

The Legal and Judicial Foundations of the Precautionary Principle in International Environmental Law: A Study of the Legislative Framework and International Policies

Abdelaziz selma achba^{1*}, Mansouri mohamed²

¹ Faculty of law and political sciences, University of M'sila, Algeria

selma-achba.adelaziz@univ-msila.dz



<https://orcid.org/0009-0006-9900-7430>

² Faculty of law and political sciences, University of M'sila, Algeria

mansouri.mohamed@univ-msila.dz



<https://orcid.org/0009-0002-2107-9611>

Received: 03/04/2025

| Accepted: 09/05/2025

| Published: 20/06/2025

Abstract:

One of the most important tenets supporting modern environmental law is the precautionary principle. It seeks to avoid unanticipated hazards that might result in permanent harm to the environment. According to this concept, delaying preventive actions should never be justified by a lack of scientific assurance. It is exactly this recognition of scientific uncertainty that sets the cautious principle apart from the preventative principle.

Therefore, by examining several international accords that have established the precautionary principle, this research aims to investigate the legal importance of this concept within the context of international environmental law. Additionally, the study seeks to assess relevant international judicial precedents concerning environmental protection, human life, living organisms, and the conservation of natural resources, particularly those that incorporate the precautionary principle in their rulings.

Keywords: precautionary principle; international environment; international judiciary.

** Corresponding author*

This is an open access article under the terms of [the Creative Commons Attribution-NonCommercial License](#), which permits use, distribution and reproduction in any medium, provided the original work is properly cited and is not used for commercial purposes.

1. INTRODUCTION

The strategy governments used to attain economic and social progress inevitably led to the rise of global environmental challenges. This necessitated the formulation of a new type of development—one that considers environmental conservation within a balanced framework. Consequently, the interdependent relationship between environment and development became evident, wherein the environment, with its various components, serves as the fundamental resource for development, while sustainable development is characterized by its integration of environmental considerations.

As a result of this conceptual evolution, international environmental law underwent significant development in the early 1970s to address various activities whose environmental impacts had yet to be fully revealed. Previously, it was limited to emergency regulations aimed at responding to environmental disasters. However, this field entered a new phase with the first environmental conference, held in Stockholm, which focused on identifying the steps that must be taken to safeguard the environment for humans on Planet Earth and laying the initial groundwork for achieving this goal.

Two decades later, the second environmental and development conference was held from June 3 to June 14, 1992, culminating in the Earth Summit, commonly known as the Rio Declaration on Environment and Development. 27 guiding principles defining governments' rights and responsibilities were presented in this statement. A global action plan was also presented during the conference with the goal of combining social, economic, and environmental issues into a single framework for international policy. This approach was intended to shape international environmental law as a forward-looking legal system, aligned with the objectives of sustainable development.

This viewpoint gave rise to the precautionary principle, which mandates that governments take the required steps to stop environmental deterioration even when there isn't conclusive scientific proof of the possible effects of planned actions. With the current state of science, it is

impossible to definitively identify the damage that this concept aims to avert or to pinpoint its exact consequences. Stated differently, there is insufficient scientific evidence to determine the kind of possible injury.

To ensure the proper application of the precautionary principle and to prevent its expansion into unrelated areas, it must be implemented within a well-defined framework based on specific and agreed-upon conditions. These conditions have been universally recognized in international agreements and their subsequent protocols. The principle is essentially an application of the preventive principle, as both involve proactive measures aimed at avoiding environmental harm.

Given the widespread adoption of the precautionary principle at the global level and the ongoing debate surrounding its implementation, numerous legal and practical challenges arise in its application. The principle faces significant obstacles due to the complexities of its practical enforcement. Based on this, we pose the following question:

- What are the legal and judicial mechanisms that support the precautionary principle in addressing serious environmental challenges?

To answer this question, our study aims to highlight the fundamental shift in the international community's approach to environmental preservation. It seeks to move beyond the traditional preventive approach, which has proven insufficient in providing the desired level of protection, and to assess the effectiveness of proactive measures based on potential risks that may be difficult or even impossible to mitigate. This is particularly relevant as various legal cases and legislative frameworks have affirmed that precaution has become a well-established concept, formally codified in both national and international legal systems.

Accordingly, we will examine the legal mechanisms underpinning the precautionary principle through national legislations and international agreements (Section One), followed by an analysis of its establishment in international jurisprudence (Section Two).

2. The Establishment of the Precautionary Principle in National Legislation and International Agreements

The rise of the precautionary principle at the regional and global levels, especially in environmental protection forums, demonstrates the extent to which the international community has embraced a policy of caution and proactive decision-making. This principle is one of the fundamental pillars of modern environmental law, as it establishes rules and procedures aimed at anticipating and preventing potential environmental harm. These rules and procedures must align with the latest advancements in scientific and technological developments.

Consequently, the precautionary principle has been included into several international accords and domestic laws as a crucial tool for safeguarding the environment. It is recognized as an effective and successful means of preventing environmental damage. Members of the international community must thus take the appropriate actions and put safety procedures into place to counter environmental risks, including pollution and other threats to ecological stability.

Based on this, the precautionary principle has been firmly established in both international law (First) and national legislation (Second).

2.1 The Precautionary Principle in International Environmental Agreements

The precautionary principle has been prominently featured in various international agreements, underscoring its importance in protecting the natural environment from pollution risks.¹ This principle gained significant traction in the 1990s, a period that marked a critical turning point for environmental protection and efforts to integrate the precautionary principle into legal frameworks governing environmental conservation.

Important conventions such as the Barcelona Convention (1976), the UNFCCC (1992), and the Convention on Biological Diversity (CBD) (1992) are responsible for the early adoption and institutionalization of the precautionary principle in international agreements.

2.1.1 The Barcelona Convention (1976)

The first international agreement to safeguard the marine environment

from pollution at a regional level was the Convention for the Protection of the Mediterranean Sea Against Pollution (1976), sometimes referred to as the Barcelona Convention.² It aimed to address all causes of marine pollution and was accepted as part of the Regional Seas Programme of the United Nations Environment Programme (UNEP) in 1974. The treaty included implementation methods in its associated protocols and placed a strong emphasis on state collaboration for pollution monitoring and control.

The precautionary principle was acknowledged in earlier international instruments such as the Stockholm Declaration on the Human Environment (1972), the Nairobi Declaration (1982), and the United Nations Convention on the Law of the Sea (1982), despite the Barcelona Convention's lack of an explicit definition.

However, Article 4, Paragraph 3(a) of the Barcelona Convention indirectly affirms the precautionary principle, stating:

"To protect the environment and promote the sustainable development of the Mediterranean region, the Contracting Parties must implement the precautionary principle, which stipulates that when there is a risk of serious or irreversible harm, the absence of full scientific certainty cannot be used as an excuse to postpone taking economical actions to stop environmental degradation."³

2.1.2 The United Nations Convention on the Law of the Sea (1982)

The protection and preservation of the marine environment is the focus of Part XII of the UNCLOS, which was ratified on December 10, 1982.⁴ The convention's Article 206 expressly says:

"As far as is practical, states must evaluate the possible effects of planned activities under their jurisdiction or control on the marine environment and report the findings of such assessments when they have good reason to believe that such activities could result in significant pollution or detrimental changes to the marine environment."

Although the precautionary principle is not stated expressly in the agreement, its fundamental ideas are reflected in its provisions. The precautionary approach is included in the need to do environmental impact assessments (EIAs) when there is a danger of severe damage, even though

the phrase was not explicitly defined at the time.⁵

2.1.3 The United Nations Framework Convention on Climate Change (UNFCCC) (1992)

Adopted in New York on May 9, 1992, the (UNFCCC) came into effect on March 21, 1994. The rising worry about climate change, which is mostly caused by human activity that contributes to global warming, prompted this multinational initiative.⁶

Industrialized states were required under the UNFCCC to lower greenhouse gas emissions, support climate-friendly companies and technology, and make it easier for these technologies to be transferred to poorer nations while also offering financial support.⁷

Contracting parties must take preventive steps to foresee, mitigate, or lessen the negative impacts of climate change, according to Article 3, Paragraph 3, which expressly acknowledges the precautionary principle. This clause emphasizes the need of taking preventative measures and states that scientific uncertainty should not be used as an excuse to put off important adaptation and mitigation measures.

2.2 The Establishment of the Precautionary Principle in National Legislation

The precautionary principle has gained significant recognition in environmental protection efforts, compelling states to adopt and integrate it into their national legislations, regardless of their level of economic development—whether developed or developing nations. In this section, we examine how this principle has been incorporated into the legal frameworks of Algeria, Egypt, Germany, and the United States.

2.3 The Precautionary Principle in Algerian Legislation

Algerian environmental legislation, namely legislation No. 03-10, which regulates environmental protection within the context of sustainable development, expressly acknowledges the precautionary principle.⁸ According to this law, one of the main tenets of Algerian environmental law is the precautionary principle.

Article 3, Paragraph 6 of the law states:

"According to the precautionary principle, the absence of

technological solutions resulting from current scientific and technical knowledge should not be used as an excuse for postponing the adoption of appropriate and effective measures to reduce the risk of significant environmental harm, so long as those measures are carried out at a cost that is affordable."

This provision underscores the obligation to take proactive environmental measures even when full scientific certainty is unavailable, ensuring that environmental protection is not hindered by technological limitations or economic considerations.

In Algerian legislation, the precautionary principle has been incorporated to align the legal framework with international agreements, which originally introduced the concept. However, while the Algerian legislator does not provide an explicit definition of the principle, it does outline its substance and conditions for application.

Article 3, Paragraph 7 of Law No. 03-10 establishes the conditions under which the precautionary principle applies,⁹ emphasizing two key criteria:

- Scientific uncertainty
- Proportionality between the severity of potential harm and the economic cost of precautionary measures

Therefore, the precautionary principle is only applied under Algerian law in cases when there is a significant environmental risk, guaranteeing that protective actions are performed proportionately to the possible damage to the environment.¹⁰

2.4 The Precautionary Principle in Egyptian Legislation

Egyptian Law No. 4 of 1994 implicitly incorporates the precautionary principle within its provisions. Article 1, Clause 9 states that:

"To protect the environment, it is necessary to preserve its components and prevent any damage that may lead to their degradation or contamination with hazardous substances."

These environmental components include:

- Air
- Internal waters, including the Nile River, lakes, and groundwater

- Lands and natural reserves
- Other natural resources¹¹

Additionally, Article 44 of the same law imposes an obligation on business owners to take necessary measures to regulate temperature and humidity levels in workplaces within permissible limits. In cases where work must be conducted under extreme temperature or humidity conditions, employers are required to ensure appropriate protective measures for workers, including specialized clothing and other protective equipment.

Furthermore, Article 25 mandates the Environmental Affairs Agency to develop an emergency response plan to address environmental disasters and threats.

Article 49 explicitly prohibits all vessels, regardless of nationality, from discharging oil or oil-contaminated waste into Egypt's territorial sea or exclusive economic zone.

These legal provisions collectively reflect Egypt's commitment to the precautionary approach, ensuring proactive environmental protection measures.¹²

2.5 The Precautionary Principle in German Legislation

The precautionary principle has been deeply embedded in German environmental policy since the 1970s. It first appeared in a 1970 draft law on air quality protection, reflecting Germany's early commitment to proactive environmental management.¹³

According to studies conducted by the European Institute for Environmental Policy, the German government's approach to environmental protection extended beyond preventing imminent risks requiring immediate mitigation. Instead, it embraced a broader precautionary strategy, aimed at the long-term conservation and responsible management of natural resources.

In response to the growing carbon dioxide (CO₂) emissions, the German government adopted a policy in 1990 to reduce greenhouse gas emissions significantly. To further advance environmental policy, Germany established a Research Commission on Precautionary Measures for Atmospheric Protection, consisting of 11 parliamentary members and 11

experts from various nationalities.

Germany's precautionary approach is firmly embedded in its environmental legislation, particularly in the Federal Immission Control Act (1974), which mandates all necessary precautionary measures to protect both living and non-living environmental components from severe ecological threats.¹⁴

3. The Establishment of the Precautionary Principle in International Jurisprudence

With the increasing severity of environmental issues and the rise in environmental disputes, the international community has sought effective solutions to counter the harmful consequences threatening the environment. As a result, litigation has emerged as a key mechanism for addressing such challenges, leading to cases being brought before international courts. Judicial decisions have consistently emphasized that the precautionary principle must be upheld by states or corporations responsible for projects that could negatively impact the environment. This underscores the necessity of implementing effective precautionary measures to mitigate or prevent environmental risks.

The precautionary principle has thus been established through judicial applications, though courts have varied in their interpretation and enforcement of the principle when resolving disputes. This inconsistency in rulings has contributed to ongoing legal debates regarding the precise legal status of the precautionary principle. Despite its repeated invocation before judicial bodies, its legal nature remains unsettled.

Accordingly, this section will examine:

- The precautionary principle in the International Court of Justice (ICJ) (First);
- The precautionary principle in the International Tribunal for the Law of the Sea (ITLOS) (Second);
- The precautionary principle in the European Court of Justice (ECJ) (Third).

3.1 The Precautionary Principle in the International Court of Justice (ICJ)

To assess the legal status of the precautionary principle, it is essential to analyze the stance of the (ICJ) through its rulings on environmental disputes. The ICJ has addressed this issue in multiple cases, issuing opinions that clarify its legal perspective on the precautionary principle.

The ICJ has been confronted with this matter in two notable cases:

- The Nuclear Tests Case – A dispute between France and New Zealand regarding France's continuation of nuclear testing.
- The Gabčíkovo-Nagymaros Project Case – A dispute between the Czech Republic (formerly Czechoslovakia) and Hungary concerning an environmental conflict over a hydroelectric project.

3.1.1. The French Nuclear Tests Case

This case was initiated by New Zealand, which filed a complaint against France before the (ICJ) in 1973, challenging France's nuclear tests conducted in the Pacific Ocean during the 1970s. New Zealand demanded that France cease its nuclear testing activities.

However, the ICJ did not issue a final ruling on the dispute due to a declaration made by the French government on June 8, 1974, in which it announced the termination of all nuclear tests.¹⁵ Nevertheless, in paragraph 63 of its ruling, the ICJ included a precautionary provision, stating:

" In line with the terms of the Court's Statute, the applicant may ask for a reevaluation of the circumstances if the foundation of the Court's decision is compromised."¹⁶

The French president said that France will carry out more nuclear tests in the Pacific Ocean on August 21, 1995. New Zealand responded by requesting that the issue be reopened, citing paragraph 63 of the previous ICJ decision.¹⁷

New Zealand's argument was that France had failed to respect and apply the precautionary principle since the beginning of its nuclear testing program in the Pacific region. It claimed that France was required to abstain from carrying out any nuclear testing until it could provide concrete proof that they presented no environmental harm, and that the precautionary

principle is a recognized norm in modern international law.

In its defense, France presented scientific evidence to support its claim that its underground nuclear tests posed no environmental risk, either in the short or long term. Additionally, France underlined its respect to environmental protection laws and its devotion to international law.¹⁸

However, the ICJ rejected New Zealand's request,¹⁹ and in its ruling issued on September 12, 1995,²⁰ the Court did not address the legal status of the precautionary principle. The Court reasoned that France's nuclear tests were conducted underground, distinguishing the current dispute from the earlier case,²¹ which concerned atmospheric nuclear testing.

As a result, it is difficult to conclude that the ICJ actively supported the application of the precautionary principle in this case. The Court's decision focused on procedural differences rather than engaging in a substantive evaluation of the precautionary principle's legal significance.

3.2. The Precautionary Principle in the International Tribunal for the Law of the Sea (ITLOS)

The (ITLOS) was established under the (UNCLOS) of 1982.²² The tribunal has addressed the precautionary principle, particularly in cases concerning marine environmental offenses.

This section examines two key cases where ITLOS was presented with the issue of applying the precautionary principle:

3.2.1. The Southern Bluefin Tuna Case (1992)

Australia and New Zealand were at odds with Japan in the Southern Bluefin Tuna Case. It was the first case under UNCLOS Part VII to be heard by an arbitral panel. Australia and New Zealand asked ITLOS to grant temporary measures under UNCLOS Article 290(2) until the arbitration tribunal's creation.²³

Australia and New Zealand objected to Japan's unilateral decision to exceed its agreed fishing quota for Southern Bluefin Tuna,²⁴ claiming that it was against UNCLOS (1982) Articles 64, 116, and 119. In order to guarantee the preservation and sustainable management of migratory fish populations, they also cited customary international law, which requires governments to collaborate via international institutions.²⁵

On August 27, 1999, ITLOS issued its ruling, which, while not explicitly referencing the precautionary principle,²⁶ adopted a precautionary approach in its reasoning. The tribunal implicitly acknowledged that, in the absence of scientific certainty, states must act cautiously and implement effective measures to preserve fish stocks and protect them from serious threats arising from overfishing beyond the agreed quotas.

Thus, while the precautionary principle was not explicitly codified in the ruling, ITLOS recognized the necessity of precautionary measures in environmental decision-making, reinforcing the need for states to exercise caution in the face of scientific uncertainty.²⁷

3.2.2. The MOX Plant Case

The MOX (Mixed Oxide) Plant began operations on December 20, 2001, making it one of the significant cases concerning marine environmental protection. On November 9, 2001, Ireland filed a request before the ITLOS, seeking the imposition of urgent provisional measures against the United Kingdom under Article 290(5) of the UNCLOS of 1982.

Ireland challenged the UK's authorization of the MOX plant's activities, arguing that these operations had environmental impacts on the Irish Sea, particularly due to the deliberate discharge of radioactive waste into open waters. Ireland requested that the plant's activities be suspended until an arbitral tribunal could be created in accordance with UNCLOS Annex VII to finally settle the matter.

3.3. The Establishment of the Precautionary Principle in the European Court of Justice (ECJ)

The European Union (EU) has collectively committed to enhancing modern and effective environmental protection in response to the growing impact of human activities on ecosystems. EU member states have sought to apply these principles at both national and regional judicial levels.

The ECJ, which has been entrusted with deciding issues regarding the implementation of the precautionary principle, is an important player in settling environmental conflicts. Plaintiffs in a number of legal disputes have asked the court to use the precautionary principle, claiming it is a conventional legal norm in international law.

3.3.1. The Mondiat Case

The Mondiat case arose when a group of fishermen placed an order for 7.5 km-long floating fishing nets, which were of a type subject to regulatory restrictions. At the time of the order, the length of permitted nets had not yet been limited. However, a new regulation (92/354) was later introduced, imposing specific restrictions on net length. In response, the fishermen attempted to evade their contractual obligations with the manufacturing company by filing a lawsuit before the ECJ.²⁸

The fishermen sought a judicial review of the European Council's decision, arguing that the regulation imposing net restrictions should be reconsidered. As a result, the presiding judge referred the case to the ECJ to assess the legality of the European Council's ministerial decision and determine whether the application of the precautionary principle was appropriate as the basis for the regulation.²⁹

The European Council's decision was challenged on environmental grounds, as the restriction on net length was justified as a necessary environmental measure. The regulation aimed to protect fish stocks, ensuring that they were managed to achieve maximum sustainable yield (MSY).³⁰ The biological assessment supporting the regulation suggested that increased fishing net usage could harm marine ecosystems.

However, the ECJ's legal advisor opposed this argument, asserting that there was insufficient scientific data to conclusively establish an environmental threat. The advisor reasoned that not all fish species were affected by the use of floating nets and that the Maastricht Treaty did not explicitly reference the precautionary principle.³¹ Consequently, the court held that the regulation's reliance on the precautionary principle was premature, as the European Union had not yet formally recognized the principle as a legal standard at the time.³²

3.3.2 The Mad Cow Disease Case

One of the most obvious instances of the precautionary principle in action is the Mad Cow Disease (Bovine Spongiform Encephalopathy, or BSE) case. Concerns that BSE may be passed from animals to people led to the European Union's decision to prohibit the importation of hormone-

treated beef from the United Kingdom.

On July 12, 1996, the ECJ rendered the case's first decision. Citing arguments that were firmly in line with the precautionary principle, the Court denied a plea to suspend the prohibition. The ECJ acknowledged the gravity of the issue, stressing that the disease's origins were still unknown and not supported by science. It also mentioned how deadly the illness was and how there was no known cure at the time.

While the Court acknowledged the economic and social hardships that the ban imposed on the United Kingdom, it prioritized the fundamental importance of public health protection. However, despite these considerations, the precautionary principle was not explicitly referenced in the ruling.³³

The precautionary concept was more explicitly supported by the second decision, which was rendered on May 5, 1998. In this ruling, the ECJ upheld the right of regulatory bodies to implement preventative measures without waiting for conclusive scientific evidence of damage where there is doubt or a lack of scientific confidence about possible hazards to human health.

This ruling marked a significant step in recognizing the precautionary principle as a valid legal basis for public health protection, reinforcing the EU's proactive approach to risk management in situations of scientific uncertainty.³⁴

The Court said that this strategy is consistent with the Maastricht Treaty's Articles 130 and 130R, Paragraph 1, which declare that protecting human health is one of the main goals of the environmental policy of the European Community. The Court also referenced Paragraph 2 of the same article, which explicitly enshrines the precautionary principle.³⁵

Based on this, the ECJ decided that scientific uncertainty could not be used as an excuse to postpone or forego taking protective measures, and that the EU's precautionary policy regarding the importation of meat from the United Kingdom was a legally justified emergency measure meant to protect public health.³⁶

Based on this, the ECJ decided that scientific uncertainty could not be

used as an excuse to postpone or forego taking protective measures, and that the EU's precautionary policy regarding the importation of meat from the United Kingdom was a legally justified emergency measure meant to protect public health.³⁷

4. CONCLUSION

The emergence and evolution of the precautionary principle have had a profound impact on international environmental protection. Its incorporation into international agreements and treaties, as well as its recognition in international jurisprudence, has significantly contributed to environmental improvement by serving as a fundamental safeguard against imminent environmental threats.

However, the legal and judicial establishment of the precautionary principle alone is not sufficient for its effective implementation, nor for the enforcement of other international environmental legal principles. The practical application of this principle requires substantial material, human, and financial resources. The primary challenge hindering its application—or at least complicating its enforcement—is economic in nature, as it directly relates to the commercial and financial interests of states and economic institutions.

Despite these challenges, the precautionary principle has played a vital role in advancing international environmental law by introducing mechanisms that enable pollution control, risk assessment, and the adoption of preventive measures to mitigate potential harm. While these mechanisms are effective in practice, they require further legal refinement and jurisprudential development to align with contemporary environmental protection needs and the objectives of sustainable development.

Study Findings

- Since its formal introduction at the 1992 Rio Conference, the precautionary principle has been integrated into a number of international accords and agreements.
- The precautionary principle has become a recognized legal justification in national and global policies, with most national legislations adopting it. Notably, it has been integrated into modern

legal frameworks, such as Algerian Law No. 03-10 on Environmental Protection and Sustainable Development.

- Several judicial rulings have affirmed the necessity of applying the precautionary principle; however, international courts and judicial bodies continue to highlight its ambiguity, often refraining from defining its legal status, despite its growing importance in treaty law.

Study Recommendations

Based on the findings of this study, we propose the following recommendations:

- Enhancing efforts and implementing more effective measures to ensure optimal environmental protection and ecological stability. This would guarantee a healthy natural environment for both present and future generations, primarily through precautionary measures.
- Raising environmental awareness among individuals, states, and organizations, while emphasizing the necessity of strong international intervention to enforce compliance with precautionary principle regulations, as it serves as a safeguard for both people and their environment.
- Strengthening the precautionary principle by providing it with a clear and well-defined legal framework, ensuring that it becomes a powerful and effective tool for preventing environmental damage, while also giving it a more precise legal formulation to reinforce its binding nature.

5. Endnotes

1- The precautionary principle dates back to the 1970s in Germany, specifically in a preliminary draft of the 1970 Clean Air Act. Studies by the European Environment Institute indicated that the German government's environmental protection policy was not limited to preventing imminent damages that would require remediation if they occurred. Instead, it adopted a precautionary approach, which went beyond mere prevention by emphasizing the protection and careful management of natural resources; For further details on this topic, see: Abdallah Yassine Ghafalia: "The Precautionary Principle in International Practices,"

Journal of the Future for Legal and Political Studies, University Center of Aflou, Issue 4, December 2018, pp. 84-85.

2- Commonly referred to as the Barcelona Convention, this agreement was originally known as the Convention for the Protection of the Mediterranean Sea against Pollution. It was adopted on February 16, 1976, by the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region, which convened in Barcelona. The convention entered into force on February 12, 1978; For further reference, see: Abdenmour Issaoui: "Establishing the Precautionary Principle for the Protection of the Marine Environment from Pollution in the Barcelona Convention," Journal of Law, Ahmed Zabana University Center of Relizane, Algeria, Issue 6, June 2016, p. 155.

3- Ibid., pp. 155-156.

4- The Convention was opened for signature in Montego Bay, Jamaica, on December 10, 1982. It was signed by representatives of 117 countries, in addition to the United Nations Council for Namibia and the Cook Islands; For more details, see: Abdelmoez Abdelghaffar Najm: Modern Trends in the New International Law of the Sea, Dar Al-Nahda Al-Arabiya, Cairo, 2006, p. 4.

5- Article 192 of the same convention stipulates the "obligation to preserve and protect the environment." Under this general obligation, states are required to take necessary and feasible measures to address marine environmental pollution, including its prevention, reduction, or control, in accordance with their scientific and financial capabilities.

6- W. Lang & H. Schally: "The Framework Convention on Climate Change," General Review of Public International Law (RGDIP), 1993/2, pp. 321-337.

7- The contracting parties to this convention agreed on a set of mandatory rules to address climate change. The convention obliges states to regularly and periodically submit a report known as the "National Communications."; For more on this topic, see: Derrai Al-Arabi: "The Precautionary Principle in the Context of International Economic Relations and Its Effects on Sustainable Development," Journal of International Law and Development, University of Mostaganem, June 15, 2013, p. 64.

8- Abdallah Yassine Ghafafli, op. cit., p. 86.

9- Article 3 of Law 03-10 states: "The precautionary principle: whereby the lack of available technologies, due to current scientific and technical knowledge, shall

not be used as a reason to delay the adoption of effective and appropriate measures to prevent the risk of serious environmental damage, provided that such measures are implemented at an economically acceptable cost."

10- The same law stipulates that precautionary measures to be taken must have an economically acceptable cost. However, as stated in Article 3, the legislative incorporation of this principle is somewhat vague and general. Moreover, its implementation requires the intervention of multiple ministries. For more details on this topic, see: Mentri Messaoud: "The Issue of the Application of the Precautionary Principle Established in the New Algerian Environmental Protection Policy," *Revue d'Ijtihad: Journal of Legal and Economic Studies*, University of Annaba, Volume 09, Issue 01, 2020, received on July 7, 2019, p. 38.

11- Paragraph 9 of Article 1 of the same law states that: "Conservation entails the preservation and sustainable use of environmental components, preventing their degradation and pollution, and ensuring compliance with the obligation to take necessary measures regarding working conditions and protective means."

12 - Amara Naima: *The Precautionary Principle and the Responsibility of Professionals*, PhD Dissertation in Private Law, Faculty of Law, Abou Bekr Belkaid University of Tlemcen, Algeria, 2014, p. 93.

13- Amara Naima: "The Trend Towards Establishing Civil Liability Based on the Precautionary Principle," *Journal of Politics and Law Notebooks*, Kasdi Merbah University, Ouargla, Issue 9, June 2013, p. 179.

14- Amara Naima, *op. cit.*, p. 90.

15- Summary of Judgments, Advisory Opinions, and Orders of the International Court (1948-1991), United Nations Publications, United Nations, New York, 1992, p. 127, Ref: ST/LEG/SER.F/1.

16- Belhout Ibrahim: "The Precautionary Principle as a Legal Means to Regulate Scientific Developments That May Harm the Environment," *Al-Ma'arif Journal*, Faculty of Law and Political Science, University of Bouira, Algeria, 2018, p. 130.

17- Summary of Judgments, Advisory Opinions, and Orders of the International Court (1992-1996), United Nations Publications, United Nations, New York, 1998, p. 98, Document No.: ST/LEG/SER.F/1/Add.1.

18- Abdallah Yassine Ghafafli, *op. cit.*, pp. 93-94.

19- New Zealand's request was rejected for several reasons, one of which was that the request did not fall within the scope of Paragraph 63 of the ruling by the International Court of Justice (ICJ), For more details on this topic, see: Phillip

Sands, The Nuclear Test Case (New Zealand/France), Constitution of the Proceedings in Environmental Law, *Revue Générale de Droit International Public* (RGDIP), Volume 1, Paris, 1997, pp. 770-773.

20- Ibid., pp. 770-773.

21- Zedik Tahar, The Precautionary Principle Between Mechanism Development and Application in International Environmental Law, *Journal of Legal and Economic Research*, Volume 04, Issue 01, p. 136.

22- The International Tribunal for the Law of the Sea (ITLOS) is an independent judicial body established under the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Its jurisdiction covers any dispute related to the interpretation or application of the convention.

23- Zedik Tahar, op. cit., p. 138.

24- It is worth noting that consultations with Australia and New Zealand were conducted under the 1993 Agreement, rather than the United Nations Convention on the Law of the Sea (UNCLOS), which did not enter into force until 1994. Moreover, none of the three parties ratified the convention until 1996.

25- Safia Zaid El Mal, Environmental Protection Within the Framework of Sustainable Development in Light of International Law Provisions, PhD Dissertation, Faculty of Law and Political Science, Mouloud Mammeri University, Tizi Ouzou, 2013, p. 356.

26 - Naima Amara, The Precautionary Principle and the Responsibility of Professionals, op. cit., p. 264.

27- Abdallah Yassine Ghafafli, op. cit., p. 97.

28- In the context of the practical implementation of the precautionary principle for environmental protection, the European Union adopted two regulations aimed at prohibiting drift net fishing with nets measuring 2.5 km or more. This measure was taken as a precautionary protective step to ensure the conservation and sustainability of the marine environment and its components. The regulations in question are: Regulation No. 3094/86; Regulation No. 345/92.

29- Khaled Abdelaziz, The Precautionary Principle in the Environmental Field, Master's Thesis, Faculty of Law, University of Algiers 1, 2015, p. 93.

30- FAO, Report of the Expert Consultation on Accelerating the Transition Process to End Overcapacity in Marine Fisheries, Fisheries Report No. 691, Rome, October 15-18, 2002, pp. 77-81.

- 31- The treaty aimed at establishing comprehensive European unity was signed on February 7, 1992, by 12 European countries and entered into force on November 1, 1993.
- 32- Tahar Zedik, *op. cit.*, p. 137.
- 33- Ibrahim Belhout, *op. cit.*, pp. 134-136.
- 34 - Case C-180/96, United Kingdom v. Commission of the European Communities, Request for annulment of Commission Decision 96/239/EC, issued on March 27, 1996, concerning emergency measures for protection against bovine spongiform encephalopathy (BSE).
- 35- Ibrahim Belhout, *op. cit.*, p. 136.
- 36- Tahar Zedik, *op. cit.*, p. 138.
- 37- Sophie Edlinger, *The Limits of the Precautionary Principle Through the Jurisprudence of the Court of Justice of the European Communities and the Council of State*, (Supervised by Patrick Meunier), University of Law and Health of Lille II, Community School, DEA in International Law and Doctoral Year No. 74, Academic Year 2002-2003.