Index

access to information 173, 174, 175, 202
art 10 ECHR: receive and impart information 180, 181, 183, 186–7
air pollution 196–201
Alder, J. 127
animals 117, 125, 126 charitable trusts 131
anticipatory model 3–4 precautionary principle see precautionary principle
Australia 62 autonomy, State 64

Baltic Sea area


Canada

D’Amato, A. 125 DDT 60 Denmark 101 developing countries 172 common but differentiated responsibilities (CBDR) 72–3, 77–8 precautionary principle 63
development, integration of environment and 70–72, 85–7, 104–5
Dierksmeier, C. 117–18
Dimas, Stavros 87
double-hull and single-hull tankers 42, 45–6, 48
Drumbl, M. 115–16
dumping at sea 49–50
precautionary principle 50–55
Dworkin, R. 6

ECtHR and right to clean environment 170, 178–80, 204–6, 207
art 2: right to life 181, 201–3, 205
art 3: inhuman and degrading treatment 183
art 6: fair hearing 181, 183
art 8: family and private life 180, 181, 183, 185, 205
air pollution 196–201
noise pollution 184–5, 187–96
qualified rights 184
toxic emissions 187
waste treatment plant 185–6
art 10: freedom of expression 180, 181, 183, 186–7
art 13: effective remedy 183, 189–90, 191, 195–6
balancing of interests test 178, 179, 184, 185, 186, 187, 189, 192, 194, 198, 200
case law 181–204
ECtHR subsidiary role 185, 192, 200
margin of appreciation 178, 179–81, 185, 189, 190–93, 195, 199, 200, 201, 203
proportionality 178, 184, 198
Protocol 1: right to property 180, 181, 183–4, 201
state domestic legality of acts/omissions of 194, 199, 203
noise pollution 185, 188–9
positive obligation 188, 192, 198, 202, 203
supervisory/regulatory duty 186, 198
economic development integration of environment and 72–4, 87–9, 104–5
environmental impact assessment (EIA) 174, 175
Helsinki Convention 57
precautionary principle and 64
European Convention on Human Rights see ECHR and right to clean environment
European Union oil pollution 45–7
single-hull and double-hull tankers 42, 45–6, 48
precautionary principle 5
sustainable development Baltic Sea area 91–3, 99
Evans, M.D. 12–13, 13–14

fair trial 181, 183
fairness, justice as 114–18, 126
France 53, 151
Freestone, D. 4, 12
French, D. 86

Galitzi, P. 71, 72
Gatmayan, D. 140–41
generation, definition of 113–14, 152
Germany precautionary principle 26
sustainable development 101
global warming intergenerational equity 112–13, 122–3

Halde, N. 19–20
Hamzah, B.A. 88–9
Handl, G. 171
Hayward, T. 173
hazardous materials (substances, goods) 45, 49, 60
radioactive see radioactivity
HELCOM 57–61, 65–6, 92–3, 98, 100, 103–4
see also under Baltic Sea Area, Sustainable Development
Hollister, C.D.G. 53
human rights constitutions see constitutions
environmental problems 79, 121
intergenerational equity 126
  group rights 124, 125–6, 127
  right to clean environment 170–77
  ECHR see ECHR
  solidarity rights 171–2
Hungary 150, 153
hybridization 5–6

identification of international law 4–6
  rules and principles 6–8
  IMO 2, 31–2
  see also MARPOL 73/78
India 143
  indigenous communities 82, 176
  information 173, 174, 175, 202
  ECHR: art 10 180, 181, 183, 186–7
  intergenerational equity 7, 110–12, 168–9
  courts
    international 142–8
    national 136–42
  future generations
    constitutional context 148–53, 169
  Marshall Islands see Marshall Islands
  international courts 142–8
  introductory issues 123–7
  meaning of 128–9
  national courts 136–42
  ombudsman 145, 152–3
  philosophical basis: theory of Brown Weiss 112–23
  generation, definition of 113–14, 152
  justice: responsibility principle 119–20
  justice as fairness 114–18, 126
  rights of future generations 120–23, 125, 127
  principles of 124
  sustainable development, element of 72
  trust concept 111–12, 123–7, 129–6
  charitable trusts 130–31
  planetary trust 136
  public trust doctrine 132–4
  trusteeship 134–6
International Atomic Energy Agency (IAEA) 52

Israel
  Commission for Future Generations 111, 151–2, 169
Italy
  emissions from chemical factory 186–7
Japan
  oil tankers 46
  judicial review 189–90
  justice 114, 129, 145
    as fairness 114–18, 126
Latvia 104–5
Lentz, S.A. 41
life, right to 172, 181, 201–3, 205
Lithuania 104
Lowe, V. 80–81, 83, 125, 148
McInerney, S. 179
Magraw, D.B. 69, 74, 82, 83–4
  margin of appreciation see under ECHR and right to clean environment
Marine pollution
  dumping at sea 49–50
  oil see oil pollution
MARPOL 73/78 32–49, 56
  description of 32–5
  oil tankers 40, 41–2, 45–9
  ‘opting–out’ system 33
  vessel oil spill prevention 45–9
Marr, S. 28
Marshall Islands Funds and Claims Tribunal 111, 153–5, 169
1986 Compact: additional funding 165
2003 Compact: amendments to 1986 Compact 165–6
latest developments 166–7
non nuclear trust
  Marshall Islands Intergenerational Trust Fund (MIITF) 167–8
Nuclear Claims Tribunal 159–65
Section 177 Agreement 156–9
meta-principle 80–81
Netherlands 53
New Zealand 40
noise pollution 184–5, 187–96
Contemporary issues in international environmental law

Nordic Council of Ministers 93, 100
Nordic Investment Bank (NIB) 107
Norway 39–40
Nuclear Claims Tribunal see Marshall Islands
nuclear testing see Marshall Islands

oil pollution
vessel oil spill prevention 40–49
precautionary principle 48, 49
single-hull and double-hull tankers 42, 45–6, 48
ombudsman
intergenerational equity 145, 152–3

pacta tertii nec nocent nec prosunt 35
Page, E.P. 120, 122
Pakistan 141
Pallemaerts, M. 70
paternalism 127
PCBs (polychlorinated biphenyls) 60
Philippines 136–41
Poland 103, 151, 169
polluter-pays principle 37, 43, 58–9
Baltic 21 97
Helsinki Convention 58
Rio Declaration 37
pollution
air 187–201
noise 184–5, 187–96
oil see oil pollution
radioactive see radioactivity
waste treatment plant 185–6
polychlorinated biphenyls (PCBs) 60
ports
sustainable development 88–9, 101
poverty
environmental problems 81
precautionary principle 1–3, 31–2, 62–6, 207
approach or principle 8, 14–15, 24, 28
IMO: approach 34–7
London Convention: approach 51–2
burden of proof 62
reversal of 9, 15, 18, 21–2,
cost effectiveness basis 44, 48, 61, 63
cost-benefit analysis 10, 31
features of 29–30
general observations 3–10
Germany 26
Helsinki Convention: Baltic Sea area 57–61, 92
scientific evidence 60–62
ICJ 20–22
natural environment: essential state interests 21
ITLOS: case law 10–20
cooperation in exchanging information 16–17, 18, 19
discretionary recourse to principle 15
provisional measures, prescription of 17–18
prudence and caution 11–12, 16, 17, 19
urgency in adopting measures 13–14, 15–16
MARPOL 73/78 35–40, 48, 51, 58, 67
meaning of 62–6
no uniform understanding 27–8, 65
proportionality 30, 31, 63
relative concept 12
Rio Declaration: Principle 15 27, 59
risk management 28–9, 30, 31, 44–5, 52, 62, 64
scientific evidence 48, 51–3, 54, 58, 60
uncertainty 29–30, 39, 55
soft and hard law 27, 30
strong form 9, 18, 64
subjectivity 28
weak form 8–9, 18, 64
WTO case law 22–6
preventive principle/model 3
vessel oil spill prevention 40–49
principles and rules 6–8
private and family life see under ECHR
and right to clean environment
proportionality 178, 184, 198
precautionary principle 30, 31, 44–5, 63
public opinion 54, 56
public participation in decision-making 173–4, 204
Purdy, R. 54

radioactivity
nuclear testing
Marshall Islands see Marshall Islands Funds and Claims Tribunal
Nevada 160
precautionary principle 5, 24
property rights 114
public trust doctrine 132–4
sustainable development 74

Vasak, K. 171

Warren, L. 126
waste
dumping at sea 49–50

precautionary principle 50–55
persistent plutonium 113, 114, 116
radioactive 52–4
treatment plant 185–6
Wiener, J. 5–6
Willish, J. 35
World Trade Organization (WTO)
precautionary principle
case law 22–6
sustainable development 70
World Wide Fund for Nature (WWF) 104