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REVIEW OF THE MONTEVIDEO PROGRAMME FOR THE DEVELOPMENT AND PERIODIC REVIEW OF ENVIRONMENTAL LAW 1981 - 1991



Environmental Law and Institutions Unit
UNEP
1 AUGUST 1991

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Part 1

Background

Following UNEP Governing Council decision 8/15 of 29 April 1980, the Executive Director convened an Ad Hoc Meeting of Senior Government Officials Expert in Environmental Law at Montevideo from 28 October to 6 November 1981, to establish a framework, methods and programme, including global, regional and national efforts, for the development and periodic review of environmental law, and to contribute to the preparation and implementation of the environmental law component of the system-wide medium-term environment programme.

The meeting of experts elaborated a comprehensive programme for the Development and Periodic Review of Environmental Law, and its conclusions, having been adopted by the UNEP's Governing Council at its tenth session by Decision 10/21 of the 31 May 1982, were integrated into the System Wide Medium-Term Environment Programme.

The Montevideo Programme identified three major subject areas for the development of guidelines, principles or agreements, and eight (8) other subject areas which called for action in accordance with the objectives and strategies agreed to at the meeting and set out in Chapter II of its Report. (A copy of the Report is enclosed.)

The Major subject areas were: (a) marine pollution from land based sources, (b) protection of the stratospheric ozone layer, (c)transport, handling and disposal of toxic and hazardous wastes.

The other subject areas were: (a) international co-operation in environmental emergencies, (b) coastal zones management, (c) soil conservation, (d) transboundary air pollution, (e) international trade in potentially harmful chemicals, (f) protection of rivers and other inland waters against pollution, (g) legal and administrative mechanisms for the prevention and redress of pollution damage, and, (h) environmental impact assessment.

The Environment Law and Institutions Unit of UNEP has been responsible for the implementation of the Montevideo Programme through the development of international agreements, guidelines and principles; assistance to developing countries in the formulation of national legislation and the strengthening of institutions; the promotion and co-ordination of the environmental law-making process, and, the dissemination of information on new developments in the field of environmental law.

In the decade since Montevideo, the UNEP Governing Council has implemented not only the Montevideo proposals but also some new initiatives which were not included in the Montevideo Programme, namely, conservation of biological diversity and climate change. These have been dealt with in Part III of this Note. UNEP has also carried out a programme of assistance to developing countries for the development of national legislation and institutions to deal with environmental issues. UNEP's publications in the field of environment law including the Register of International Treaties and other Agreements in the Field of Environment and the Selected Multilateral Treaties in the Field of Environment, have been designed to serve as source material for international lawyers and researchers as well as to promote public awareness.

Some of the Montevideo initiatives for the development of environmental law have already led to the conclusion of binding international agreements. Others, having made considerable advances, have been developed into international guidelines, goals and principles.

The following is an outline of the progress made in the 10 years since Montevideo towards achieving the objectives and strategies laid down by the Meeting of Experts, in respect of the 3 major subject areas and the 8 other subject areas (Part II) and in regard to the two major initiatives not included in the Montevideo Programme. (Part III).

Part 2 - IMPLEMENTATION OF THE MONTEVIDEO PROGRAMME

I. MARINE POLLUTION FROM LAND-BASED SOURCES

Montevideo Programme: Objectives and Strategies

Objective

To prevent, reduce and control pollution of the marine environment from land-based sources, including the effects of such pollution on coastal areas, and to minimize the adverse effects that have already occurred.

Strategy

Implementation and further development of specific regional, subregional or, as appropriate, bilateral agreements, as well as national legislation to give effect to such agreements, bearing in mind, inter alia, the results of the Third United Nations Conference on the Law of the Sea; taking account of these developments, preparation of guidelines or principles which could lead to a global convention, with a view in particular to co-ordinating the work undertaken within the framework of existing regional agreements.

Status of Implementation

The Montevideo Programme led to the establishment by the UNEP Governing Council of an Ad Hoc Working Group of Experts for the Protection of the Marine Environment against Pollution from Land-based Sources, which held three working sessions between 1983 and 1985, and produced the Montreal Guidelines for the Protection of the Marine Environment against Pollution from Land-based Sources, which was finalized in Montreal in 1985.

The Guidelines were prepared on the basis of common elements and principles contained in existing agreements, drawing upon experience already gained through their preparation and implementation. Principal among these agreements are the United Nations Convention on the Law of the Sea (part XII), the Paris Convention for the Prevention of Marine

Pollution from Land-based Sources, the Helsinki Convention on the Protection of the Marine Environment of the Baltic Sea Area and the Athens Protocol for the Protection of the Mediterranean Sea Against Pollution from Land-Based Sources.

By its decision 13/18 of 24 May 1985 (Section II), the UNEP Governing Council adopted these Guidelines and encouraged "States and international organizations to take the Montreal Guidelines for Protection of the Marine Environment against Pollution from Land-based Sources into account in the process of developing bilateral, regional and, as appropriate, global agreements in this field".

The Montreal Guidelines were addressed to governments and international organisations with a view to assisting them in the process of developing, as appropriate, international agreements and national legislation. The replies to UNEP questionnaires issued in 1987 and 1990 indicate that the guidelines have been the basis for the creation of binding international law, for example in the development of South-East Pacific Action Plan, and, in the development, by the World Bank, of its Guidelines on Marine and Coastal Pollution. They have also been utilized in the negotiation of several international agreements and programmes and have been used to develop and formulate national law. The 1990 GESAMP Report on the State of the Marine Environment (UNEP Regional Seas Reports Article No. 115) has documented the serious adverse impact of land based pollution of coastal areas especially in enclosed and semi enclosed seas.

At its first session, the Preparatory Committee for the United Nations Conference on Environment and Development (UNCED) invited the United Nations Environment Programme (UNEP), in co-operation with relevant organizations of the United Nations system "to consider making an evaluation of proposals for the further development of scientific, technical and financial co-operation for the protection of the marine environment from land-based sources of pollution". At the same session the Preparatory Committee invited UNEP, in co-operation with relevant organizations of the United Nations system, "to consider undertaking an evaluation of the 1985 Montreal Guidelines for the Protection of the

Marine Environment from Land-based Sources of Pollution (1985 Montreal Guidelines), where appropriate, taking into consideration existing regional agreements".

The Intergovernmental meeting of Experts on Land-based Sources of Marine Pollution co-sponsored by UNEP held in Halifax, Canada on 6-10 May 1991, had before it two documents prepared by UNEP, one, on the application of the precautionary approach and the other, on the effectiveness on national, regional and international conventions to deal with marine pollution from all sources. The Meeting concluded inter alia, that regardless of the form that an international mechanism is given, it was necessary to build upon the principles of the Montreal Guidelines; to strengthen regional mechanisms and encourage States to enter into regional agreements; to provide for exchange of information and the transfer of technologies and other resources; and, for a more effective system of data-collection and monitoring.

When the Montevideo Meeting was convened in 1981, the Third United Nations Convention on the Law of the Sea was in its final stages of negotiation. The Meeting therefore adopted the following resolution which recognized the high priority accorded to the prevention of marine pollution from land based sources in the Montevideo Programme and reaffirmed their conviction that the work of UNCLOS III on the protection and preservation of the marine environment constitutes an essential contribution to the development of environmental law. The resolution leads as follows:

RESOLUTION ON THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

The Ad Hoc Meeting of Senior Government Officials Expert in Environmental Law.

Having accorded high priority to the prevention of pollution from land-based sources in the conclusions and recommendations of the meeting in Montevideo,

Recalling the provisions of the draft Convention on the Law of the Sea on the protection and preservation of the marine environment,

Express their conviction that the work of the Third United Nations Conference on the Law of the Sea on the protection, preservation and of the marine environment constitutes an essential contribution to the development of environmental law at the national and international levels, and accordingly urge an early and successful conclusion of the Conference.

Montevideo, 5 November 1981

II. PROTECTION OF THE STRATOSPHERIC OZONE LAYER

Montevideo Programme: Objectives and Strategies

Objectives

To limit, reduce and prevent activities which have or are likely to have adverse effects upon the stratopheric ozone layer.

Strategy

Continuation of the work already initiated by the Governing Council aimed at the elaboration and establishment of a global framework convention.

Status of Implementation

The negotiations on a Convention on the Protection of the Ozone Layer which commenced in January 1982 led to the adoption of the Vienna Convention for the Protection of the Ozone Layer by a Conference of Plenipotentiaries organized by UNEP, in 1985 and entered into force on 22 September 1988. The negotiations however failed to lead to a simultaneous adoption of a Protocol on CFC's. Following the signing of the Vienna Convention, negotiation of a Protocol on Ozone Depleting Substances continued and resulted in the adoption, on 16 September 1988, of the Montreal Protocol on Substances that Deplete the Ozone Layer.

The Vienna Convention provides for research in and monitoring of the depletion of the ozone layer, exchange of information, transfer of technology, promotion of public awareness to facilitate the protection of the ozone layer, the adoption of the protocols and annexes to meet future international efforts to protect the ozone layer. At its first meeting, held in Helsinki from 26 to 28 April 1989, the Conference of the Parties to the Convention designated UNEP as the Secretariat of the Convention and its Montreal Protocol. As of May 15, 1991, 75 countries and the EEC have become parties to the Vienna Convention.

The Montreal Protocol on Substances that Deplete the Ozone Layer was adopted on 16 September 1987 and represented one of the most significant achievements of the international community for the protection of the environment from adverse effects caused by human activity. This "global risk management treaty" calls for a freeze in the production of the controlled chlorofluorocarbons at their 1986 levels within one year of the date of its entry into force, which was 1 January 1989. It stipulates a 50 per cent reduction in production and consumption of chlorofluorocarbons by mid-1998, with an intermediate reduction of 20 per cent by mid-1993. It also requires the consumption of halons to be frozen at 1986 levels. It allows limited production increases above these levels to meet very specific situations, especially the domestic needs of developing countries. Developing country parties that fulfil certain requirements specified in the Protocol are also given an additional 10 years to comply with the control provisions beginning in 1992. As of May 15, 1991, 70 States and the European Economic Community (EEC), accounting for nearly 90 per cent of world-wide consumption of the controlled substances, have become parties to the Montreal Protocol.

At the Second Meeting of Parties to the Montreal Protocol held in London from 27 to 29 June 1990, the Parties adopted, by consensus, adjustments and amendment to the Protocol to accelerate the phase out of the production and consumption of a wider range of ozone depleting substances. The adjustments entered into force on 7 March 1991 and the amendment enters into force on 1 January 1992 provided 20 instruments of ratification are received by that date.

Following a decision at the London Meeting, the financial mechanism for implementating the Montreal Protocol including an Interim Multilateral Fund came into operation on 1 January 1990. The provisional budget of the Fund is $160,000,000, with the commitment to increase the amount by up to $80,000,000 when developing countries, particularly China and India that had not then done so, become parties to the Protocol. A Tripartite Agreement among the World Bank, UNDP and UNEP regulates the cooperation of these agencies with the Multilateral Fund in implementing its programme of assistance to developing countries which operate under Article 5(1) of the Protocol.

The Convention and Protocol have established Assessment Panels dealing with technological and economic matters, impact assessment and scientific matters; an Ad Hoc Technical Advisory Committee on Destruction Technology; an Implementation Committee; several ad hoc working groups dealing with matters such as data reporting, transfer of technology, trade issues, etc; and, an open ended working group of the parties to deal with legal, technical and other issues.

The agreements reached at the Second Meeting of the Parties, have provided the international community with valuable experiences on possibilities for addressing complex issues linking adequate environmental protection, provision of financial resources and the transfer of technology.

The Global Environment Facility (GEF), a collaborative financing instrument among the World Bank, UNDP and UNEP was established and became functional in May 1991 to assist developing countries to meet four specific challenges to the environment, including, depletion of the ozone layer. UNEP has established a Scientific and Technical Advisory Panel (STAP) to advise the implementing agencies on general scientific and technological issues.

UNEP's future programme in this field would include assistance for the full implementation of the Vienna Convention and Montreal Protocol, further assessment of ozone layer modification and the initiation of action required to meet new challenges.

III. TRANSPORT, HANDLING AND DISPOSAL OF TOXIC AND DANGEROUS WASTES

Montevideo Programme: Objectives and Strategies

Objective

To prevent, reduce and control damage, and the risk thereof, from local and international transport as well as from handling and disposal of wastes that are toxic and dangerous to human health and to the environment.

Strategy

Preparation, at the global level, of guidelines, principles or conventions, as appropriate; development and implementation of guidelines and principles through specific regional, subregional or bilateral agreements, as well as by means of nationa legislation.

Status of Implementation

(a) At its tenth session, in May 1982, the Governing Council of UNEP, requested the Executive Director to convene a working group of experts to develop guidelines or principles on the environmentally sound transport, management and disposal of hazardous wastes (decision 10/24). The Ad Hoc Working Group of Experts on the Environmentally Sound Management of Hazardous Wastes established pursuant to this decision held three sessions between February 1984 and December 1985, and adopted, at its final session, its report with the agreed Cairo Guidelines and Principles for the Environmentally Sound Management of Hazardous Wastes.

At its fourteenth session, in June 1987, the UNEP Governing Council approved the Cairo Guidelines and Principles and authorized the Executive Director of UNEP to convene a working group of legal and technical experts with a mandate to prepare a global convention on the control of transboundary movements of hazardous wastes, drawing on the Cairo Guidelines and the relevant work of national, regional and international bodies. The Council also requested the Executive Director to convene, in early 1989, a diplomatic conference to adopt and sign the global convention (decision 14/30 of 17 June 1987).

The Ad Hoc Working Group of Legal and Technical Experts with a Mandate to Prepare a Global Convention on the Control of Transboundary Movements of Hazardous Wastes thus established held six sessions between February 1988 to March 1989 and drew up a draft convention for submission to a Conference of Plenipotentiaries.

The Conference of Plenipotentiaries on the Global Convention on the Control of Transboundary Movements of Hazardous Wastes, convened in Basel, Switzerland, from 20 to 22 March 1989, considered the final draft of the Convention submitted to it by the Working Group. The Basel Convention on the Control of Transboundary Movements and their Disposal was adopted unanimously by the Conference on 22 March 1989. A total of 105 States and the European Economic Community (EEC) signed the Final Act of the Conference, and 35 States and the EEC signed the Convention immediately after its adoption.

The Conference also adopted eight resolutions related to the further development and the implementation of the Convention.

The Basel Convention provides for the sovereign right to ban the import of hazardous wastes; the prohibition of exports of hazardous wastes to non-parties and imports from non-parties, subject to certain exceptions; The obligation to reduce the generation of hazardous wastes to a minimum, and to dispose of them as close as possible to the source of generation; declares illegal the transboundary movement of hazardous wastes carried out in contravention of the provisions of the Convention; and affirms the obligation of industrialized countries to assist developing countries in technical matters related to the management of hazardous wastes.

The resolutions adopted by the Basel Conference requested further action to enforce and strengthen the provisions of the Convention, including co-operation with other organizations to harmonize the Basel Convention with other international legal instruments; development of elements for inclusion in a protocol on liability; and development of draft technical guidelines for the environmentally sound management of hazardous wastes.

As of December 1990, 53 States and the EEC have signed the Basel Convention and as of March 1991, 10 countries have ratified it. The Convention will enter into force upon ratification by 20 countries.

A number of States are preparing to ratify the Basel Convention. The Organization of African Unity (OAU) has decided its position on the Basel Convention in its resolution at the OAU Pan-African Conference on Environment and Sustainable Development in Africa, held in Bamako, Mali in January 1991. In that resolution, OAU member States are invited to take a sovereign decision on the Basel Convention, bearing in mind the spirit of solidarity. At this Conference, the Bamako Convention on the Ban on the Import of All Forms of Hazardous Wastes into Africa and the Control of Transboundary Movements of such Wastes Generated in Africa was adopted and signed by 12 OAU member States.

As provided by the Convention, UNEP set up the interim Secretariat of the Convention in Geneva in November 1989 to assist in the implementation of the Convention.

In accordance with resolution 3 of the Basel Conference, a working group of experts was established by the Executive Director of UNEP to develop elements which might be included in a protocol on liability and compensation. The Group of Experts held two meeting in 1990 and 1991 and agreed upon a list of elements and requested the Executive Director to submit this list of elements to the First Meeting of the Parties to the Basel Convention which is expected to be held in 1992.

IV. INTERATIONAL COOPERATION IN ENVIRONMENTAL EMERGENCIES

Montevideo Programme: Objectives and Strategies

Objective

To encourage prompt international co-operation at all levels to deal effectively with environmental emergencies.

Strategy

Preparation of a global code of conduct or, alternatively, a global convention; application of that instrument at the regional, subregional and national levels by means of agreements and legislation of a more specific character.

Status of Implementation

UNEP has taken several initiatives towards achieving the above objectives through:

The preparation, by UNEP's Environmental Law and Institutions Unit of drafts of conventions for the global regulation of early notification and mutual assistance in the event of an industrial accident;

Conventions and protocols within the framework of UNEP's Regional Seas Programme, dealing specifically with cooperation in combating marine pollution in cases of emergencies;

The development, by UNEP's Industry and Environment Office, of a process for responding to technological accidents: Awareness and Preparedness for Emergencies at Local Level (APELL); and,

A proposal by the Executive Director for the establishment of UN Centre for Urgent Environmental Assistance at the Sixteenth Session of the Governing Council.

The IAEA's Convention on Early Notification of a Nuclear Accident (Vienna 1986) and Convention on Assistance in the case of a Nuclear Accident in Radiological Emergency (Vienna 1986) deal with international cooperation in the event of nuclear emergencies.

UNEP's Draft Conventions for the global regulation of early notification and mutual assistance in the event of an industrial accident

Following a proposal made by the Executive Director at a meeting of internaitonal experts attending a seminar on industrial hazardous wastes held in Cairo in November 1986, an initiative was launched to prepare two draft conventions, one, on early notification, and the other, on assistance in the event of industrial accidents, as well as the development of a programme to enable Governments, the local community and industry to identify potential hazards and organize themselves to prevent, and/or deal with industrial accidents.

In the consultations that followed, several Governments emphasized the need to avoid duplication and promote co-ordination with regional efforts already under way in this area and recommended that UNEP action should be undertaken in parallel and in co-operation with their efforts. Some Governments suggested a role for the International Register of Potentially Toxic Chemicals (IRPTC) and also favoured the participation of industry. Some Governments offered to support the proposal through the provision of expert advisers. Still others stressed the need to consider, in particular, the effects of industrial accidents on international watercourses. A few suggestions were made that the issue of liability should be considered in conjunction with the proposal or as a separate endeavour.

Two draft conventions on notification and assistance prepared by the ELIU were discussed at a meeting of an Informal Panel of Experts on Industrial Accident composed of legal and technical experts from developing and developed countries, in Nairobi, from 1 to 3 June 1987.

During these consultations suggestions were made that the conventions could be developed as separate legal instruments, rather than being combined into one; that the conventions could operate as global frameworks and be structured so as to encourage Governments to develop bilateral, sub-regional and regional legal arrangements for notification and assistance, in particular between neighbouring countries; that the definition of "industrial accidents" would have to be considered very carefully by legal and technical experts; and that the role of UNEP in implementing, and serving as secretariat to both conventions would have to be defined precisely taking account various institutional factors. It was also suggested that a convention on notification should emphasize that the primary obligation is for the government of the country where an accident occurs to notify promptly the governments of other countries likely to be significantly affected, and that there should be additional provision for further information exchange and for consultation.

Protocols to Conventions under the Regional Seas Programme

UNEP's activities concerning legal arrangements for notification and assistance in case of emergencies in the marine environment are carried out within its Regional Seas Programme. Under this programme, a number of regional conventions for the protection of the marine environment have been concluded. Several contain provisions relating to notification in the event of emergencies and mutual assistance. In some regions this matter is dealt with in a separate protocol. e.g. Protocol Concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Others Harmful Substances in cases of Emergency. (Barcelona, February 1976)(see further Section V).

Awareness and Preparedness for Emergencies at Local Level (APELL)

Awareness and Preparedness for Emergencies at the Local Level ("APELL") is a programme designed and implemented by the Industry and Environment Office of UNEP in cooperation with certain industrial organizations to stimulate community awareness of possible hazards within the community, and, based on this awareness, to develop a co-operative plan to respond to any emergencies that these hazards might present.

The ultimate goal of APELL is to protect the community against loss of life and damage to property and the environment, and this is sought to be achieved by making the community and response authorities aware of hazards within the community; developing an emergency response plan which effectively handles accidents which could develop into major disasters; and training the residents of the community on how to act in the event of an emergency.

It is a self-help process designed to guide local communities in strengthening their emergency response capability, and calls for the involvement of local leaders within industry, government and the community to form a "co-ordinating group" which will have the responsibility to direct the efforts within the community to inform the community of the hazards involved and to prepare a response plan that effectively handles any emergency, be it naturally caused or the result of man's activities. The EIO assists such "coordinating groups" in their efforts to develp and establish response mechanisms.

Proposed Centre for Urgent Environmental Assistance

The Executive Director of UNEP proposed to the Sixteenth Session of the Governing Council the establishment of a UN Centre for Urgent Environmental Assistance which will operate within the framework of the following principles.

(a) It would not be a new institution, but rather, a small co-ordinating body acting as a switchboard and clearing-house;

(b) It would focus on referral and information-sharing activities between existing well-established emergency response mechanisms in various bodies and organizations of the United Nations system and those of various national Governments;

(c) It would have a steering committee composed of representatives of all concerned United Nations agencies and bodies and chaired by the Assistant Executive Director of the United Nations Environment Programme, Office of the Environment Programme;

(d) It would be primarily concerned with sudden events requiring urgent and immediate response, rather than the slow processes of environmental degradation;

(e) It would focus, initially, on industrial, transport, oil spill and other technological emergencies;

(f) It would maintain rosters of consultants and experts on environmental emergencies and of sources of appropriate equipment, as well as a list of areas of possible risk;

(g) It would identify, in full co-operation with the agencies concerned, the needs of their emergency response mechanisms to respond more efficiently to these emergencies;

By its decision 16/9 of 31 May 1991, the UNEP Governing Council endorsed the Executive Director's proposal to proceed with the development, on an experimental basis, of a United Nations centre for urgent environmental assistance acting in cooperation and in co-ordination with other United nations agencies, focusing on assessment of and responses to man-made environmental emergencies. It was decided to establish the above mentioned mechanism on an experimental basis at the beginning of 1992 for a period of 18 months.

See documents UNEP/GC.16/4/Add 2 and UNEP/GC.16/5

V. COASTAL ZONE MANAGEMENT

Montevideo Programme: Objectives and Strategies

Objectives

To limit, reduce and prevent the harmful effects of activities with respect to the marine environment, in particular in coastal zones.

Strategies

Preparation of international rules and standards, and the taking of appropriate action at the regional, subregional and national levels, particularly in the case of endangered areas, bearing in mind, inter alia, the results of the Third United Nations Conference on the Law of the Sea.

Status of Implementation

UNEP's efforts to achieve these objecives have been directed at:

The development of Environmental Guidelines for Off-shore Mining and Drilling Carried Out Within The Limits Of National Jurisdiction;

The development and adoption of a number of Regional Conventions under the Regional Seas Programme;

The development of guidelines for the protection of the marine environment against pollution from land-based sources.

Off-shore Mining and Drilling

By its decision of 13 April 1976, the UNEP Governing Council requested the Executive Director to convene a group of governmental and other experts to examine specific aspects of liability and compensation for pollution and other environmental damage. On the basis of the priorities recommended by this group in 1977, and pursuant to Governing Council decision 91(V) of 25 May 1977, a Working Group of Experts on Environmental Law met between 1978 and 1981 on Legal Aspects Concerning

the Environment Related to Offshore Mining and Drilling Carried out Within the Limits of National Jurisdiction. A set of forty two (42) conclusions were adopted by the Working Group proposing guidelines for Governments in the field. Proposals were circulated to all states, and in the light of comments received, they were endorsed by Governing Council decision 10/14 (VI) of 31 May 1982 for submission to the United Nations General Assembly. The General Assembly by resolution 37/217 of 20 December 1982 recommended to States that they consider the Guidelines when formulating national legislations or undertaking negotiations for the conclusion of international agreements in the field. A first progress report on implementation of the guidelines was submitted to the General Assembly, through the UNEP Governing Council in 1985, and a second progress report was submitted in 1987 to the General Assembly at its forty-second session in accordance with its Resolution 40/200 of 17 December 1985. These reports, which were mainly based on replies which had been received from States and international organizations, indicate growing acceptance of the conclusions of the study regarding offshore mining and drilling within the limits of national jurisdiction as a reference source in drafting national and international legal instruments.

Regional Seas Programme

Based on the need to build a balanced combination of global and regional activities designed to manage marine and coastal problems on scales that are appropriate to the size and peculiarities of marine and coastal ecosystems, the Oceans and Coastal Areas Programme Activity Centre of UNEP (OCA/PAC), in close cooperation with the Environmental Law and Institutions Unit (ELIU) has established the following regional seas programmes. The Regional Agreements and Protocols concluded within the framework of each programme are also listed under each region.

Mediterranean Action Plan

- Convention for the Protection of the Mediterranean Sea Against Pollution
  (Barcelona, 16 February 1976)

- Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft
  (Barcelona, 16 February 1976)

- Protocol concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency
  (Barcelona, 16 February 1976)

- Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources
  (Athens, 17 May 1980)

- Protocol concerning Mediterranean Specially Protected Areas
  (Geneva, 3 April 1982)

Kuwait Action Plan

- Kuwait Regional Convention for co-operation on the Protection of the Marine Environment from Pollution
  (Kuwait, 23 April 1978)

- Protocol concerning Regional Co-operation in Combating Pollution by Oil and Other Harmful Substances in Cases of Emergency
  (Kuwait, 23 April 1978)

West and Central African Action Plan

- Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region
  (Abidjan, 23 March 1981)

- Protocol concerning Co-operation in Combating Pollution in Cases of Emergency
  (Abidjan, 23 March 1981)

South-East Pacific Action Plan

- Convention for the Protection of the Marine Environment and Coastal Area of the South-East Pacific
  (Lima, 12 November 1981)

- Agreement on Regional Co-operation in Combating Pollution of the South-East Pacific by Hydrocarbons or Other Harmful Substance in Cases of Emergency
  (Lima, 12 November 1981)

- Supplementary Protocol to the Agreement on Regional Co-operation in Combating Pollution of the South-East Pacific by Hydrocarbons or Other Harmful Substances
  (Quito, 22 July 1983)

- Protocol for the Protection of the South-East Pacific against Pollution from Land-based Sources
  (Quito, 22 July 1983)

- Protocol for the Conservation and Management of Protected Marine and Coastal Areas of the South-East Pacific
  (Paipa, 21 September 1989)

- Protocol for the Protection of the South-East Pacific against Radioactive Contamination
  (Paipa, 21 September 1989)

Red Sea and Gulf of Aden Action Plan

- Regional Convention for the Conservation of the Red Sea and Gulf of Aden Environment
  (Jeddah, 14 February 1982)

- Protocol concerning Regional Co-operation in Combating Pollution by Oil and Other Harmful Substances in Cases of Emergency
  (Jeddah, 14 February 1982)

Caribbean Action Plan

- Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region
  (Cartagena de Indias, 24 March 1983)

- Protocol Concerning Co-operation in Combating Oil Spills in the Wider Caribbean Region
  (Cartagena de Indias, 24 March 1983)

- Protocol Concerning Specially Protected Areas of Wildlife to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region
  (Kingston, 18 January 1990)

East African Action Plan

- Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern Africa Region
  (Nairobi, 21 June 1985)

- Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region
  (Nairobi, 21 June 1985)

- Protocol concerning Co-operation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region
  (Nairobi, 21 June 1985)

South Pacific Regional Environment Programme

- Convention for the Protection of the Natural Resources and Environment of the South Pacific Region
  (Noumes, 25 November 1986)

- Protocol concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region.

A South Asian Regional Seas Programme is currently under preparation.

Pollution from Land Based Sources

See section I

VI. SOIL CONSERVATION

Montevideo Programme: Objectives and Strategies

Objectives

To prevent or control the degradation of the sustainable productive capacity of soil provoked by human activities causing consequences such as erosion, desertification, salination, deforestation, over-exploitation of the subsoil, pollution, inadequate utilization and management of soil resources, and excessive use of land by urbanization and industrialization, as well as to rehabilitate degraded soil.

Strategies

International encouragement at all levels of full support for the World Soil Charter, the relevant elements of the World Conservation Strategy and the Plan of Action to Combat Desertification; promotion at the national level of greater emphasis on measures to promote soil conservation in legislation relating to, for example, pollution control, forestry, agriculture, rural management and water management.

Status of Implementation

The Montevideo Report identifies, as possible first steps, the promotion of the implementation of the relevant elements of the world Conservation Strategy and assistance in the follow up of the World Soil Charter, especially assistance to governments to identify legal and institutional arrangements which may directly or indirectly affect soil conservation.

Both the World Soil Charter adopted at the 21st Session of the Conference of the FAO and the World Soils Policy adopted at the 10th Session of the UNEP Governing Council, provide for assistance on request, to governments, especially those of developing countries, in establishing appropriate legislation, institutions and procedures to enable them to mount, implement and monitor appropriate land-use and soil and water management programmes.

Following the Montevideo recommendations ELIU prepared a study on the juridical and institutional aspects of soil conservation but did not proceed further with this initiative. However, soil related issues are integrated into ELIU's programme of assistance to developing countries in the development of national legislation and institutions dealing with environmental matters.

VII. TRANSBOUNDARY AIR POLLUTION

Montevideo Programme: Objectives and Strategies

Objectives

To further international co-operation to prevent air pollution and its dangerous impact on the ecosystems of a State by causes originating in another State.

Strategies

Preparation of a code of conduct establishing guidelines on the subject.

Status of Implementation

The Montevideo Programme suggested as a possible first step towards the achievement of the above objectives, the development by UNEP of a global code of conduct with respect to transboundary air pollution, drawing upon the existing regional and bilateral experience. As early as in 1977 Global Environment Monitoring System Programme Activity Centre of UNEP became involved with WMO and ECE in the monitoring of long-range transport of air-borne pollutants in Europe. An Environmental Monitoring and Evaluation Programme of Long-Range Transmission of Air-borne Pollutants (EMEP) was set up. UNEP contributed to this venture until 1982 when this undertaking became funded by Governments in Europe under a 1979 Convention. In the decade since 1981 UNEP's activities in this field have concentrated on two areas of global concern: ozone depletion and climate change. An overview of UNEP's activites in regard to the prevention of ozone depletion is at pages 7-9 and, in regard to Climate Change, at pages 46-47.

VIII. INTERNATIONAL TRADE IN POTENTIALLY HARMFUL CHEMICALS

MONTEVIDEO PROGRAMME: OBJECTIVES AND STATUS

Objectives

To control international trade in hazardous or inadequately tested chemicals, particularly where the sale of such substances has already been banned or restricted in the producing country.

Strategies

Preparation of guidelines at the global level as a first step towards a global convention; development and implementation of internationally harmonized practices, in particular for the gathering and dissemination of information.

Status of Implementaion

Following GC decision 10/24 of 1981 an Ad Hoc Working Group of Experts for the Exchange of Information on Potentially Harmful Chemicals (in particular, pesticides) in International Trade was established as part of the UNEP Programme for the Development and Periodic Review of Environmental Law. The Ad Hoc Working Group at its first session held in Noordwijkerhout, Netherlands, in March 1984 formulated a Provisional Notification Scheme for banned and severely restricted chemicals.

By its decision 12/14 of 28 May 1984, (section II) the Governing Council adopted the Provisional Notification Scheme and recommended that full use be made of the facilities of IRPTC for the implementation of the Scheme.

The Provisional Notification Scheme provided for exchange of information on restrictive control actions taken regarding the use or handling of chemicals, and also for notifications on exports of chemicals so regulated. The scheme also provided for the creation of the International Register for Potentially Toxic Chemicals and entrusted it with a central role in the information exchange and dissemination process.

In accordance with the above-mentioned recommendations of the Governing Council, the Executive Director, in his letter of 11 July 1984 addressed to all Governments, referred to decision 12/14, and invited them to bring the Provisional Notification Scheme into effect as soon as possible. IRPTC has provided all designated national authorities with a list of those authorities already registered by IRPTC and continues to update lists on a regular basis.

The Ad Hoc Working Group continued its work on the elaboration of Guidelines for the Exchange of Information on Potentially Harmful Chemicals in International Trade, and, at its Third Session held in London in February 1987, adopted the London Guidelines for the Exchange of Information on Chemicals in International Trade by consensus. The Governing Council, at its fourteenth session, by decision 14/27 of 17 June 1987 adopted the London Guidelines and decided further that the London Guidelines should replace the Provisional Notification Scheme for Banned and Severely Restricted Chemicals adopted by the Council in section II of its decision 12/14.

The London Guidelines were addressed to Governments with a view to asssisting them in the process of increasing chemical safety in all countries through the exchange of information on chemicals in international trade. They have been developed on the basis of common elements and principles derived from relevant existing bilateral, regional and global instruments and national regulations, drawing upon experience already gained through their preparation and implementation. The Guidelines are general in nature and are aimed at enhancing the sound management of chemicals through the exchange of scientific, technical, economic and legal information. Special provisions have been included regarding the exchange of information on banned and severely restricted chemicals in international trade, which call for co-operation between exporting countries in the light of their joint responsiblity for the protection of human health and the environment at global level.

By its decision 14/27, the Governing Council requested the Executive Director to reconvene the Ad Hoc Working Group of Experts to develope modalities of Prior Informed Consent and other approaches which could usefully supplement the London Guidelines and to recommend ways of incorporating the principle of Prior Informed Consent into the Guidelines.

The Working Group developed proposals for incorporating the modality of Prior Informed Consent into the London Guidelines and adopted the revised Guidelines which set forth the provisions on the Prior Informed Consent procedure and technical assistance in addition to the provisions incorporated in the 1987 London Guidelines. By its decision 15/30 of 25 May 1989, the Governing Council at its fifteenth session adopted the amended London Guidelines for the Exchange of Information on Chemicals in International Trade.

The Prior Informed Consent procedure (PIC) refers to the principle that the international shipment of a chemical that is banned or severely restricted, in order to protect human health or the environment, should not proceed without the agreement, where such agreement exists, or, contrary to the decision of the designated national authority in the importing country. The PIC procedure is a system for formally obtaining and disseminating the decisions of importing countries as to whether they wish to receive future shipment of chemicals which have been banned or severely restricted.

The amended London Guidelines apply to both industrial chemicals and pesticides and requires that importing states should ensure that action taken with regard to an imported chemical are not more restrictive than those applied to the same chemical produced for domestic use or imported from a state other than the one that supplied the information.

The Governing Council in its decision 15/30 of 25 May 1989 requested the Executive Director to re-convene the Ad Hoc Working Group of Experts with a view to:

(a) Monitoring the implementation of the amended London Guidelines, with particular attention to the PIC procedure and technical assistance provisions of the Guidelienes;

(b) Reviewing other activities related to the production and use of chemicals in states with specific reference to activities of UNEP, FAO, and other international organizations in that field;

(c) On the basis of such monitoring and review, preparing a report on any further steps which should be taken to supplement the amended London Guidelines including the possible further need for a convention, for submission to the Governing Council at its Sixteenth Regular Session.

The Ad Hoc Working Group has met twice in October 1990 and April 1991, reviewed the progress in the implementation of the Amended London Guidelines and the production and use of chemicals; continued its work on the preparation of draft model legislation; and recommended that urgent steps be taken to provide developing countries with technical assistance for the implementation of the Guidelines and at the initiation of the Executive Director of UNEP, that industry formulate a code of ethics on the international trade in chemicals.

The work of the Ad Hoc Working Group is continuing with a view to strengthening the legal basis of the Guidelines.

IX. PROTECTION OF RIVERS AND OTHER INLAND WATER AGAINST POLLUTION

Montevideo Programme: Objectives and Strategies

Objectives

To limit, reduce and control the degradation of fresh waters as a result of the discharge of pollutants or by reason of other harmful activities.

Strategies

In the case of international inland waters, preparation of guidelines, principles and, when necessary, agreements at the appropriate levels, In the case of national inland waters, promotion of the need for greater emphasis in legislation on measures to regulate strictly the discharge of polluting substances into fresh waters.

Status of Implementation

UNEP's efforts in this area have focussed on the development of the management of lake and river basins and assistance in the preparation of national legislation and led to the initiation of a new programme on Environmentally Sound Management of Inland Waters (EMINWA). In light of the EMINWA programme, a Working Group of Experts on the Zambezi River System was established in 1985. It included experts from Botswana, Malawi, Mozambique, Tanzania, Zambia, Zimbabwe and the United Nations Council for Namibia. Representatives from Angola were invited to participate but were unable to do so. Representatives of several United Nations agencies including UNDTCD, UNEP, UNECA, UNDP, FAO, UNESCO, the World Bank and other international organizations took part in this work.

The Agreement on the Action Plan for the Environmentally Sound Management of the Common Zambezi River System developed by the Working Group was signed on 28 may 1987 at the Conference of Plenipotentiaries on the Environmental Management of the Common Zambezi River System convened by the Executive Director of UNEP at Harare, Zimbabwe.

The following Zambezi Basin States that participated at the Conference signed the Agreement which came into force, the date of signature, in accordance with the provisions of Article 5: Angola, botswana, Mozambique, United Republic of Tanzania, Zambia and Zimbabwe. Annexed to the Agreement is a detailed Action Plan for the Environmentally Sound Management of the Common Zambezi River System. The Action Plan was one of the earliest instruments of international cooperation adopting a holistic approach to international water resource management incorporating the preventive principle and providing for a broad range of activities to promote the dvelopement and implementation of environmentally sound water resources management in the whole river system before the apperance of serious enviornmental problems.

The Action Plan deals, inter alia, with the responsibilities of the concerned states in regard to the development of national legislation, their regional harmonization, the development and implementation of regional conventions and protocols and assistance from appropriate international organizations in the discharge of these responsibilities.

The Environmental Law and Institutions Unit of UNEP helped develop the section of the Zambezi Action Plan dealing with environmental legislation. It also provided assistance in the formulation of the Zambezi Action Plan Project 2 (ZACPRO 2) through which that part of the Action Plan dealing with national legislation and international law is being implemented.

The environmental management of lake and water basins forms one of the constituent elements of the UNEP's programme of assistance to developing countries in the development of national environmental legislation which is carried out through its Environmental Law and Institutions Unit. (See further section X.)

X. LEGAL AND ADMINISTRATIVE MECHANISMS FOR THE PREVENTION AND REDRESS OF POLLUTION DAMAGE

Montevideo Programme: Objectives and Strategies

Objectives

To promote, at both the national and international levels, the development of the legal and administrative measures necessary to ensure effective knowledge and control of potentially polluting activities prior to their commencement and during the continuance, as well as the further development of international law with respect to liability and compensation, including the improvement of remedies available to the victims of pollution.

Strategies

Preparation of conventions, principles or guidelines, as appropriate, at the regional or global level; implementation and monitoring of such principles and guidelines, in particular at the regional and national levels.

Status of Implementation

ELIU's activities in this area focused on:

- Development of global and regional conventions, principles and guidelines and codes of conduct.
- Follow-up on the implementation of international instruments.
- Assistance in the development of national environmental institutions and legislation.
- Publication of documents to promote public awareness.

Development of Global and Regional Conventions, Principles, Guidelines, and Codes of Conduct

ELIU's activities in this area have been summarized in this note within the framework of the scheme of the Montevideo Programme. The negotiation of Conventions on Biological Diversity and Climate Change which were not included in the 1981 Montevideo Programme are dealt with at pages 43-46 and 46-47 respectively. Reference might also be made in this connection to the role played by UNEP in the development of the Agreement on the Action Plan for the Environmentally Sound Management of the Common Zambezi River System (Pages 30 to 31).

Follow-up on the Implementation of International Instruments

Following the development of Global and Regional Conventions, Principles, Guidelines and Codes of Conduct and their subsequent endorsement by the Governing Council, UNEP initiates several measures for the wide distribution of these instruments among governments, United Nations its specialised agencies and organs and interested intergoverntal and non governmental organisation. The Executive Director addresses letters to governments encouraging the widest possible participation in global and regional conventions, and the incorporation of guidelines, principles and codes of conduct etc. So developed in bilateral and regional agreements and in national environmental policies and programmes. Special missions are also undertaken by UNEP on request from Governments to assist in the processes leading to the ratification/accession to global and regional conventions. The results of these initiatives are regularly placed before the Governing Council of UNEP and of the United Nations General Assembly. For example, the 15 Principles on Shared Natural Resources developed by a UNEP working group of legal experts were placed before the UNGA which by Resolution 34/186 of 18 December 1979, requested all States to use them as guidelines and recommendations in the formulation of bilateral and multilateral conventions. Reports on implementation of the principles were considered by the General Assembly in 1981, 1985 and 1987. The reports, partly based on the replies to questionnaires circulated by UNEP to all United Nations member states and international organizations, indicate growing acceptance of the principles as a reference source in drafting national and international legal instruments.

Assistance in the Development of National Environmental Institutions and Legislation

Pursuant to General Assembly resolution 3436 (XXX) of 9 December 1975 and in accordance with the Governing Council decision 66 (IV) of April 1976, the Executive Director of UNEP was requested to provide technical assistance to developing countries, at their request, in the development of their national environmental legislation. Since then, many advisory missions have been arranged to developing countries requesting assistance in the field of environmental law and administration. UNEP legal experts and consultants have contributed to the formulation of new - and development of existing, legal instruments in Africa, Asia and Pacific, the Middle East and Latin America and the Caribbean.

Following a joint UNEP/ECA mission, a survey of existing environmental legislation was published in 1982. Several comparative surveys of legislation protecting marine and coastal environments have been carried out by UNEP - jointly with WHO, UNESCO, IUCN and the International Juridical Organization (IJO) for the Mediterranean in 1976 and 1980, and jointly with FAO for West Africa in 1978 and for East Africa in 1983, as part of UNEP's Regional Seas Programme. Technical assistance in dealing with different environmental law and institutional requests have been provided by UNEP for over 20 African countries.

Concerning Asia and the Pacific, the status of national legislation was reviewed, at a joint UNEP/ESCAP intergovernmental meeting on environmental protection legislation held in Bangkok in July 1978, the Expert Group Meeting on the Integration of Environmental Policy into Development: Institutional and Legal Aspects (Tokyo, June 1984) and the regional meeting on national policy for the protection of the ozone layer held in Tokyo in June 1989. ELIU in co-operation with the UNEP Regional Office for Asia and the Pacific (ROAP) continues to be involved in the development of national institutions on environmental protection and development of national legislation in the Asian countries. ELIU and ROAP have provided relevant assistance to almost 20 countries in the region.

In 1984, the UNEP Regional Office for Latin America and the Caribbean published, and continues to update, a collection of the full texts of national environmental laws. It has developed plans for regional action and information exchange on environmental laws and institutions. In 1985, ELIU and the Regional Office for Latin America and the Caribbean initiated a project to provide assistance to countries in the region to strengthen their environmental institutions and develop national legislation. Ten countries have so far received assistance under the project. In addition, the Secretariat of the CITES Convention, with assistance from the World-Wide Fund for Nature, has compiled and published a specialized survey of wildlife trade legislation in Latin America. To date, technical assistance in the field of environmental legislation and institutional development has been provided to 15 countries in the region.

UNEP and the Council for Mutual Economic Assistance (CMEA) have initiated a project relating to environmental legislation in East European countries. Under this project, a compendium of environmental legislation and machinery in CMEA countries has been developed for distribution to legislative drafters and administrators in developing countries, together with a computerized data base on environmental legislation in the CMEA countries. There have been two advisory meetings, 1987 and in 1988. The compendium was finalized at the time when it had become apparent that existing law and institutional arrangements in Eastern European countries were not really effective in the protection of environment and the countries concerned were preparing to draft new legislation and establish administrative arrangements in this field. ELIU therefore decided not to publish the compendium since it could only have limited historical value. The text is, however, available in the ELIU.

Countries assisted by UNEP in the legislative field include:

AFRICA: As of 30 April 1991, 20 Countries have been assisted in Africa.

Botswana (1988), Congo (1983), Djibouti (1985), The Gambia (1985), Gabon (1987), Ghana (1988), Guinea (1987), Kenya (1990 on), Mauritania (1987), Morocco (1985), Rwanda (1990), Senegal (1975), Sierra Leone (1990), Somalia (1985), Sudan (1983), Swaziland (1989), Togo (1986), Uganda (1990), United Republic of Tanzania (1980,1983), Zaire (1979) Sao Tome and Principe (1991), Zanzibar (1991).

Requests for assistance are pending from Congo, Central African Republic, Egypt, Ethiopia, Guinea Bissau, Lesotho, Malawi, Mozambique, Nigeria, and Swaziland, Zanzibar.

ASIA AND PACIFIC REGION: As of 30 April 1991, 4 countries were assisted.

Bangladesh (1978,1981), Pakistan (1988) Sri Lanka (1986), and Thailand (1985)
A further request is pending from Bangladesh.

EUROPE AND MIDDLE EAST: As of 30 April 1991, 8 countries were assisted.

Bahrain (1987), Iraq (1984), Jordan (1980), Qatar (1979/1987), United Arab Emirates (1981), Turkey (1990), Yemen Arab Republic (1984)* and Peoples Democratic Republic of Yemen (1980 and 1990 on)*

A further request for assistance is pending from Jordan, and, Romania has requested for a review of a draft prepared by their Department of Environment in 1989.

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*Yemen Arab Republic and People's Democratic Republic of Yemen have united.

LATIN AMERICA AND THE CARIBBEAN REGION: As of 30 April 1991, 16 countries were assisted:

Argentina, Barbados, Bermuda, Brazil, Chile, Costa Rica, Cuba, Dominica, Guatemala (1977), Honduras (1977), Nicaragua (1981), Panama (1979, 1984), Peru, St. Vincent and the Grenadines, Uruguay (1979), Venezuela.

Requests are pending from Brazil, Chile, Colombia, Guyana and Mexico.

A country project has been initiated in order to develop a comprehensive environmental law in Chile.

Model Legislation

In addition to above programmes of assistance ELIU has also been actively engaged in the preparation of model legislation for the implementation of the Revised London Guidelines for the Exchange of Information on Chemicals in International Trade (see Section VIII) and for the implementation of the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal (see Section III).

Information on national laws and institutions

Since 1978, information on national environmental law and administrations in all United Nations Member States has been compiled and updated in the form of standardized "country profiles". Some 14 of them were integrated into a comparative handbook which was published in 1983. ELIU has developed a data base system on national legislation and institutional arrangements which is updated regularly.

ELIU publishes a Directory of Principal Governmental Bodies Dealing with the Environment, which is updated every two years. The Directory is one of ELIU's most sought after publications.

In an effort to facilitate and harmonize the briefing of consultants on environmental law missions, UNEP has also published a Manual of Environmental Legislation in UNEP. Another set of guidelines, entitled "New Directions in Environmental Legislation and Administration Particularly in Developing Countries", was issued in 1989.

The growing volume and complexity of legislative data on the environment has led to the increased use of computerized data processing, storage and retrieval. Within the framework of the UNEP INFOTERRA information network, an agreement concluded in 1984 with IUCN Environmental Law Centre ensures the rapid supply of national legislative information upon request, especially for users from developing countries. Other specialized computer files for environmental law data include the index of species listed in legislation (prepared for the purposes of the CITES Convention), containing references to legislative texts concerning more than 10,000 wild animals, and the IRPTC legal file indicating the current status of the legal control of over 600 toxic chemicals under different national and international texts.

The country files containing information about national environmental legislation and administrative structures have been developed into the data system within ELIU. ELIU/UNEP together with the convention secretariats is also collecting necessary information regarding national laws and regulations to implement the Montreal Protocol and Basel Convention.

Promotion of Public Awareness

A matter of vital importance in strengthening the implementation of international environmental law is the collection and processing of relevant information on the status of legal instruments. Pursuant to a standing request of the United Nations General Assembly, the UNEP secretariat maintains, updates and circulates every second year a Register of International Treaties and Other Agreements in the Field of the Environment, summarizing the provisions, membership, entry into force, etc. of over 150 multilateral environmental agreement. This work was initiated by UNEP in 1975, pursuant to Governing Council decision 24 (III) of 30 April 1975 and General Assembly resolution 3436 (XXX) of 9 December 1975, with the first Register being submitted through the Governing Council to the General Assembly in 1977. From that time on, this work has been carried out on a regular basis providing necessary information to the countries and international organizations concerned, and also, by disseminating this information throughout the world community, stimulating an expansion of the membership in the

existing legal instruments. The Register is one of the most frequently requested documents produced by ELIU. Also, every two years, the Executive Director of UNEP presents to the General Assembly a report on international conventions and protocols, which provides information on new conventions and agreements in the field of the environment and information on their implementation. A collection of texts of Selected Multilateral Treaties in the Field of the Environment concluded up to 1979 in English and French was published in 1982 and 1983 respectively by UNEP. A second volume of this book containing treaties adopted since then has been prepared and is currently with the publishers and is expected to be released later in 1991. One of the aims of this activity is to promote the wider acceptance and use of existing international legal instruments by Governments.

ELIU publishes in booklet form the texts of all agreements, guidelines and principles developed under its auspices in the Environmental Law Guidelines and Principles Series. The following booklets have been issued in the series. (1) Stockholm Declaration (1972);* (2) Shared Natural Resources (1978); (3) Weather Modification (1980); (4) Offshore Mining and Drilling (1982); (5) World Charter for Nature (1982);* (6) Banned and Severely Restricted Chemicals (1984); (7) Marine Pollution from Land-based Sources (1985); (8) Cairo Guidelines and Principles for the Environmentally Sound Management of Hazardous Wastes (1987); (9) Goals and Principles of Environmental Impact Assessment (1987); (10) London Guidelines for the Exchange of Information on Chemicals in International Trade (1987) and amended version in 1989.

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* Developed under the auspices of the United Nations.

ELIU has also published the texts of the Agreement on the Action Plan for the Environmentally Sound Management of the Common Zambezi River System (1987), the Vienna Convention for the Protection of the Ozone Layer (1985), the Montreal Protocol on Substances that Deplete the Ozone Layer (1987), and Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1989).

In 1990, UNEP/ELIU started issuing Environmental Law Library booklets. The first of the collection deals with the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, including the problem of illegal traffic.

In its work UNEP/ELIU is co-operating mainly with the following international organizations: FAO (biological diversity, prior informed consent), IMO (Basel Convention), WMO (climate, ozone), UNESCO (biological diversity), WIPO (Montreal Protocol), UNDP (Ozone Multilateral Fund), World Bank (Ozone Multilateral Fund, technical assistance to developing countries), GATT (implementation of Amended London Guidelines), as well as with the United Nations Secretariat and regional economic commissions. ELIU closely co-operates also with the EEC (almost all areas of ELIU work), OECD (Basel Convention, harmful chemicals), IUCN (biological diversity convention, national legislation), and with non-governmental organizations which actively participate in the meetings of the working groups of experts on liability and compensation, Basel Convention, London Guidelines, biological diversity and the protection of the ozone layer. ELIU/UNEP co-operates also with industry.

XI. ENVIRONMENTAL IMPACT ASSESSMENT

Montevideo Programme: Objectives and Strategies

Objectives

To promote the adoption and implementation by States of legal and other appropriate mechanisms for assessing the effects on the environment of potentially harmful activities under the jurisdiction or control, as well as the dissemination of information and the public use thereof. To foster the use of environmental impact assessment procedures (whether the impact is national or international) as an essential element for development planning.

Strategies

Preparation at the global level of guidelines, standards and model legislation adaptable to specific needs (taking into account the different levels of development of various countries). Implementation of these, in particular at the national level; where requested, appropriate technical co-operation in the preparation of domestic legislation as well as in its implementation, should be made available.

Status of Implementation

UNEP has actively promoted the development of guidelines for environmental impact assessment. In 1979, the UNEP Industry and Environment Office prepared a set of "Guidelines for Assessing Industrial Environmental Impact and Environmental Criteria for the Siting of Industry". These guidelines were subsequently reviewed in a series of regional workshops from 1980 to 1984, followed by a seminar on Environmental Impact Assessment for Development, held in the Federal Republic of Germany, in April 1984.

Pursuant to Governing Council decision 12/14 of 1984, the UNEP Working Group of Experts on Environmental Law held its first session on Legal Aspects of Environmental Impact Assessment in Washington D.C. in June 1984. The Working Group considered a set of draft goals and principles, with special emphasis on transboundary impacts. At its second session in Geneva in January 1987, the Working Group reached consensus on the proposed Goals and Principles of Environmental Impact Assessment.

The final text adopted at this session consists of a preliminary note, three goals and thirteen principles. The preliminary note indicates that environmental impact assessment of planned activities has the purpose of "ensuring environmentally sound and sustainable development". The first goal seeks to establish that before decisions are taken to undertake or to authorize activities that are likely to significantly affect the environment, the environmental effects should be taken into account. The second, promotes implementation of appropriate national procedures in order to implement EIA and the third, encourages countries to develop reciprocal procedures for notification, information exchange and consultation on activities that are likely to have significant transboundary environmental effects. The thirteen specific principles elaborate further these goals.

The UNEP Governing Council adopted the Goals and Principles of Environmental Impact Assessment by its decision 14/25 of 17 June 1987 and also requested the Executive Director to bring this document to the attention of all States and relevant international organizations, including multilateral development banks, with the recommendation that the Goals and Principles be considered as a basis for preparing national measures in the field, as well as for international co-operation, including preparation of international agreements. The Governing Council further requested the Executive Director to assist States in implementing the Goals and Principles and to investigate measures for further international co-operation in this field, including the application of environmental impact assessment to projects with possible transboundary environmental effects.

At its fifteenth session, the Governing Council by its decision 15/41, taking into consideration the report prepared by the Executive Director on the implementation of Goals and Principles, called on Governments to increase their use and authorized the Executive Director to continue to seek the views of Governments and relevant international organizations for further development in this field. It is noteworthy that, to a considerable extent, the first draft of the European Convention on Environmental Impact Assessment in a Transboundary Context was based on the Goals and Principles developed under UNEP auspices. The Convention was ready for signature in February 1991.

Part 3

ACTIVITIES NOT INCLUDED IN MONTEVIDEO PROGRAMME

Convention on Biological Diversity

Biological Diversity

In its decisions 14/26 of 17 June 1987 and 15/34 of 25 May 1989, the UNEP Governing Council formally recognized and re-emphasized the need for concerted international action to protect biological diversity on earth by, inter alia, the implementation of existing legal instruments and agreements in a co-ordinated and effective way and the adoption of a further appropriate international legal instrument, possibly in the form of a framework convention.

Established pursuant to Governing Council decision 14/26 of 17 June 1987, the Ad Hoc Working Group of Experts on Biological Diversity held its first session in Geneva from 16-18 November 1988, and the Executive Director reported the results to the Governing Council at its fifteenth session, in May 1989. The second session of the Ad Hoc Working Group was convened in Geneva from 19-23 February 1990 to advise further on the contents of a new international legal instrument, with particular emphasis on the socio-economic context.

The third session of the Ad Hoc Working Group was held in Geneva from 9 to 13 July 1990 to advise further inter alia, on the contents of elements for a global framework legal instrument on biological diversity in accordance with decision 15/34 of UNEP's Governing Council. Some of the conclusions contained in the reports of these sessions include: the convention should build upon, co-ordinate and strengthen existing international legal instruments; that it should cover the gaps in existing conservation conventions; avoid duplication and address the full range of biological diversity issues on three levels: intra-species, inter-species and ecosystems, covering both terrestrial, and aquatic ecosystems, including both in situ and ex situ conservation. It was agreed that the future convention should contain firm funding commitments. Biotechnology transfer was recognized as an important element in the planned instrument, with a potential to contribute to improved conservation and sustainable use of biological diversity. The Ad Hoc Working Group also agreed that the access to genetic resources should be based on mutual agreement and full respect for the permanent sovereignty of States over their natural resources and that an innovative mechanism that facilitates access to resources and new technologies should be incorporated into the legal instrument.

Taking note of the progress made towards developing an international legal instrument on biological diversity, the Governing Council, at its second special session held in August 1990, adopted decision GCSS II/5, which urged the Executive Director, in conjunction with the members of the Ecosystems Conservation Group, to accord high priority to the work on biological diversity and biotechnology with a view to arriving at an international legal instrument for the conservation and rational use of biological diversity within a broad socio-economic context, taking particular account of the need to share costs and benefits between developed and developing countries and ways and means to support innovation bylocal people. In the same decision the Governing Council called upon the Ad Hoc Working Group of Legal and Technical Experts established for this purpose to proceed expeditiously with its task.

In accordance with Governing Council decision 15/34 the first session of the Ad Hoc Working Group of Legal and Technical Experts was convened in Nairobi 19-23 November 1990 to discuss the reports of the three sessions of the Ad Hoc Working Group of Experts on Biological Diversity as well as that of the Sub-Working Group on Biotechnology and to consider the content of detailed draft elements in preparation for the actual negotiation of draft articles for a convention on biological diversity. The first session of the Working Group of Legal and Technical Experts discussed the elements of the future convention, revised them and proposed the introduction of new elements.

On the basis of the Working Group's recommendations UNEP prepared for the second session, convened in Nairobi 25 February - 6 March 1991, a draft of a convention on biological diversity, which contained all options proposed by experts at the previous meetings. At its second session the Working Group elected its Bureau and adopted Rules of Procedure to govern the negotiations.

By its decision 16/42 of 31 May 1991, the Governing Council of the United Nations Environment Programme decided to rename the Ad hoc Working Group of Legal and Technical Experts on Biological Diversity the "Intergovernmental Negotiating Committee for a Convention on Biological Diversity" without creating a new negotiating body or affecting the continuity of the process of elaborating the convention.

The third session of the INC was held in Madrid, Spain from 23 June - 3 July 1991. Working Group I (responsible for general issues such as the fundamental principles, general obligations, measures for in situ, and ex situ conservation, and the relationship with other legal instruments as well as the financial aspects of such measures). Working Group II (responsible for the issues of access to biological diversity and related technologies, including biotechnologies, technology transfer, technical co-operation, financial mechanisms and

international co-operation) discussed and revised some Articles and included two new articles dealing with exchange of information - and handling of biotechnology and distribution of benefits. The fourth session of the Intergovernmental Negotiating Committee will be held from 23 September to 2 October 1991 in Nairobi, followed by the fifth session to be held in Geneva from 25 November to 4 December 1991. The Convention is expected to be completed before June 1991.

Framework Convention on Climate Change

Following growing concern in the 1980s about impending global climate change, brought on by the increasing concentration of greenhouse gases UNEP and the World Meteorological Organization (WMO), established the Intergovernmental Panel on Climate Change (IPCC) in 1988, which set up three working groups, the third of which, on response strategies, was given the task of inter alia, examining legal instruments and international measures and to develop possible elements of a climate convention.

At its forty-fourth session, in 1989, the General Assembly of the United Nations adopted resolution 44/207 on protection of global climate which supported the request made by the UNEP Governing Council in its decision 15/36, that the Executive Director of UNEP in co-operation with the Secretary-General of WMO should begin preparations for negotiation of a framework convention on climate change.

Consequently, the Executive Director of UNEP and the Secretary-General of WMO formed a Task Force to Advise on Elements of a Climate Convention, consisting of representatives of both organizations, the co-ordinator of the Second World Climate Conference, and other experts. In accordance with Governing Council decision SS.II/3 C, of 3 August 1990 and WMO Executive Council resolution (Res.8-EC-XLII, June 1990), the heads of the two organizations called for an Ad Hoc Working Group of Government Representatives to prepare for negotiations on a framework convention on climate change which was held in

Geneva in September 1990. The Working Group adopted by consensus several recommendations and identified options regarding the organization of the negotiating process for a convention. Pursuant to a recommendation, UNEP prepared a document entitled Framework Convention on Climate Change: Comparative Presentation of General Principles of Relevant Treaties.

At its forty fifth session the General Assembly adopted Resolution which, inter alia, decided to establish a single intergovernmental negotiating process (Intergovernmental Negotiating Committee) under the auspices of the General Assembly, supported by the UNEP and WMO and open to all States Members of the United Nations and specialized agencies of the United Nations system, with the participation of observers, for preparation of an effective framework convention on climate change taking into account proposals to be submitted by States during the negotiating process, the work of the Intergovernmental Panel on Climate Change and the results achieved at international meetings on the subject, including the Second World Climate Conference. UNEP is working in close cooperation with the Secretariat for the Climate Convention.

The Intergovernmental Negotiating Committee for a Framework Convention on Climate Change has held two Sessions, the first in Washington D.C. from 4-14 February 1991 and the second, in Geneva from 19-28 June 1991. Having dealt with organisational and procedural matters the two sessions have had discussions on principles, commitments, convention structures, financial and other mechanisms related to the framework convention on climate change. The third and fourth sessions of the INC have been scheduled for 19-20 September 1991 at Nairobi and 9-20 September 1991 at Geneva, respectively.

The negotiations, are expected to be completed prior to the United Nations Conference on Environment and Development in June 1992 and the Convention is expected to be opened for signature during the Conference.