



Montevideo Programme

for the Development and Periodic Review
of Environmental Law

**PROGRAMME FOR THE DEVELOPMENT AND PERIODIC REVIEW
OF ENVIRONMENTAL LAW**

**(Ad Hoc Meeting of Senior Government Officials Expert
in Environmental Law, Montevideo, 6 November 1981;
Decision 10/21 of the Governing Council of UNEP, of
31 May 1982)**

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I. CONCLUSIONS AND RECOMMENDATIONS OF MONTEVIDEO

The Senior Government Officials Expert in Environment Law, having met in 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,

Appreciating the significant work done in the field of environmental law since the Stockholm Conference on the Human Environment of 1972, by Governments as well as in the context of UNEP, the specialized agencies and other organizations within and outside the United Nations system,

Recalling Governing Council decisions 8/15 and 9/19 A of 29 April 1980 and 26 May 1981 respectively, as well as General Assembly resolution 35/75 of 5 December 1980, concerning the holding of their meeting,

Noting with satisfaction the results achieved by the preparatory committee (UNEP/WG.60/3 and Corr.1) and the meeting of experts of some developing countries (UNEP/WG.60/3, annex IV),

Recognizing that the continuation of the valuable work done in the field of the codification and progressive development of environmental law will make an important contribution to the atmosphere of international co-operation, mutual understanding and friendly relations among States,

1. Express the conviction that environmental law is an essential instrument for proper environmental management and the improvement of the quality of life;

2. Conclude:

(a) That guidelines, principles or agreements should be developed in accordance with the agreed objectives and strategies set out in chapter II below as regards the following major subject areas:

- (i) Marine pollution from land-based sources;
- (ii) Protection of the stratospheric ozone layer;
- (iii) Transport, handling and disposal of toxic and dangerous wastes.

(b) That the following subject areas also call for action in accordance with the agreed objectives and strategies set out in chapter II below:

- (i) International co-operation in environmental emergencies;
- (ii) Coastal zone management;
- (iii) Soil conservation;
- (iv) Transboundary air pollution; ozone, climate change;

- (v) International trade in potentially harmful chemicals;
- (vi) Protection of rivers and other inland waters against pollution;
- (vii) Legal and administrative mechanisms for the prevention and redress of pollution damage;
- (viii) Environmental impact assessment.

(c) That work should be done to promote the general development of environment law;

3. Decide to request the Governing Council at its tenth session to:

(a) Adopt the programme for the development and periodic review of environmental law set out in chapter II below;

(b) Request the Executive Director to ensure the inclusion of elements of the programme in the system-wide medium-term environment programme, and to that end make every effort to continue and strengthen the co-operation with specialized agencies and other parts of the United Nations system, taking into account their respective mandates and programmes in the field of environmental law;

(c) Define the role of the United Nations Environment Programme with respect to the promotion and co-ordination of the expeditious implementation of the programme, including consideration of the possible need for the organization or reinforcement of appropriate institutional arrangements, at the secretariat level as well as at the intergovernmental level;

(d) Call upon the United Nations organizations and bodies to co-operate fully with the United Nations Environment Programme in the further development and implementation of the programme;

(e) Encourage Governments within their capabilities to commit the resources required at the national and international levels for the implementation of the programme;

(f) Further call upon intergovernmental organizations outside the United Nations system, as well as non-governmental organizations active in the field of environmental law, to co-operate in the implementation of the programme;

(g) Stress the importance of the adoption and practical application of the principles, guidelines and agreements elaborated in the process of implementation of the programme;

4. Further decide to request the Governing Council at its tenth session to ensure:

(a) That the programme for the development and periodic review of environmental law is action-oriented and is seen in the context of and related to other substantive environmental issues addressed by the United Nations Environment Programme;

(b) That the programme is directed to harmonizing developmental and environmental concerns by the adoption of an integrated and co-ordinated approach in all aspects of environmental legislation and its application;

(c) That, in the process of the codification, progressive development and implementation of environmental law, particular attention is paid to the interests and capabilities of developing countries, especially their need for technical co-operation and other appropriate assistance in the field of institution building, education, training and information regarding environmental law.

II. PROGRAMME FOR THE DEVELOPMENT AND PERIODIC REVIEW OF ENVIRONMENTAL LAW

A. SUBJECT AREAS, OBJECTIVES AND STRATEGIES

1. The following subject areas are proposed as a non-exhaustive list of elements for the programme, referred to in Governing Council decision 9/19 A.

1. Major subject areas

(a) Marine pollution from land-based sources

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.

(b) Protection of the stratospheric ozone layer

Objective

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

Strategy

Continuation of the work already initiated by the Governing Council aimed at the elaboration and establishment of a global framework convention (decision 9/13 B).

(c) Transport, handling and disposal of toxic and dangerous wastes

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 national legislation.

Other subject areas

(a) International co-operation in environmental emergencies

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.

(b) Coastal zone management

Objective

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

Strategy

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.

(c) Soil conservation

Objective

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.

Strategy

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.

(d) Transboundary air pollution

Objective

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.

Strategy

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

(e) International trade in potentially harmful chemicals

Objective

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.

Strategy

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.

(f) Protection of rivers and other inland waters against pollution

Objective

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.

Strategy

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.

(g) Legal and administrative mechanisms for the prevention and redress of pollution damage

Objective

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.

Strategy

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.

(h) Environmental impact assessment

Objective

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.

Strategy

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.

B. ELEMENTS OF STRATEGY

1. Major subject areas

2. The elements set out below relate to the three subject areas in section A, subsection 1 above. They are not necessarily indicative of the sequence in which activities should take place and, when appropriate, they could be undertaken simultaneously.

(a) Marine pollution from land-based sources

- (i) Utilization of elements of part XII (Protection and preservation of the marine environment) of the draft convention on the Law of the Sea.
- (ii) Further development, conclusion, entry into force and implementation of regional, subregional or, as appropriate, bilateral agreements in co-operation with regional organizations and the governments concerned.
- (iii) In concert with the strengthening of actions at the regional, subregional and bilateral levels, preparation, in particular within the framework of UNEP, of guidelines or principles at the global level based on common elements drawn from regional agreements and drawing upon experience already gained through their preparation and implementation.

- (iv) In the longer term, preparation, if appropriate, of a global convention, based on further experience gained in the development and implementation of regional, subregional and bilateral agreements and taking into account guidelines or principles at the global level developed within the framework of UNEP.
- (v) Elaboration, adaptation, development and enforcement of national laws and regulations, taking into account international rules and standards and establishment or strengthening of national institutions for this purpose.
- (vi) Establishment, designation or strengthening of appropriate international machinery to ensure the harmonization and implementation of global and regional rules, standards, recommended practices and procedures and to review the effectiveness of measures taken.
- (vii) Multilateral or bilateral assistance to regional organizations and national governments in the development and application of such laws and regulations and the establishment of institutions, including training and research facilities, and exchange of information.
- (viii) Development or strengthening of environmental assessment mechanisms.

(b) Protection of the stratospheric ozone layer

- (i) Promotion of dissemination of information and public awareness on the protection of the stratospheric ozone layer.
- (ii) Continuation on the basis of available scientific data of the work already initiated aimed at the elaboration of a global framework convention which would cover monitoring, scientific research and the development of best available and economically feasible technologies to limit and reduce emissions of ozone-depleting substances, as well as the development of appropriate policies and strategies.
- (iii) Establishment by any such convention of appropriate international machinery to ensure the implementation and development of the convention for the protection of the stratospheric ozone layer.
- (iv) Development and adoption of national laws and regulations to implement the provisions of the convention for the protection of the stratospheric ozone layer.

(c) Transport, handling and disposal of toxic and dangerous wastes

- (i) Preparation, in particular within the framework of UNEP and in co-operation with the competent international organizations, of guidelines or principles which could lead to a global convention, drawing upon the experience already gained.

- (ii) Further development, conclusion, entry into force and implementation of regional, subregional or, as appropriate, bilateral agreements in co-operation with regional organizations and the governments concerned.
- (iii) Establishment, designation or strengthening of appropriate international machinery to ensure the harmonization and implementation of global and regional rules, standards, recommended practices and procedures and to review the effectiveness of measures taken.
- (iv) Elaboration, adaptation, development, harmonization and enforcement of national laws and regulations, including inter alia measures aimed at ensuring that international transfers of toxic and dangerous wastes are made without risks to human health and the environment, taking into account international rules and standards, and establishment or strengthening of national institutions for this purpose.
- (v) Development of legal and administrative rules, procedures and guidelines which will enable the governmental authorities of the country to which toxic and dangerous wastes are destined, as well as the authorities of countries through which such wastes are being transported, and anyone temporarily having possession or control of such wastes, to be fully informed of such movement in a timely manner, to ensure the handling, storage and disposal of such wastes in an environmentally safe manner.
- (vi) Multilateral or bilateral assistance to regional organizations and national governments in the development and application of laws and regulations and the establishment of institutions, including training and research facilities, and exchange of information.
- (vii) Development or strengthening of environmental assessment mechanisms as a means of implementing guidelines, principles and agreements and of promoting the development and implementation of new environmental legislation.

2. Other subject areas

3. As regards the subject areas in section A, subsection 2, the following common elements of strategy may be used as appropriate:

- (i) Analysis of the existing international and national rules, standards, practices, procedures and programmes relating to the subject, with a view to the preparation, especially within the framework of UNEP, of guidelines, standards and models adaptable to the specific needs and levels of development of various countries which could lead to increased harmonization and to a global convention in appropriate cases.

- (ii) Adoption and bringing into force of existing agreements, and further development of regional, subregional or, as appropriate, bilateral agreements in co-operation with regional organizations and the Governments concerned.
- (iii) Provision of assistance to regional organizations and national Governments in the development of training, education and research facilities and the exchange of information.
- (iv) Development or strengthening of environmental impact assessment and monitoring mechanisms as a means of implementing existing principles, guidelines, agreements and legislation.

4. In addition, the following individual elements should be taken into account for the separate subject areas:

(d) International co-operation in environmental emergencies

- (i) Analysis of experience already gained, particularly regarding spills of oil and other harmful substances, through multilateral (including regional and subregional) or bilateral agreements and through various forms of international co-operation as well as national efforts in connexion with emergencies.
- (ii) Establishment, designation or strengthening of appropriate international machinery to promote the harmonization and application of global and regional rules, standards, recommended practices and procedures and to review the effectiveness of measures taken.

(e) Coastal zone management

- (i) Analysis of the existing international and national rules, standards, practices, procedures and programmes related to coastal zone management, in particular in the context of land use planning.
- (ii) Development within the framework of UNEP of guidelines and principles, utilizing, inter alia, the elements of Part XII (Protection and preservation of the marine environment) of the draft Convention on the Law of the Sea.
- (iii) The development of regional and subregional networks of protected areas in the coastal zones.

(f) Soil conservation

- (i) Use of the World Soil Charter and the relevant elements of the World Conservation Strategy as principles and guidelines to reinforce those measures directed to the application of the Action Plan adopted by the United Nations Conference on Desertification.

- (ii) Promotion of co-ordination among national institutions, in order to ensure the rational utilization, administration and conservation of pedological resources.
- (iii) Promotion of education programmes for land users and the preparation, formulation and implementation of soil conservation policies.

(g) International trade in potentially harmful chemicals

- (i) Analysis and strengthening of the experience and know-how gained through national regulations or international studies such as those produced by IRPTC and the WHO/UNEP/ILO Programme on Chemical Safety.
- (ii) Preparation, in particular within the framework of UNEP and in co-operation with the competent international organizations, of principles or guidelines which could lead to a global convention, especially on the exchange of information on potentially harmful chemicals.

(h) Protection of rivers and other inland waters against pollution

- (i) Promotion of agreements between countries of the same hydrological basin for the proper utilization and management of freshwater resources so as to prevent, reduce and control pollution.
- (ii) Development and adoption of quality standards for specific uses of water resources (such as for drinking water and industrial uses). Setting of reference standards concerning discharge of harmful substances into fresh water.

(i) Environmental impact assessment (EIA)

- (i) Preparation, especially in the framework of UNEP, of guidelines, standards and model legislation adaptable to the specific needs of various countries, taking into account the existing models developed by various components of the United Nations system and other organizations.
- (ii) Organization of regional seminars to train national EIA experts and periodically inform them about the development in the general state of the art relevant to their particular country problems.

C. METHODS OF IMPLEMENTATION, REVIEW AND FOLLOW-UP

(a) Establishment, designation or strengthening of appropriate international machinery to ensure the harmonization and implementation of global and regional rules, standards, recommended practices and procedures and to review the effectiveness of measures taken.

(b) Assistance, including multilateral and bilateral, to regional organizations and governments in the development and application of such laws, regulations and the establishment of institutions, including training and research facilities and promotion of the exchange of information.

(c) Development or strengthening of environmental assessment mechanisms as a means of implementing existing principles, guidelines and agreements and promoting the development and implementation of new environmental legislation.

(d) Periodic reports on the general development of environmental law in different regions as well as on the progress made in the implementation of the strategies in the subject areas listed above. Periodic summaries should be presented to the Governing Council. The reports and summaries should draw attention to the adoption of new principles and rules at all levels in this field, the effective implementation of existing ones and the increasing exchange of information and of technical assistance, and should comment on the practical results of the action taken.

D. GENERAL DEVELOPMENT OF ENVIRONMENTAL LAW

Objective

To promote research into, writing on and teaching of theoretical as well as practical aspects of environmental law, both for legal experts and scientists, and dissemination of information to increase public awareness of environmental law.

Strategy

(a) Including the study of environmental law in the curricula of universities and institutions of higher learning.

(b) Facilitating research, publication of textbooks in national languages, translation and dissemination of selected materials; encouragement of academic exchanges on environmental law; providing for the study of environmental law.

(c) Strengthening of the data base for development of environmental law, as well as the UNEP functions in this regard.

(d) Inviting the United Nations University to devote particular attention to environmental law.

(e) Organizing and facilitating the organization of periodic seminars, teaching sessions, round table meetings and competitions in the field of environmental law.

(f) Provision of grants and scholarships for study abroad and for the writing of textbooks, as well as the provision of a select bibliography on environmental law.

E. SPECIFIC RECOMMENDATIONS FOR INITIAL ACTION

5. The following contain suggestions for possible first steps that could be taken under each of the subject areas. The suggested first steps should be seen in relation to the agreed structure of the programme and in connexion with the elements of strategy under the respective subject areas.

1. Major subject areas

(a) Marine pollution from land-based sources

6. UNEP should, in consultation with Governments and international organizations concerned, continue to promote the development, conclusion and implementation of regional and subregional agreements, and identify the mechanisms through which guidelines and principles at the global level could be developed.

(h) Protection of the stratospheric ozone layer

7. UNEP should continue to strengthen its co-ordinating role as regards research, monitoring and assessment of the ozone layer, in particular through the CCL mechanism, and expand the dissemination of information on the problems of the stratospheric ozone layer.

(c) Transport, handling and disposal of toxic and dangerous wastes

8. UNEP should, in co-operation with relevant international organizations, analyse major programmes and existing national and international regulations as a basis for the preparation of principles or guidelines for environmentally sound transport, handling (including storage) and disposal of toxic and dangerous wastes.

2. Other subject areas

(a) International co-operation in environmental emergencies

9. UNEP should, in consultation with relevant international organizations, make a study of national regulations as well as national and regional experience as a basis for the preparation of a code of conduct for international co-operation in dealing with environmental emergencies, which could if necessary, lead to the establishment of a global network of focal points of assistance.

(b) Coastal zone management

10. UNEP should, in consultation with relevant international organizations and in particular with the assistance of IUCN, analyse legal instruments and needs, initially with respect to land use planning and management, as a basis for the development of guidelines and principles for environmentally sound coastal zone management, including the protection of marginal sea areas.

(c) Soil conservation

11. UNEP should continue to promote the implementation of the relevant elements of the World Conservation Strategy, and co-operate with and assist FAO by stimulating the United Nations system in the promotion and follow-up of the World Soil Charter, in particular with respect to assisting governments in identifying legal and institutional arrangements which may directly or indirectly affect soil conservation.

(d) Transboundary air pollution

12. UNEP should develop a global code of conduct with respect to transboundary air pollution, drawing upon existing regional and bilateral experience.

(e) International trade in potentially harmful chemicals

13. UNEP should consider convening an intergovernmental meeting of experts for the development of principles or guidelines on the exchange of information in relation to the trade in potentially harmful chemicals, drawing upon, inter alia, the results of the discussions on the subject, in the General Assembly.

(f) Protection of rivers and other inland waters against pollution

14. UNEP should invite the General Assembly to give the question of "Non-navigational uses of international watercourses" higher priority among the subjects treated by the International Law Commission.

(g) Legal and administrative mechanisms for the prevention and reduction of pollution damage

15. UNEP should develop principles or guidelines with regard to the concept of non-discrimination in administrative and judicial proceedings on potentially polluting activities.

(h) Environmental impact assessment

16. UNEP should, in consultation with relevant international organizations, develop model legislation or guidelines which could assist Governments to make provision in national legislation or regional agreements for environmental impact assessment and the dissemination and public use of information thereon.