.
Prior to the 20th century, there were few multilateral or bilateral international environmental agreements. The accords that were reached focused primarily on boundary waters, navigation, and fishing rights along shared waterways and ignored pollution and other ecological issues. In the early 20th century, conventions to protect commercially valuable species were reached,

including the Convention for the Protection of Birds Useful to Agriculture (1902), signed by 12 European governments; the Convention for the Preservation and Protection of Fur Seals (1911), concluded by the United States, Japan, Russia, and the United Kingdom; and the Convention for the Protection of Migratory Birds (1916), adopted by the United States and the United Kingdom (on behalf of Canada) and later extended to Mexico in 1936.

Beginning in the 1960s environmentalism became an important political and intellectual movement in the West. In the United States biologist Rachel Carson's Silent Spring (1962), a passionate and persuasive examination of chlorinated hydrocarbon pesticides and the environmental damage caused by their use, led to a reconsideration of a much broader range of actual and potential environmental hazards. In subsequent decades the U.S. government passed an extraordinary number of environmental laws—including acts addressing solid-waste disposal, air and water pollution, and the protection of endangered species—and created an Environmental Protection Agency to monitor compliance with the laws. These new environmental laws dramatically increased the national government's role in an area previously left primarily to state and local regulation.

In Japan rapid post-World War II reindustrialization was accompanied by the indiscriminate release of industrial chemicals into the human food chain in certain areas. In the city of Mina Mata, for example, large numbers of people suffered mercury poisoning after eating fish that had been contaminated with industrial wastes. By the early 1960s the Japanese government had begun to consider a comprehensive pollution-control policy, and in 1967 Japan enacted the world's first such overarching law, the Basic Law for Environmental Pollution Control. Not until the end of the 20th century was Mina Mata declared mercury-free.

Following the United Nations Conference on the Human Environment, held in Stockholm in 1972, the UN established the United Nations Environment Programme (UNEP) as the world's principal international environmental organization. Although UNEP oversees many modern-day agreements, it has little power to impose or enforce sanctions on non-complying parties.

Nevertheless, a series of important conventions arose directly from the conference, including the London Convention on the Prevention of Pollution by Dumping of Wastes or Other Matter (1972) and the Convention on International Trade in Endangered Species (1973).

Until the Stockholm conference, European countries generally had been slow to enact legal standards for environmental protection though there had been some exceptions, such as the passage of the conservationist Countryside Act in the United Kingdom in 1968. In October 1972, only a few months after the UN conference, the leaders of the European Community (EC) declared that the goal of economic expansion had to be balanced with the need to protect the environment. In the following year the European Commission, the EC's executive branch, produced its first Environmental Action Programme, and since that time European countries have been at the forefront of environmental policy making. In Germany, for example, public attitudes toward environmental protection changed dramatically in the early 1980s when it became known that many German forests were being destroyed by acid rain.

The environmentalist German Green Party, founded in 1980, won representation in the Bundestag (national parliament) for the first time in 1983 and since then has campaigned for stricter environmental regulations. By the end of the 20th century, the party had joined a coalition government and was responsible for developing and implementing Germany's extensive environmental policies. As a group Germany, The Netherlands, and Denmark—the so-called "green troika"—established themselves as leading innovators in environmental law.

During the 1980s the "trans-boundary effects" of environmental pollution in individual countries spurred negotiations on several international environmental conventions. The effects of the 1986 accident at the nuclear power plant at Chernobyl in Ukraine (then part of the Soviet Union) were especially significant. European countries in the pollution's downwind path were forced to adopt measures to restrict their populations' consumption of water, milk, meat, and vegetables. In Austria traces of radiation were found in cow's milk as well as in human breast milk. As a direct result of the Chernobyl disaster, two international agreements—the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency, both adopted in 1986 were rapidly drafted to ensure

notification and assistance in the event of a nuclear accident. In the following decade a Convention on Nuclear Safety (1994) established incentives for countries to adopt basic standards for the safe operation of land-based nuclear power plants.

There are often conflicting data about the environmental impact of human activities, and scientific uncertainty often has complicated the drafting and implementation of environmental laws and regulations, particularly for international conferences attempting to develop universal standards. Consequently, such laws and regulations usually are designed to be flexible enough to accommodate changes in scientific understanding and technological capacity. The Vienna Convention for the Protection of the Ozone Layer (1985), for example, did not specify the measures that signatory states were required to adopt to protect human health and the environment from the effects of ozone depletion, nor did it mention any of the substances that were thought to damage the ozone layer.

Similarly, the Framework Convention on Climate Change, or Global Warming Convention, adopted by 178 countries meeting in Rio de Janeiro at the 1992 United Nations Conference on Environment and Development (popularly known as the "Earth Summit"), did not set binding targets for reducing the emission of the "greenhouse" gasses thought to cause global warming.

In 1995 the Intergovernmental Panel on Climate Change, which was established by the World Meteorological Organization and UNEP to study changes in the Earth's temperature, concluded, "The balance of evidence suggests a discernible human influence on global climate." Although cited by environmentalists as final proof of the reality of global warming, the report was faulted by some critics for relying on insufficient data, for overstating the environmental impact of global warming, and for using unrealistic models of climate change. Two years later in Kyoto, Japan, a conference of signatories to the Framework Convention on Climate Change adopted the Kyoto Protocol, which featured binding emission targets for developed countries, a system whereby developed countries could obtain credit toward their emission targets by financing energy-efficient projects in less-developed countries (known as "joint implementation"), clean-development mechanisms, and emissions trading.