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PREPARATORY COMMITTEE FOR THE UNITED  
NATIONS CONFERENCE ON THE HUMAN  
ENVIRONMENT

Intergovernmental Working Group on the  
Declaration on the Human Environment

Note by the Chairman

The specialized agencies and other United Nations bodies which, pursuant to the summary of decisions of the organizational session, have been kept informed of the meetings of the Working Group, have submitted comments on the preparation of a draft Declaration on the Human Environment. These comments are reproduced below.

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INTERNATIONAL LABOUR ORGANISATION (ILO)

The ILO suggests that one of the following alternative texts be included in the declaration:

I. Each individual should have the right to a working environment that is safe and healthy and which would not represent a danger to the total human environment.

II. Appropriate measures should be taken to ensure that each individual is provided with a working environment that is safe and healthy and which would not represent a danger to the total human environment.

III. In respect of the working environment,

(1) appropriate measures should be taken to prevent and control pollution and to reduce the exposure of the individual to occupational health and safety hazards;

(2) the working environment should not constitute a threat to the total human environment.

FOOD AND AGRICULTURE ORGANIZATION (FAO)

Background and terms of reference

1. United Nations General Assembly, Preparatory Committee for the United Nations Conference on the Human Environment. First Session 10-20 March 1970 (A/CONF.48/PC/6, 6 April 1970), Recommendations (p. 19):

"II. Drafting of a declaration on the human environment

(32) The 1972 United Nations Conference on the Human Environment should be presented with a draft declaration on the human environment.

(33) The function of the Preparatory Committee, at the present stage, is to advise the Secretary-General on the objective(s) of the declaration and the best modality for its formulation.

(34) In addition to the declaration on the human environment, the 1972 Conference should also adopt recommendations for action, resolutions, and other conclusions.

(35) The declaration should be a document of basic principles, calling mankind's urgent attention to the many varied and interrelated problems of the human environment, and to draw attention to the rights and obligations of man and State and the international community in regard thereto.

(36) The declaration would serve to stimulate public opinion and community participation for the protection and betterment of the human environment and, where appropriate, for the restoration of its primitive harmony etc., in the interest of present and future generations. It would also provide guiding principles for Governments in their formulation of policy and set objectives for future international co-operation.

(37) In formulating the declaration on the human environment, due account has to be taken of the environmental stresses caused by the differences in social and economic development between various parts of the world.

(38) The Preparatory Committee is not, during the current session, in a position to draft the declaration. It, therefore, recommends to the Secretary-General that, after consultation with the Member States and in the light also of the discussions at the first session, that he include in his report to the second session of the Preparatory Committee suggestions as to the content of the declaration."

. United Nations Economic and Social Council (49th Session, July 1970), Resolution 1536 (XLIX) on the United Nations Conference on the Human Environment (para. 10):

/The Economic and Social Council/

"Recommends that the Conference be presented with a draft declaration on the human environment, and that careful preparation of the declaration should be initiated on the basis of the suggestions in the report of the Preparatory Committee on its first session (A/CONF.48/PC/6, para. 27, II)."

. Summary Record of ACC Ad Hoc Working Group for Human Environment Conference, First Meeting 30 June-3 July 1970, item II:

"The representative of ILO offered to prepare a draft for internal discussion of the basic principles which might be included in a universal Declaration. This proposal was welcome. This first draft, together with comments received from agencies and competent offices of the UN Headquarters will be discussed at the next meeting of the ACC Ad Hoc Working Group with a view to preparing a questionnaire for circulation to governments as a first step in the consultation required for drafting the Declaration."

. Letter from ILO (Mr. Aamir Ali, Chief of Relations and Conference Dept.) to FAO (Mr. E. Saouma, Chairman IDWG) dated 6 July 1970 (UN 1026):

"At the meeting of the Ad Hoc Working Group on the Human Environment Conference, 30 June-2 July 1970, it was agreed that the ILO should be responsible for the preparation of a preliminary draft of the Universal Declaration on the Human Environment.

We will, of course, take into account the discussions held in the Working Group but I would welcome any further suggestions you care to make, not only on the general form and scope of the declaration, but on the detailed contents as well. It would be helpful to have those by the end of September."

FAO: Contribution to the preparation of a universal declaration  
on the human environment

Draft proposals

I. Form and scope

1. The text which presumably is to serve as a model or precedent for the Stockholm Declaration is the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948. Following its adoption, the Assembly called upon all Member countries to publicize the text of the Declaration and "to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories". The 1948 Declaration does not have the force of law. It is not a treaty. It sets forth principles and standards of achievement for all nations to follow in their efforts to give their citizens human freedoms and rights. Only subsequently the United Nations Commission on Human Rights drafted two International Covenants on Human Rights, which were adopted by the General Assembly on 16 December 1966, and which are open for signature and ratification as treaties.

2. Similarly, the proposed universal declaration on the human environment should limit itself to a statement of basic principles and criteria, particularly in view of the fact that it will be supplemented by other texts (resolutions and recommendations) at the Stockholm Conference. Its form, style and contents should not be those of a dry legal or technical document. While avoiding rhetorical overstatements, the declaration should be well-written, easily understandable and reasonably short: a convenient instrument for education, dissemination by mass media, and as a reference source for the drafting of subsequent international agreements. In order to ensure the highest possible degree of acceptance and effective implementation, specific international conventions could be drawn up at a later stage on the general basis of the proposed 1972 declaration, following the example of the procedure adopted in the field of human rights. It seems premature, however, to consider the formal and institutional framework of such future action.

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3. The proposed 1972 declaration will have to take account of a number of existing international instruments dealing with environment protection (conventions, declarations, resolutions of the United Nations, specialized agencies, and other international organizations) including certain articles of the Covenants on Human Rights and of the United Nations resolutions on natural resources (infra, 11). Sectorial aspects of resources conservation are covered by a variety of international conventions on fisheries, wildlife and water resources. Careful research on all relevant texts will be required in order to avoid duplication and contradictions.
4. Attention will also have to be paid to certain environmental resources which are shared only by a limited number of neighbouring states. While some of the existing regional instruments may not be appropriate for universal regulation, others may usefully serve as models for certain parts of a universal declaration (e.g., the European Water Charter of the Council of Europe).
5. The special problems, needs and objectives of developing countries will have to be distinguished and recognized in the Preamble, as well as the need to strike a balance between economic "optima" and ecological "minima". As a programme for international action, the declaration must take into account the principle of economic self-determination (infra, 11-12).

## II. Contents

6. In contrast with the 1948 Universal Declaration of Human Rights, which mainly deals with the legal relations between the individual and the State, the proposed 1972 declaration is to encompass three levels of rights and duties; viz., according to the Preparatory Committee's formulation (Report of First Session, para. 35), "the rights and obligations of man and State and the international community". Expressed in more traditional legal categories, these would include rules governing relations between States, rules governing relations between individuals and States, and rules governing relations between individuals. The comments which follow will attempt to place the relevant rules in the three-level framework (Man-State-International Community) suggested by the Preparatory Committee.

(A) Rights and duties of man

7. This will presumably be the focal part of the proposed 1972 declaration, starting with a general affirmation of every human being's "right to a wholesome environment" (inclusion of such a right in the European Human Rights Convention or in the European Social Charter is currently being contemplated also in the Council of Europe). This right may be seen as inherent in article 25 of the 1948 Universal Declaration of Human Rights, as confirmed by article 11 of the 1966 International Covenant on Economic, Social and Cultural Rights ("the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions").

8. There should follow a catalogue of specific rights regarding the quality of common environmental resources (clean air, clean water, open spaces, etc.; possibly including an affirmation of the "right to clean food" envisaged by the Codex Alimentarius) and regarding the enjoyment and use of such resources (free access to public lands, forests, rivers, lakes and seashores, etc.). There is an enormous amount of national legislation and case law available on these rights, and several countries have embodied them in constitutional law, either expressis verbis or by liberal interpretation of existing constitutional guarantees, including equal protection and non-discrimination in the allocation of natural resources to individual users.

9. As a correlative to individual rights, the declaration should also affirm the duties of individuals regarding environmental resources under their control, whether such control is based on private property or on any other right of use. Individual "duties to the community" are also mentioned in the 1948 Universal Declaration of Human Rights (article 29). The declaration might further affirm the legal responsibility of individuals (and corporate bodies) for mismanagement, depletion and degradation/pollution of environmental resources.

10. It may be questioned whether legal relations between individuals (rights and duties of "private law") fall within the scope of the proposed declaration. Yet they have an undeniable impact on the goals of the 1972 conference. The existing rules of private law governing "immissions" and "nuisance", and other types of legal remedies against interference with individual enjoyment and use of

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environmental resources, are an important instrument of environmental policy, relying as they do on private initiative. Current private remedies against individuals or corporate bodies who abuse their rights regarding environmental resources could be broadened and improved, by extending the "right to be heard" and the "right to sue" to a wider group of actual or potential victims, and by shifting the burden of proof. Here again, a considerable amount of information on contemporary trends in law reform and jurisprudence is already available and could fruitfully be utilized as a basis for a few guiding principles within the framework of the declaration.

(B) Rights and duties of the State

11. National sovereignty over natural resources. Resolution 1803 (XVII) adopted by the United Nations General Assembly on 14 December 1962, and resolution 2158 (XXI) of 28 November 1966, affirm the principle of national sovereignty over natural resources, which is also implicit in article 1 of the International Covenant on Economic, Social and Cultural Rights of 1966 ("All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence"). In view of the legitimate concern, particularly of developing countries, with economic self-determination, the proposed 1972 declaration would have to reaffirm this principle.

12. Limitations on the exercise of national sovereignty. Equally to be reaffirmed is the principle that all nations are subject to certain limitations imposed on unilateral conduct, by international law, in the common interest of mankind. Examples of such limitations regarding specific natural resources may be found in the law of international waters (sic utere tuo principle). The most significant of these is the duty of prior consultation in the event of unilateral actions liable to harm other states; this duty may be limited regionally to neighbouring states concerned (droit de voisinage). The question remains whether any unilateral action, which does not cause harm to any particular State should be declared subject to restraints, where the action is liable to affect a "common resource of mankind" (e.g., extinction of a living species).

13. Specific duties. The duty of States to take appropriate measures for the conservation of environmental resources - a duty owed both to their own citizens and to the world community - should be specified, including the duty to enact adequate standards, to provide proper institutions for resource management (and monitoring systems), to minimize the risk of irreversible ecological changes resulting from public projects, and to ensure effective implementation of, and compliance with the principles laid down in the declaration. (Note that article 12 of the above-mentioned 1966 Covenant imposes on States a duty for "the improvement of all aspects of environmental and industrial hygiene".)

14. State responsibility for damage to environmental resources. The proposed 1972 declaration should reaffirm the established principle that States are internationally responsible for harm caused by them or by their citizens to environmental resources shared with other States (as illustrated, inter alia, by a number of international cases involving water resources). The question remains whether this liability should be declared to extend to the kind of environmental damage which does not affect any other State in particular, but instead results in an over-all degradation or depletion of "common resources" of the world community as a whole (e.g., pollution of the high seas). The current work of the International Law Commission on problems of State responsibility will be relevant to these questions.

15. Hazardous activities. It may be useful to distinguish between ordinary management of natural resources and certain specific measures of a particularly "hazardous" type which involve aggravated risks for the human environment. If States or their citizens choose to undertake enterprises, the environmental consequences of which are either clearly dangerous or else unforeseeable (e.g., weather and climate modification, weapons tests and disposal), they should perhaps be declared to be under a special obligation to obtain the prior consent (veto power) of other concerned States and/or international organizations, and under strict liability for eventual damage.

(C) Rights and duties of the international community

16. The inadequacy of traditional international law for the effective protection of certain common resources (e.g., high sea resources) may partly be related to the absence of a concept of the "international community" as a subject of rights and duties. There appears to be, however, an increasing awareness of certain obligations which States owe not only to their citizens or to particular other



States, but to the international community as a whole (as evidenced by current discussions and proposals in the United Nations, particularly with regard to ocean uses and resources). This novel approach - which would require further clarification and definition - reflects the need for joint efforts by all States and international organizations, acting as "trustees" of mankind's common environmental heritage. Some progress in this direction has already been made in several sectors of international resource management (international river commissions, international fisheries commissions, Antarctic Treaty Organization, etc.) and through the voluntary adoption of uniform standards (e.g., food standards of the Codex Alimentarius). The proposed universal declaration, in view of its programmatic and non-binding nature, might be the right occasion to give a measure of formal recognition to the interest of the international community in the preservation of the human environment.

#### WORLD HEALTH ORGANIZATION (WHO)

##### A code of environmental health

A code of environmental health may be defined as a set of principles, rules and practices applicable to all countries in planning, establishment and implementation of environmental health programmes, and a collection of principles on which international agreements could be based.

The needs, scope, character and priorities of environmental health programmes vary from country to country and from region to region depending on such factors as demographic pressures, levels of economic development, geographic area, culture, climatic conditions, rate of industrialization and urbanization, type of agricultural practices and other factors of national and local importance. There are, however, some general features common to many countries.

Also it should be recognized that there are many ways in which activities carried out in one country can result in hazards to health in other countries. National plans for environmental health should take into account such possibilities. Examples of environmental health problems of international significance are specific cases of air pollution, pollution of international rivers and of the sea and coastal areas by sewerage and industrial effluents, air travel which can increase the risk of the spread of communicable diseases, export of food, insect vectors, and many others; and there is an obvious need for bilateral and multilateral action in the interest of public health.

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It is accordingly proposed to develop a code of environmental health that would include the following components:

- (a) A declaration of the World Health Assembly on problems of the human environment.
- (b) Principles on which member countries could base international action to protect public health from hazards associated with pollution of international rivers, coastal areas and air resource; with international transport of dangerous goods and noise from air transport etc.; and to co-operate in exchange of information in research and in transfer of technology.
- (c) WHO environmental quality criteria and guides.
- (d) A framework within which member governments could agree on the application of WHO environmental quality criteria and guides and uniform methods of measurement in WHO-assisted and other national projects.
- (e) Principles of environmental health legislation and organization of environmental health services.
- (f) Technical guidelines for preventive practices and control as discussed previously would be an integral part of the code.

Since the code of environmental health is intended to facilitate international collaboration and also to assist member countries in setting up their own national health programmes and services there is an obvious need for guidance from member States in establishing a detailed programme.

#### INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA)

The IAEA agrees in principle with the general views on the character, content and structure of the declaration as outlined by the Preparatory Committee at its second session held in Geneva from 8 to 19 February 1971 with the participation of the Agency (document A/CONF.48/PC.9, paras. 29-36).

#### UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD)

A preamble and fundamental principles for a draft declaration on human environment should devote serious attention to the relationship between economic growth and environment quality. Environmental issues especially in relation to developing countries should not be construed to entail a slowing down of economic

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development. Environment management should not retard the development process or hinder the rational use of natural resources. Continuing economic progress must be ensured while minimizing environmental degradation and pollution.

Since environmental measures will inevitably have a serious impact on world trade flows, on location of industries, on the international flow of capital, it seems imperative that environment measures should as far as possible be complementary to the efforts of the Second Development Decade. Special attention can and should be given to identifying all possible fields of each complementarity and at the same time to minimize any possible conflict or contradiction between environment policies pursued by developed countries and the economic development needs of developing countries.

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