

**Study on the Global Pact for the Environment and Appropriate International and Domestic Norms
to Effectively Enhance Environmental Protection**

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[Abstract]

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In March 2022, the political declaration of the special session of the United Nations Environment Assembly to commemorate the fiftieth anniversary of the establishment of the United Nations Environment Programme (hereinafter, "Political Declaration") was adopted.

In this project, we researched international/domestic environmental law principles from the viewpoint that the international environmental law principles reaffirmed in the political declaration together with the draft of the Global Pact for the Environment will become a driving force to advance the environmental legislation and administration of Japan.

In the polluter-pays principle (PPP), the notions of "pollution" and "polluter" have been expanded since the recommendation of the OECD Council in 1972. The "scope of the burden of polluters" has been expanded to the remedy of environmental damage in the EU in 2004 and in the U.S. in 1986. In Japan, the ex-post removal of pollution and compensation were already the object of PPP in 1970. We should provide PPP in law conforming to these developments.

Regarding the precautionary principle, it is necessary to clarify its contents and its application methods to respond to the anxiety of its excessive enlargement of administrative discretion. This principle should not be applied when there is no scientific basis for the risk in question. On the other hand, it will justify a strong measure when the situation meets a certain condition. "Vorsorgeprinzip" in Germany mainly consists of risk considerations and resource considerations for its future utilization.

Recently, obligations have been increasingly important for undertaking environmental impact assessment in international environmental law. Such obligations are to contribute to making the basic rule of prevention in a particular context. However, Japanese legal systems are not well elaborated to ensure compliance with such international obligations.

Environmental rights under international law have evolved in the human rights for such as UN Human Rights Council (UNHRC). While the non-legally binding UNHRC Resolution 48/13 of 2021 recognizes the right to a safe, clean, healthy, and sustainable environment as a human right, there's no consensus among countries that it is an established right under international law. There exists a broad consensus as for procedural environmental rights.

Substantial environmental rights have not been provided in laws in Japan. However, a part of these rights has been admitted through the notion of personal rights in case law. Considering this practice, environmental rights should be provided in law. The procedural environmental rights in Japan do not completely correspond to the international standard.

The way how the principle of CBDR will be adopted under international environmental treaties, etc. should not be the fixed differentiation by dividing the member States at the time of their adoption but the dynamic differentiation in the light of different circumstances of the member States with reference to the Paris Agreement.