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REPORT OF THE MEETING OF SENIOR GOVERNMENT OFFICIALS EXPERT IN
ENVIRONMENTAL LAW TO PREPARE A PROGRAMME FOR THE
DEVELOPMENT AND PERIODIC REVIEW OF ENVIRONMENTAL
LAW FOR THE FIRST DECADE OF THE
TWENTY-FIRST CENTURY

Note by the secretariat

This document contains the report (UNEP/Env.Law/4/4) of the Meeting of Senior Government Officials Expert in Environmental Law to Prepare a Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-First Century, held in Nairobi, from 23 to 27 October 2000.

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MEETING OF SENIOR GOVERNMENT OFFICIALS EXPERT
IN ENVIRONMENTAL LAW TO PREPARE A PROGRAMME
FOR THE DEVELOPMENT AND PERIODIC REVIEW OF
ENVIRONMENTAL LAW FOR THE FIRST DECADE OF
THE TWENTY-FIRST CENTURY
Nairobi, 23-27 October 2000

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INTRODUCTION

1. The Meeting of Senior Government Officials Expert in Environmental Law to Prepare a Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-First Century was held at the United Nations Office at Nairobi from 23 to 27 October 2000.

I. OPENING OF THE MEETING

2. The Meeting was convened by the Executive Director of the United Nations Environment Programme (UNEP) to address the tasks envisaged in Governing Council decision 20/3 of 3 February 1999, which requested the Executive Director to undertake a process for the preparation of a new strategic environmental law programme of UNEP. In response to that decision, the secretariat had, with the assistance of a geographically balanced group of experts, prepared a draft programme of environmental law for the first decade of the twenty-first century (Montevideo Programme III), which was before the Meeting (document UNEP/Env.Law/4/2). The purpose of the Meeting was to finalize the draft programme for submission to and possible adoption by the Governing Council of UNEP at its 21st session.

3. The Meeting was opened on behalf of the Executive Director by Mr. Donald Kaniaru, Director, Division of Environmental Policy Implementation, at 10:20 a.m. on Monday, 23 October 2000.

4. Speaking on behalf of the Executive Director, Mr. Kaniaru welcomed the participants to the UNEP headquarters in Nairobi and said that their presence was part of the process leading up to the observance in two years time of the 30th anniversary of the Stockholm Conference on the Human Environment and the tenth anniversary of the 1992 Earth Summit.

5. Noting that despite the successful and continuing efforts of the international community during the past three decades, the environment and the natural resource base that supported life on Earth had continued to deteriorate at an alarming rate, he said that the new millennium was marked by persistent environmental problems as well as new and emerging ones, and observed that there had been increasing advocacy for a thorough assessment of the adequacy of existing instruments underpinning global environmental governance. Through the implementation of its long-term programme on environmental law, widely known as the Montevideo Programme I and II, UNEP had accomplished significant achievements, such as the many global conventions and protocols, as well as other regional agreements and a large number of capacity building activities. The UNEP environmental law programme for the following decade, which the present Meeting had been convened to develop, would be characterized by expressly formulated objectives reflecting the overarching goals of sustainable development and environmental security at the global, regional and country levels.

6. In conclusion, he said that the present Meeting had before it the outcome of a lengthy preparatory process, i.e., the proposed components of a programme for the development and periodic review of environmental law for the first decade of the twenty-first century. He felt sure that with their expertise in environmental law, the participants would further develop and refine the draft programme and agree upon a final draft UNEP environmental law programme for adoption by the UNEP Governing Council at its forthcoming session in February 2001. He wished the participants every success in their deliberations.

II. ELECTION OF OFFICERS

7. At its opening session, the meeting elected the following officers by acclamation:

Chair:	Mr. Patrick Széll (United Kingdom)
Vice-Chair:	Mr. Bie Tao (China)
Rapporteur:	Mr. Paul K. Ndungu (Kenya)

III. ORGANIZATIONAL MATTERS

A. Attendance

8. The Meeting was attended by representatives from the following countries: Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bangladesh, Bolivia, Brazil, Burundi, Canada, Chile, China, Colombia, Comoros, Congo, Costa Rica, Cuba, Ecuador, Egypt, Ethiopia, Finland, France, Germany, Guatemala, Haiti, Honduras, Indonesia, Iran (Islamic Republic of), Italy, Jamaica, Jordan, Kenya, Kuwait, Libyan Arab Jamahiriya, Madagascar, Malawi, Mauritius, Mongolia, Morocco, Nepal, Norway, Pakistan, Peru, Russian Federation, Rwanda, Saudi Arabia, Senegal, Seychelles, Sudan, Suriname, Sweden, Switzerland, Togo, Trinidad and Tobago, Turkey, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Yemen, Zambia.

9. Representatives of the following United Nations bodies and convention secretariats also attended the Meeting: United Nations Educational, Scientific and Cultural Organization, United Nations High Commissioner for Refugees, Secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Secretariat of the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer.

10. Representatives of the following intergovernmental organizations also attended the Meeting: Economic Cooperation Organization, International Criminal Police Organization (INTERPOL).

11. The Meeting was also attended by representatives of the following non-governmental organizations: Environmental Liaison Centre International, International Council of Environmental Law, International Committee of the Red Cross.

B. Adoption of the agenda

12. The Meeting adopted the following agenda on the basis of the provisional agenda set out in document UNEP/Env.Law/4/1:

1. Opening of the Meeting.
2. Election of officers.
3. Organizational matters:
 - (a) Adoption of the agenda;
 - (b) Organization of work.
4. Preparation of the draft programme for the development and periodic review of environmental law for the first decade of the twenty-first century.
5. Consideration of recommendations.
6. Other matters.
7. Adoption of the draft programme, recommendations and the report.
8. Closure of the Meeting.

C. Organization of work

13. The Meeting decided to undertake its work primarily in plenary.

IV PREPARATION OF THE DRAFT PROGRAMME FOR THE DEVELOPMENT AND PERIODIC REVIEW OF ENVIRONMENTAL LAW FOR THE FIRST DECADE OF THE TWENTY-FIRST CENTURY

14. In considering agenda item 4, the meeting had before it a note by the secretariat presenting two documents, the first entitled "Possible components of a programme for the development and periodic review of environmental law for the first decade of the twenty-first century" (UNEP/Env.Law/4/2), and the second entitled "Implementation of the Programme for the Development and Periodic Review of Environmental Law for the 1990's" (UNEP/Env.Law/4/3). The secretariat briefly outlined the contents of these documents for the representatives before they began their deliberations.

15. Before turning to a detailed examination and debate of the possible environmental law programme components set out in document UNEP/Env.Law/4/2, the representatives expressed their general observations regarding the document. Many representatives expressed appreciation for the efforts made by UNEP and the international group of experts in preparing the document. Several representatives stated that a number of issues should be added. Those included urban environmental issues, environmental problems arising from the presence of refugees, certain aspects of marine pollution and the need to take traditional knowledge into account. Mountain ecosystems should also be given the importance they deserved, since many people depended on them for their survival. As regards the term "environmental law," there was a need to define it clearly to distinguish it from other types of law and to clarify in each case where it appeared whether it referred to domestic law, international law or both. Prioritization of actions was also discussed, and the Meeting felt that it was the prerogative of the Governing Council and the implementing agencies.

It was generally felt that emphasis should be laid more on implementing existing laws rather than creating new ones, and it was noted that public participation could play a key role in ensuring that laws were enforced.

16. Following the general remarks, the participants discussed in detail and extensively debated each of the proposed programme elements for the Montevideo Programme III for submission to the Governing Council.

V. CONSIDERATION OF RECOMMENDATIONS

17. In addition, the Meeting debated and produced a draft decision approving the proposed Montevideo Programme III for submission to the Governing Council, along with a recommendation that the Executive Director of UNEP transmit the draft decision to the Governing Council.

VI. OTHER MATTERS

18. The Meeting considered no other matters.

VII. ADOPTION OF THE DRAFT PROGRAMME, RECOMMENDATIONS AND THE REPORT

19. Following the discussion and debate, the Meeting unanimously adopted a proposed Montevideo Programme III for submission to the Governing Council on the basis of the draft contained in documents UNEP/Env.Law/4/CRP.1/Rev.1, UNEP/Env.Law/4/CRP.2, UNEP/Env.Law/4/CRP.4, UNEP/Env.Law/4/CRP.5 and UNEP/Env.Law/4/CRP.6. The proposed programme is set out in annex I to the present report.

20. The Meeting also unanimously adopted the recommendation containing the draft Governing Council decision regarding the proposed Montevideo Programme III on the basis of the draft contained in document UNEP/Env.Law/CRP/3. The recommendation and draft decision are set out in annex II to the present report.

21. The Meeting adopted the present report on 27 October 2000 on the basis of the draft contained in document UNEP/Env.Law/4/L.1.

VIII. CLOSURE OF THE MEETING

22. After the customary exchange of courtesies, the Chair declared the Meeting closed at 1:00 p.m. on Friday, 27 October 2000.

Annex I

THE DRAFT PROGRAMME FOR THE DEVELOPMENT AND PERIODIC REVIEW OF ENVIRONMENTAL LAW FOR THE FIRST DECADE OF THE TWENTY-FIRST CENTURY

The following programme areas, together with the respective objectives, strategies and actions, are proposed as a non-exhaustive list of elements for the Programme. UNEP, in accordance with its catalytic role, will take action in these areas in coordination with States, conferences of the parties and secretariats of multilateral environmental agreements, other international organizations, non-State actors and persons. For UNEP, the implementation of these activities should be consistent with UNEP's biennial programmes of work.

I. EFFECTIVENESS OF ENVIRONMENTAL LAW

1. Implementation, compliance and enforcement

Objective: To achieve effective implementation of, compliance with, and enforcement of environmental law.

Strategy: Promote the effective implementation of environmental law through, *inter alia*, the widest possible participation in multilateral environmental agreements and the development of relevant strategies, mechanisms and national laws.

Action:

- (a) Conduct studies on:
 - (i) The effectiveness of, and compliance with, international environmental law, identifying the underlying causes of non-compliance; and
 - (ii) The environmental effectiveness of domestic environmental law, with the consent and cooperation of the relevant State or States;
- (b) Identify effective means to address major constraints faced especially by developing countries, and, in particular, the least developed among them, and countries with economies in transition in implementing environmental law;
- (c) Cooperate with States, particularly by providing assistance to developing countries, and, in particular, the least developed among them, and countries with economies in transition, in:
 - (i) Establishing and strengthening domestic law to improve compliance with international environmental obligations and enforcement of such obligations through domestic law;
 - (ii) Developing national environmental action plans or strategies and, where appropriate, regional action plans or strategies, to assist in the implementation of international environmental obligations;
- (d) Develop, where appropriate, as advice to competent national authorities, model laws or equivalent guidance materials for the implementation of international environmental instruments;

- (e) Prepare comparative analyses of compliance mechanisms, including reporting and verification mechanisms, under different multilateral environmental agreements and, where appropriate, under agreements in other fields of international law;
- (f) Promote facilitative means of implementation of, and compliance with, international environmental law and, in this regard, study the efficacy of financial mechanisms, technology transfer and economic incentives under existing international environmental law instruments;
- (g) Promote the use, where appropriate, of disincentives, including effective civil liability mechanisms, to encourage compliance with environmental law;
- (h) Evaluate and, as appropriate, promote the wider use of criminal and administrative law in the enforcement of domestic environmental laws and standards;
- (i) Explore options for advancing the effective involvement of non-State actors in promoting implementation of, and compliance with, international environmental law and its enforcement at the domestic level;
- (j) Promote further regional cooperation for enhancing implementation of, and compliance with, international environmental law;
- (k) Encourage, during the development of new international environmental legal instruments, consideration of the implementation and enforcement aspects of those instruments.

2. Capacity-building

Objective: To strengthen the regulatory and institutional capacity of developing countries, in particular the least developed and small island developing States, and countries with economies in transition, to develop and implement environmental law.

Strategy: Provide appropriate technical assistance, education and training to those concerned, based on assessment of needs.

Action:

- (a) Assist the development and strengthening of domestic environmental legislation, regulations, procedures and institutions;
- (b) Arrange seminars, workshops and exchange programmes for government officials, the judiciary, the legal profession and others concerned, on environmental law and policy, including on the implementation of international environmental instruments;
- (c) Provide appropriate training and support to enhance the participation of representatives from developing countries, particularly the least developed among them and small island developing States, and countries with economies in transition, in international meetings and negotiations related to environmental law;
- (d) Produce and disseminate environmental law publications to serve as tools of capacity-building;
- (e) Promote the teaching of domestic, international and comparative environmental law in universities and law schools, and to this end, develop teaching materials, including video and other electronic media;
- (f) Collaborate with governments and relevant international bodies in facilitating educational programmes in environmental law at the national and regional levels;

(g) Strengthen coordination among relevant international organizations and institutions, including those that provide financing, on educational projects and programmes related to environmental law, its implementation and enforcement and the underlying causes of environmental damage.

3. Prevention and mitigation of environmental damage

Objective: To strengthen measures to prevent environmental damage, and to mitigate such damage when it occurs.

Strategy: Promote the development and application of policies and measures to prevent environmental damage and mitigate such damage by means, inter alia, of restoration or redress, including compensation, where appropriate.

Action:

(a) Promote, where appropriate, efforts by States to develop and adopt minimum international standards at high levels of protection and best practice standards for the prevention and mitigation of environmental damage;

(b) Conduct studies, with the consent and cooperation of the States concerned, on the effectiveness of existing regimes of civil liability as a means of preventing environmentally harmful activities and mitigating environmental damage, and provide expertise to States to enhance the effectiveness of such regimes;

(c) Conduct studies, with the consent and cooperation of the States concerned, on the adequacy and effectiveness of ways and means of providing compensation, remediation, replacement and restoration for environmental damage, including methods of valuation, and encourage efforts by States to develop and adopt standard environmental economic valuation tools and techniques for such valuation;

(d) Support the development by States of processes and procedures for victims and potential victims of environmentally harmful activities, regardless of their nationality, to:

(i) Ensure appropriate access to justice; and

(ii) Provide appropriate redress, including the possibility of compensation, inter alia, through insurance and compensation funds;

(e) Promote collaboration among governments, international organizations and civil society in strengthening regimes for prevention and mitigation of environmental damage;

(f) Assist developing countries, in particular the least developed among them, and countries with economies in transition in the development and application of legislative, administrative and institutional mechanisms for implementing international instruments and domestic policies relating to prevention and mitigation of environmental damage.

4. Avoidance and settlement of international environmental disputes

Objective: To improve the effectiveness of measures and methods for avoiding and settling international environmental disputes.

Strategy: Develop and promote new and existing means for avoiding environmental disputes and, where such avoidance is not possible, for their peaceful settlement.

Action:

(a) With respect to the avoidance of environmental disputes, encourage States to:

- (i) Regularly exchange environmental data and information;
 - (ii) Assess transboundary environmental impacts of planned activities;
 - (iii) Undertake early notification and consultation concerning planned activities that may have significant adverse impacts in other States or in areas beyond the limits of national jurisdiction;
 - (iv) Undertake monitoring, fact-finding, reporting and other means and procedures for verifying compliance and addressing non-compliance;
 - (v) Consider, as appropriate, innovative approaches to dispute avoidance, such as the use of third-party neutrals to facilitate open and complete information exchange, particularly among parties with differing levels of technical expertise.
- (b) With respect to the settlement of environmental disputes:
- (i) Study the actual and potential facilitative role of international bodies and agencies in the settlement of environmental disputes, including, where appropriate, through environmental ombudsmen;
 - (ii) Study experience regarding dispute settlement provisions of international environmental agreements in order to assess the effectiveness of those provisions;
 - (iii) Identify the most effective mechanisms for settling environmental disputes;
 - (iv) Facilitate the use of expert opinions, as appropriate, for settling environmental disputes;
 - (v) Promote innovative approaches and mechanisms for settling environmental disputes;
- (c) Study the experience gained in the operation of dispute settlement mechanisms in other fields of international law;
- (d) Examine the relationship between dispute settlement systems in international environmental agreements and those in other international regimes, including regimes relating to trade and investment;
- (e) Provide training in rules and procedures concerning environmental dispute avoidance and settlement for government officials and the legal profession, including the judiciary.

5. Strengthening and development of international environmental law

Objective: To strengthen and further develop international environmental law, building on the existing foundations.

Strategy: Encourage international action to address gaps and weaknesses in existing international environmental law and to respond to new environmental challenges.

Action:

- (a) Undertake assessments of existing and emerging challenges to the environment in order to identify gaps and weaknesses, including inter-linkages and cross-cutting issues, in international environmental law and specify the role it should play in responding to those challenges;
- (b) Develop criteria for determining the need for and feasibility of new international environmental instruments, taking into account existing instruments and practice;

(c) Review the application of the principles contained in the 1972 Stockholm Declaration of the United Nations Conference on the Human Environment and the 1992 Rio Declaration on Environment and Development, identify the extent to which they are applied internationally and disseminate the resulting information to States;

(d) Examine other fields of international law for the purpose of identifying emerging concepts, principles and practices relevant to the development and implementation of environmental law;

(e) Assist governments, particularly those of developing countries, and in particular the least developed among them, and countries with economies in transition, in the development of bilateral, regional and global legal instruments in the field of the environment, involving for this purpose the expertise and experience of all concerned;

(f) Strengthen collaboration within the United Nations system as well as with other intergovernmental bodies in their work on the development of instruments relevant to the environment and, in particular, encourage, where appropriate, the integration of sustainable development in those instruments;

(g) Encourage efforts by academics and researchers towards better organization of international environmental law, starting with its compilation as a possible step towards codification.

6. Harmonization and coordination

Objective: To promote, where appropriate, harmonized approaches to the development and implementation of environmental law and encourage coordination of relevant institutions.

Strategy: Promote domestic, regional and global actions towards the development and application of appropriate harmonized approaches to environmental law and encourage coherence and coordination of international environmental law and institutions.

Action:

(a) Assist States to:

(i) Improve progressively their environmental standards on a global or regional level;

(ii) Promote coherence between environmental law and other laws, both at domestic and international levels, to ensure that they are mutually supportive and complementary;

(iii) Study the ways in which developing countries have integrated environmental policy into their governmental processes and advise governments on this subject;

(b) Conduct studies on the legal aspects of, obstacles to and opportunities for consolidating and rationalizing the implementation of multilateral environmental agreements, so as to avoid duplication of their work and functions;

(c) Improve ways of harmonizing and otherwise rationalizing the reporting obligations in multilateral environmental agreements.

7. Public participation and access to information

Objective: To improve the quality of decision-making in environmental matters through increased transparency, access to information and public participation.

Strategy: Promote and further develop means in law and practice to increase transparency, strengthen access to information and improve public participation in processes leading to decision-making relating to the environment.

Action:

- (a) Collect, study and disseminate information on the law and practice relating to access to information, public participation in processes leading to decision-making and access to judicial and administrative proceedings relating to environmental matters;
- (b) Assist developing countries, and in particular the least developed among them, and countries with economies in transition, in developing means in law and practice to collect and disseminate information concerning the environment;
- (c) Explore means in law and practice for promoting appropriate public participation in the implementation of, compliance with and enforcement of environmental law;
- (d) Review procedures and practices with regard to public participation and access to information at international institutions and in negotiations and other activities related to sustainable development;
- (e) Organize training on laws and procedures relating to access to environmental information and public participation in processes leading to environmental decision-making;
- (f) Investigate the need for and feasibility of new international instruments on access to information, public participation in processes leading to decision-making and access to judicial and administrative proceedings relating to environmental matters.

8. Information technology

Objective: To improve the development, content, effectiveness and awareness of environmental law through the use of new and existing information technology.

Strategy: Promote the appropriate use of new and existing information technology in the development, implementation and enforcement of environmental law, as well as the dissemination of information relating to environmental law, taking into account the special needs and circumstances of countries that may lack access to some or all aspects of information technology.

Action:

- (a) Study and promote ways in which new and existing information technologies can be used to:
 - (i) Assist in the development of environmental laws;
 - (ii) Promote dialogue and public participation on environmental matters with respect to, inter alia, environmental impact assessment;
 - (iii) Avoid or settle environmental disputes;
 - (iv) Strengthen enforcement and compliance;
 - (v) Increase efficiency in the cooperative activities of multilateral environmental agreements;
 - (vi) Improve education in environmental law;
- (b) Explore the tools to improve existing international arrangements and build new ones for access to, processing of and dissemination of information on environmental legislation from national and international sources;

- (c) Promote methods for using the Internet and information technology to enhance public awareness of environmental law and to make international instruments and other documents available, including in all United Nations languages;
- (d) Support efforts to ensure that environmental agencies, institutions and organizations, particularly in developing countries, have access to World Wide Web legal databases;
- (e) Further develop the United Nations Environment Programme (UNEP) Web page and promote further development of the Web pages of multilateral environmental agreements;
- (f) Promote the use and further development of the joint UNEP/World Conservation Union (IUCN) environmental law database (ECOLEX).

9. Innovative approaches to environmental law

Objective: To improve the effectiveness of environmental law through the application of innovative approaches.

Strategy: Identify and promote innovative approaches, tools and mechanisms that will improve the effectiveness of environmental law.

Action:

- (a) Assess State practice in utilizing tools such as eco-labelling, certification, pollution fees, natural resource taxes and emissions trading and assist, as appropriate, in the use of such tools;
- (b) Promote the development and assess the effectiveness of voluntary codes of conduct and comparable initiatives that promote environmentally and socially responsible corporate and institutional behaviour, to complement domestic law and international agreements;
- (c) Encourage consideration of the use of spokesmen for environmental values and concerns, including for the interests of future generations;
- (d) Study the contribution that other fields of law can make to environmental protection and sustainable development;
- (e) Enhance, through studies, the relationship of indigenous and local communities embodying traditional lifestyles to the management and protection of the environment;
- (f) Promote ecosystem management in law and practice, including the valuation of services provided by ecosystems, such as environmental benefits;
- (g) Encourage the development of legal and policy frameworks for reducing the debt burdens of developing countries in ways that benefit the environment.

II. CONSERVATION AND MANAGEMENT

10. Freshwater resources

Objective: To enhance the conservation, protection, integrated management and sustainable use of freshwater resources, both ground and surface water.

Strategy: Encourage the development of national and regional policies, action plans and, where appropriate, legal instruments for the conservation, protection, regeneration, integrated management and maintenance of the quality and sustainable use of freshwater resources.

Action:

- (a) Encourage international cooperation to the end of ensuring access to clean drinking water, particularly in countries affected by the problem of drought or lack of water;
- (b) Encourage States to develop and apply law and policies for the purposes of the sustainable use of freshwater resources and their protection from contamination and other threats;
- (c) Encourage actions by States, individually and collectively, to improve conservation, protection, integrated management and maintenance of the quality and sustainable use of freshwater resources;
- (d) Assess experiences of States with regard to water supply, waste water treatment and sanitation;
- (e) Continue its work on reviewing the environmental aspects of transboundary watercourses.

11. Coastal and marine ecosystems

Objective: To promote and improve the integrated management, conservation and sustainable use of coastal and marine resources and ecosystems.

Strategy: Promote the effective implementation of international instruments and domestic laws and policies for the integrated management, conservation and sustainable use of coastal and marine resources and ecosystems.

Action:

- (a) Promote respect for and effective implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and other international instruments relating to protection and sustainable use of coastal and marine resources and ecosystems;
- (b) Assist governments and relevant international bodies in the implementation and further development of regional seas conventions, protocols and related action plans;
- (c) Collaborate with relevant international bodies on legal issues relating to the enhancement of the conservation and sustainable management of marine resources, including fisheries;
- (d) Study and, as appropriate, promote land use planning and the creation of marine protected areas for the integrated management, conservation and sustainable use of coastal ecosystems;
- (e) Explore the means in law and practice, including through regional seas conventions, for improving the protection of coral reefs, wetlands, mangroves and other coastal and marine ecosystems;
- (f) Collaborate with relevant international bodies in further integrating environmental considerations into rules relating to navigational safety.

12. Soils

Objective: To improve the conservation, rehabilitation and sustainable use of soils.

Strategy: Promote the development and implementation of laws and policies for enhancing the conservation, sustainable use and, where appropriate, rehabilitation of soils.

Action:

- (a) Review domestic land use laws, change of land use laws and tenure systems with the aim of achieving soil conservation and reclamation goals;
- (b) Promote the integration of soil conservation measures into relevant domestic laws, taking into account, where appropriate, relevant international instruments such as the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa.

13. Forests

Objective: To enhance the conservation and sustainable use of all types of forests.

Strategy: Promote the development and implementation of measures aimed at the protection, conservation and sustainable use of all types of forests.

Action:

- (a) Promote the integration of environmental concerns into domestic forest policies and legislation and the integration of forest conservation goals into other laws related to the use of forests;
- (b) Promote, where appropriate, means in domestic law and practice that provide incentives and remove disincentives for local people to conserve forests;
- (c) Encourage the elaboration of domestic laws and enhanced international cooperation in the prevention, assessment, monitoring and mitigation of forest fires;
- (d) Assist in coordination among international institutions in the development and implementation of internationally agreed actions on forests.

14. Biological diversity

Objective: To enhance the conservation of biological diversity, the sustainable use of its components, biosafety and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources.

Strategy: Promote, in consultation and cooperation with the Conference of the Parties and the secretariat of the Convention on Biological Diversity, the development and implementation of national, regional and global policies and legal instruments, as appropriate, for the conservation and sustainable use of biological diversity in all ecosystems, for the fair and equitable sharing of benefits arising out of such use and for biosafety.

Action:

- (a) Promote the development and application of domestic laws for the conservation and sustainable use of biological diversity in situ and ex situ, including through ecosystem management and land use

policies, as well as for the fair and equitable sharing of the benefits arising out of the utilization of genetic resources and for biosafety;

(b) Assist developing countries, in particular the least developed among them and the small island developing States, and countries with economies in transition, in the development and application of legislative, administrative and institutional measures for the implementation of international instruments concerning biological diversity;

(c) Contribute to the analysis of the relationship between intellectual property rights, the knowledge, innovations and practices of local and indigenous communities and the conservation and use of biological diversity in the context of studying ways and means to prevent and resolve conflict or incoherence between obligations under environmental and trade-related international agreements;

(d) Examine possible international responses to challenges posed by harmful invasive species, taking into account the cross-cutting nature of those problems and work under way in other international fora;

(e) Support the implementation of relevant multilateral environmental agreements, in particular the Convention on Biological Diversity and the Cartagena Protocol on Biosafety.

15. Pollution prevention and control

Objective: To prevent, reduce and control environmental pollution, and take into account the challenges presented by urban development.

Strategy: Strengthen and expand existing and develop new legal instruments and guidelines to prevent, reduce and control environmental pollution.

Action:

(a) Promote the further development of regional agreements to combat transboundary pollution, and in particular transboundary air pollution;

(b) Assist developing countries and countries with economies in transition in strengthening national legislation and institutions to prevent, reduce and control at source pollution, and in particular transboundary air pollution;

(c) Develop and promote means in law and practice for taking measures at the local level to address transboundary air pollution;

(d) Promote the effective implementation of international environmental regimes relating to climate change and ozone layer depletion;

(e) Promote the effective implementation of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;

(f) Promote the effective implementation of multilateral environmental agreements in the field of chemicals, including adherence to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and to a global legally binding instrument on persistent organic pollutants;

(g) Elaborate a strategy to enhance the coherence between environmental and other conventions concerning chemicals;

(h) Promote the development of instruments and arrangements that discourage or prevent the environmentally unsound relocation and transfer to other States of any environmentally harmful activities and substances;

(i) Assist developing countries and countries with economies in transition to develop national pollutant release and transfer registries to promote, *inter alia*, contingency plans, public right-to-know programmes, and cleaner production process methods;

(j) Promote the development of domestic laws and policies that encourage integrated pollution control, pollution prevention, waste minimization and the environmentally sound and safe management of chemicals and assist developing countries, in particular the least developed among them, and countries with economies in transition, to achieve this objective;

(k) Promote laws and policies that support environmentally sound planning and environmental impact assessment at the national level;

(l) Develop guidelines and other instruments to improve the management of wastes in the context of urbanization and related challenges;

(m) Intensify its work, including undertaking appropriate legal studies, to more effectively address environmental problems of urban areas, coordinating closely with other relevant international organizations, including the United Nations Centre for Human Settlements (UNCHS) (Habitat);

(n) Conduct studies on particular issues and challenges associated with environmental impact assessments in urban areas.

16. Production and consumption patterns

Objective: To improve the sustainability of ecosystems through adequate patterns of production and consumption.

Strategy: Develop and apply means in law and practice to promote sustainable patterns of production and consumption.

Action:

(a) Identify and promote best practices and innovative laws and policies aimed at achieving sustainable production and consumption;

(b) Study best practices and innovative laws and policies that define the role and duties of the producer as well as the consumer in achieving sustainable production and consumption;

(c) Develop guidelines and promote the adoption of environmentally sound procurement policies by governments and international organizations.

17. Environmental emergencies and natural disasters

Objective: To improve the ability of the international community to prevent and respond to environmental emergencies arising from man-made and natural disasters.

Strategy: Develop further laws and policies aimed at preventing man-made disasters and responding to and mitigating man-made and natural disasters.

Action:

- (a) In close cooperation with governments, public organizations and civil society, develop and promote policies, laws and institutions to prevent man-made disasters, and respond to and mitigate man-made and natural disasters;
- (b) Promote international cooperation in establishing mechanisms for disaster prevention and preparedness, including early warning systems for environmental emergencies;
- (c) Study the need for and feasibility of the development of legal frameworks for international cooperation, in particular at the regional level, addressing man-made and natural disasters;
- (d) Collaborate with relevant bodies to address legal issues relating to the phenomenon of environmentally disruptive ocean currents, in particular the "El Niño" phenomenon.

III. RELATIONSHIP WITH OTHER FIELDS

18. Trade

Objective: To secure environmental protection objectives in international trade, investment and financial laws and policies in order to achieve sustainable development and the appropriate balance between trade and environmental objectives.

Strategy: Encourage further the complementarity and mutual supportiveness of measures relating to environmental protection and international trade, investment and finance.

Action:

- (a) Identify and promote, through collaboration among governments, relevant organizations and civil society, legal instruments that integrate in a complementary and mutually supportive manner:
 - (i) Environmental and trade laws and policies;
 - (ii) Environmental and investment laws and policies;
- (b) Identify and promote, through collaboration among governments, relevant organizations and civil society:
 - (i) Modalities for financing measures designed to resolve environmental problems, taking into account the linkage between environmental degradation and poverty;
 - (ii) Economic and fiscal instruments for environmental protection and resource management;
- (c) Conduct studies to identify means of promoting optimal coherence between obligations under environmental and trade-related international agreements;
- (d) Promote and facilitate common international approaches to environmental problems as a means of anticipating and avoiding potential unilateral actions that could lead to environment and trade disputes;
- (e) Encourage the resolution of trade disputes within the appropriate fora in ways that ensure the full and effective consideration of relevant environmental concerns and information, as well as transparency and public participation;

(f) Assist in developing the methodology for, and promote the implementation of, environmental impact assessments of investment and trade liberalization policies, particularly through capacity-building in developing countries and countries with economies in transition;

(g) Collaborate with private and public financial institutions, including export credit agencies, in the further development of guidelines and standards with respect to environmental impact assessment, public participation and environmental protection, for investments in developing countries.

19. Security and the environment

Objective: To encourage integration of the environmental dimension into traditional concepts of security.

Strategy: Encourage the consideration of environmental issues in policies, law and institutions related to national, regional and global security.

Action:

(a) Study further the subject of the relationship between environmental protection and security issues;

(b) Encourage studies on the concept of security and the environment.

20. Military activities and the environment

Objective: To reduce or mitigate the harmful effects of military activities on the environment and to encourage a positive role for the military sector in environmental protection.

Strategy: Collaborate with governments and international organizations concerned in developing and promoting compliance with environmental protection norms relating to military activities so as to avoid and mitigate environmental damage.

Action:

(a) Survey, with the cooperation of States, application of environmental norms, standards and procedures to military activities;

(b) Study the adequacy of, and identify any gaps in, existing legal regimes in protecting the environment from military activities, including to what extent the rules on warfare are protective of the environment, to what extent international environmental obligations apply during times of armed conflict and to what extent the military sector complies with national and international environmental obligations during peacetime;

(c) Develop and clarify norms regarding the environmental impacts of military activities, in particular by:

(i) Reviewing, with the cooperation of States, the effectiveness of existing regimes for environmental protection with respect to military activities;

(ii) Reviewing, with the cooperation of States, existing codes of conduct, rules of engagement and manuals for armed forces to determine how they address environmental protection, and developing on that basis a model code of conduct or rules of engagement designed to reduce the likelihood of environmental damage through military activities;

(iii) Exploring the feasibility of a general agreement for the protection of certain designated areas of natural and cultural heritage in times of armed conflict;

(d) Promote laws and policies that encourage consideration, in designing new weapons and military equipment, of their environmental effects throughout their life cycle, i.e., in their production, transport, use and disposal;

(e) Study the feasibility of developing legal mechanisms for mitigating damage caused by military activities, especially concerning:

(i) The removal of military hardware that harms the environment;

(ii) The restoration of the environment damaged by military activities;

(f) Undertake actions to enhance legal and institutional capacity to prevent and reduce environmental damage from military activities, by developing opportunities for training for civil and military staff in the military establishments in the application of legal norms of environmental protection.

Annex II

DRAFT RECOMMENDATION

The Meeting recommends to the Governing Council that at its twenty-first session it consider adoption of a decision along the following lines:

“The Governing Council,

Recalling its decision 20/3 of 3 February 1999,

Recalling the mandate of the United Nations Environment Programme in the field of the environment as reflected in the Nairobi Declaration, the Malmö Ministerial Declaration, and the Programme for the Further Implementation of Agenda 21 adopted by the General Assembly at its nineteenth special session in resolution S-19/2,

Having considered the outcome of the Meeting of Senior Government Officials Expert in Environmental Law to Prepare a Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century, held in Nairobi from 23 to 27 October 2000;

Takes note with appreciation of the work of the United Nations Environment Programme, as described in document UNEP/Env.Law/4/3, in implementing the Programme for the Development and Periodic Review of Environmental Law for the 1990s;

Adopts the Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century, as set out in annex I to the report of the Meeting of Senior Government Officials Expert in Environmental Law to Prepare a Programme of Work for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century (UNEP/Env.Law/4/4), as the broad strategy for the activities of the United Nations Environment Programme in the field of environmental law for the first decade of the twenty-first century;

Requests the Executive Director to implement the Programme, within available resources, through the programmes of work of the United Nations Environment Programme and in close collaboration with States, conferences of the parties and secretariats of multilateral environmental agreements, other international organizations, non-State actors and persons;

Decides to review the implementation of the Programme not later than at its regular session in 2005.”
