

UNITED NATIONS ENVIRONMENT PROGRAMME

ADVANCING THE MILLENNIUM DEVELOPMENT GOALS THROUGH THE RULE OF LAW

UNEP ROUND-TABLE DIALOGUE

Nairobi, 16-17 February 2005

UNEP Background Paperⁱ

Law as an instrument for translating the Millennium Development Goals into action

1. Rationale

This Round-Table Dialogue is being convened on the eve of the 23rd session of the UNEP Governing Council, with a view to providing a crucial input to the discussions on the Millennium Development Goals (MDGs), one of the most important items on the agenda of this session of the Governing Council. The principal objective of the Round-Table Dialogue is to develop elements of the legal and institutional framework required for promoting the realization of Millennium Development Goal 7 (to ensure environmental sustainability) and other related Millennium Development Goals, in particular MDG-1 (to eradicate extreme poverty and hunger), MDG-3 (to promote gender equality and empower women) and MDG-8 (to develop a global partnership for development). It is therefore proposed that the outcome of the Round-Table Dialogue will be a set of recommendations to the Executive Director of UNEP on elements of the legal and institutional framework required for promoting the realization of MDG-7 and other related MDGs, to be presented to the Governing Council on behalf of the Round-Table.

2. Rule of Law: a fundamental principle of the United Nations

As the UN Secretary-General in its address to the General Assembly of 21 September 2004ⁱⁱ noted, the vision of “a government of laws and not of men” is almost as old as civilisation itself. More than three thousand years ago, Hammurabi (the ruler of Babylon) promulgated a code of laws, and had these engraved on a huge stone tablet and placed in the public square. Much of Hammurabi's codeⁱⁱⁱ now seems impossibly harsh. But etched into its tablets are principles of justice that have been recognised, if seldom fully implemented, by almost every human society since his time, including: a) Legal protection for the poor; b) Restraints on the strong, so that they cannot oppress the weak; and c) Laws should be publicly enacted, and known to all. Yet today, the Secretary-General warns, the rule of law is at risk around the world and fundamental laws are shamelessly disregarded. At the

international level, all States need a framework of fair rules, which each can be confident that others will obey. Fortunately, such a framework exists, including in the environmental field. From hazardous wastes to protection of species, States have created an impressive body of norms and laws. But this does not imply that this body of treaty law has created an effective legal system. Rule of law as a mere concept is not enough. Laws must be put into practice, and permeate the fabric of our lives. Also, strengthened enforcement systems of rules need to be inclusive and to fairly reflect the interests of major stakeholders. The concept of the rule of law will be further elaborated under section 8 below.

3. Interdependence

3.1. Much has been written about the increasing interdependency of States in the environmental field, especially related to the interrelatedness of environmental issues given their transboundary, and often global nature. It is a well-recognized fact that States need to cooperate in order to tackle environmental problems. What happens in one part of the world can affect other areas – be it toxic pollutants from Asia, Europe and North America contaminating the Arctic, or the greenhouse gases of the industrialized regions triggering droughts or the melting of glaciers in developing ones.

3.2. The other aspect of interdependency is of more recent origin. The environment cannot be treated anymore as an isolated issue. Not only environmental issues are transboundary by nature, but also environmental solutions, environmental policy, and environmental legal answers. This was recognized, first in the concept of sustainable development, where the environment formed one of its pillars, together with social and economic development. But it does not stop there: Environmental degradation cannot be seen anymore as separate from poverty, from gender inequality, from trade negotiations, from healthcare, from governance. And here is where the Millennium Development Goals come in.

3.3. Another aspect of interdependency that might be recognized is the one that arises out of tensions, which need to be approached in a complete way, but continue to be treated separately by distinctive institutions. The tension between development and protection of the environment, short term (economical/social) needs and long term (environmental/social) concerns, and the tension between developing a legal framework and implementing it.

4. Millennium Development Goals

4.1. The Millennium Development Goals are the world's time-bound and quantified targets for addressing extreme poverty in its many dimensions - income poverty, hunger, disease, lack of adequate shelter, and exclusion, while promoting gender equality, education, and environmental sustainability. They also represent basic human rights - the rights of each person on the planet to health, education, shelter, and security as pledged in many international instruments, among others, the UN Millennium Declaration.

4.2. The United Nations Millennium Declaration makes several references to the Rule of Law. It states that respect for the rule of law in international as in national affairs has to be strengthened, in particular, to ensure compliance by Member States

with the decisions of the International Court of Justice, in compliance with the Charter of the United Nations, in cases to which they are parties. Also, no effort should be spared to promote democracy and strengthen the rule of law, as well as respect for all internationally recognized human rights and fundamental freedoms, including the right to development.

4.3. In 1998, the General Assembly adopted resolution 53/202 by which it decided to convene in September 2000 the United Nations Millennium Summit. The outcome of this Summit was unanimously adopted in September 2000 in UNGA Resolution 55/2, the Millennium Declaration. The goals that were included in this Declaration became known as the United Nations Millennium Development Goals. In 2001, after extensive consultations, the Secretary-General presented the road map toward implementation of the Millennium Declaration, to set out in detail how the commitments of the Millennium Summit could be fulfilled.

4.4. The Millennium Development Goals commit the international community to an expanded vision of development, one that vigorously promotes human development as the key to sustaining social and economic progress in all countries, and recognizes the importance of creating a global partnership for development. The MDGs, accompanied by a set of targets and indicators, also became universally accepted as a framework for measuring development progress.

4.5. The eight Goals are:

- to eradicate extreme poverty and hunger,
- to achieve universal primary education,
- to promote gender equality and empower women,
- to reduce child mortality,
- to improve maternal health,
- to combat HIV/AIDS, malaria and other diseases,
- to ensure environmental sustainability, and
- to develop a global partnership for development.

All 191 United Nations Member States have pledged to meet these goals by the year 2015.

4.6. The MDGs are accompanied by 18 concrete targets, which have been developed to give a more specific analysis of the goals, and 48 indicators to measure if the goals are effectively being achieved.

5. Environment and the Millennium Development Goals

5.1. The 2002 World Summit on Sustainable Development, which was taking stock of the achievements, challenges and new issues arising since the 1992 United Nations Conference on Environment and Development, produced the Johannesburg Declaration on Sustainable Development and Plan of Implementation. It assumed “ a collective responsibility to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development”. It also recognized that poverty eradication, changing consumption and production patterns, and protecting and managing the natural resource base for economic

and social development are three over-arching objectives of sustainable development and essential requirements of it.

5.2. Every year the Secretary-General issues a report on the implementation of the United Nations Millennium Declaration. The latest report, of August 2004, notes on the implementation of MDG-7 that “Even regions that have made significant progress towards achieving many other goals, such as parts of Asia, tend to have a poorer record on environmental issues.” It indicates that progress in the implementation of the global conventions has been mixed, including because of lack of financial resources to do so. It further states that “the terrible consequences of disasters resulting from environmental hazards continue to fall disproportionately on the shoulders of the world’s poor” and that interventions geared towards mitigating the adverse effects of disasters and crises are a vital part of efforts to achieve the Millennium Development Goals.

6. UNEP and the Millennium Development Goals

6.1. The MDGs clearly are a ‘package’ and all MDGs are intertwined with one another, but given UNEP’s mandate and programme of work, this Background Paper focuses primarily on MDG-7 (ensuring environmental sustainability). However, UNEP attaches great importance to the implementation all MDGs, but at this stage focuses in particular on MDG-1 on poverty, MDG-3 on women and MDG-8 on a global partnership. For a elaborate discussion on implementation of the internationally agreed development goals of the Millennium Declaration, see document UNEP/GC.23/10 of 21 December 2004 which is also distributed to participants of the Round-Table Dialogue. It elaborates in particular on poverty reduction and environmental sustainability; gender and the environment; and water, sanitation and human settlements.

6.2. It can be argued that MDG-7 has been the fundamental objective of UNEP since its creation following the 1972 Stockholm Conference on Human Development. As detailed in the 2002 Johannesburg Declaration on Sustainable Development “[l]oss of biodiversity continues, fish stocks continue to be depleted, desertification claims more and more fertile land, the adverse effects of climate change are already evident, natural disasters are more frequent and more devastating, and developing countries more vulnerable, and air, water and marine pollution continue to rob millions of a decent life”. UNEP’s key role in the development and implementation of international environmental law as a means to achieve environmental sustainability was reinforced in Agenda 21 at the 1992 United Nations Conference on Environment and Development.

6.3. UNEP has given concrete expression to its mandate through a series of three Programmes for the Development and Periodic Review of Environmental Law (the Montevideo Programmes), first adopted in 1981, each for a ten-year period. Montevideo III, the Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-First Century, was approved by UNEP Governing Council in decision 21/23. Montevideo III includes twenty components, organized under three major themes: (1) effectiveness of environmental law; (2) conservation and management; and (3) relationship with other fields.

6.4. The actions UNEP has taken to fulfil its mandate include drafting international legal instruments, providing legal assistance to countries, training government officials, dissemination of environmental law information, and judicial outreach.

6.5. In recent years UNEP has paid increasing attention to the judiciary and other legal stakeholders as a focal point for the promotion of environmental law at the national level. The Judiciary is a crucial partner in the development, interpretation, implementation and enforcement of environmental law. UNEP has thus started a Judges Programme, targeted at the more specific needs of judicial stakeholders. The initiative is based on the idea that the role of the Judiciary is fundamental in the promotion of compliance with and enforcement of international and national environmental law.

6.6. To fulfil the demands of GC decision 22/17 II A of 2003, UNEP established a programme of work to carry out, on a cohesive, structured and sustained basis, national activities under the direction and guidance of the respective Chief Justices, for strengthening the role of the judiciary in securing environmental governance, adherence to the rule of law and the effective implementation of national environmental policies, laws and regulations including the national level implementation of multilateral environmental agreements.

6.7. This programme implemented by the Environmental Law Branch of UNEP's Division of Policy Development and Law, in collaboration with relevant Divisions and Regional Offices of UNEP as well as several partner agencies and NGOs. To facilitate the realization of capacity-building activities at national level, nine Regional Chief Justices Needs-Assessment and Planning Meetings have been carried out through the last years. These Meetings have drawn up needs-responsive and country specific national programmes of work for strengthening judicial capacity in the area of environment and sustainable development. These national programmes of work are now being implemented at the national level by the Chief Justices and the respective national judicial training institutions, and will be supported by UNEP in partnership with a global alliance of partners. UNEP will continue to give priority to securing active judicial involvement in promoting the rule of law in the area of environmental law and sustainable development.

6.8. For the past several decades, the work of UNEP and other institutions, national and international, has demonstrated two essential facts in relation to MDG-7: (1) its objective cannot be fulfilled without a strong legal and institutional framework, i.e. without the rule of law; and (2) MDG-7 is inextricably intertwined with the achievement of other MDGs. As stated in the 2000 UNEP Malmö Ministerial Declaration (para. 13), “the root causes of global environmental degradation are embedded in social and economic problems such as pervasive poverty, unsustainable production and consumption patterns, inequity in distribution of wealth, and the debt burden.” The UN Millennium Declaration also emphasized that success in achieving development and poverty eradication “depends, inter alia, on good governance within each country” and “on good governance at the international level and on transparency in the financial, monetary and trading systems.” Thus, achievements in fulfilling one MDG may have synergistic effects in advancing other goals and failure to achieve progress in one or more goals is likely to hamper achievement of others.

6.9. Thus, as UNEP moves forward with Montevideo III, its actions and priorities must be cast more broadly, to consider the role of law and the rule of law in poverty alleviation, fulfilment of basic needs such as water and housing, and gender equality. Although the subject matter expands, the techniques developed thus far by UNEP will continue to be necessary and will involve development of educational and training materials, judicial outreach and partnership, and assistance with the development of and mechanisms to ensure compliance with national laws to implement international environmental agreements and other international instruments that impact the achievement of environmental sustainability and sustainable development.

7. The Role of Law

7.1. Protection of the environment often requires rethinking and changing economic practices and sometimes even ways of life, as well as assuming and sharing new responsibilities and costs. One aim of law is to modify human behaviour. With moral foundations, the sanction of legitimacy, and proper institutions to ensure compliance, law can be a strong influence on individual and group behaviour. Moreover, entrenchment of legal rights can empower the poor, weak and marginalized of society, breaching cycles of violence and impoverishment that lead to environmental degradation.

7.2. Law can also serve to ensure the just and equitable distribution of limited resources. Without a legal framework, the gap between rich or powerful and poor or vulnerable tends to grow. Environmental law is based on addressing two types of scarcity: use of resources at unsustainable levels and the limited capacity of the environment to absorb or render harmless contamination of the environment through pollution and waste.

7.3. The evolving framework of international environmental law and the development of national law already provides a sound basis for addressing the major environmental threats of the day but it must be underpinned by a more coherent and coordinated approach among international environmental instruments and other legal regimes. The central importance of environmental compliance, enforcement and liability must also be addressed.

8. The Rule of Law

8. The rule of law can be considered as having three main dimensions:
1. The creation of legal norms through a legitimate process;
 2. The proper establishment and functioning of institutions of governance; and
 3. Enforcement and compliance procedures including access to justice.

8.1. Norm Creation

8.1.1. The rule of law implies a legitimate, participatory and transparent process for creating norms. The process whereby proposed rules become norms and norms become law is highly important to the legitimacy of the law and legitimacy in turn affects compliance. To a large extent, legitimacy is a matter of participation: the governed must have and perceive that they have a voice in governance through representation, deliberation or some other form of action. Participation may take place through elections, grass roots action, lobbying, public speaking, hearings, and other forms of governance whereby various interests and communities participate in

shaping the laws and decisions that affect them. Effective participation in turn requires informed stakeholders.

- 8.1.2. One of the fundamental rights guaranteed all citizens is the right to take part in public affairs and the government of the country, directly or through freely chosen representatives. The Millennium Declaration affirms that democratic and participatory governance based on the will of the people best assures freedom and dignity. The rule of law, however, also limits the law-making power of the democratic majority (as well as an unlawfully ruling minority) by guaranteeing to all individuals certain fundamental and internationally-guaranteed rights that cannot be over-ridden by the law-making process. Respecting this balance between majority rule and minority rights is essential to the rule of law.
- 8.1.3. Public participation in environmental decision-making is also a well-recognized principle of international environmental law and is contained in the Rio Declaration on Environment and Development as Principle 10. In addition to Principle 10, the Rio Declaration includes provisions on the participation of different components of the population: women (Principle 20), youth (Principle 21), and indigenous peoples and local communities (Principle 22). Most recent multilateral and many bilateral agreements contain references to or guarantees of public participation.^{iv} The participatory process can help foster a consensus on the underlying norm on which the specific rules are based. Such consensus is important in promoting compliance and thus should be fostered at all levels of governance. The common thrust of human rights and environmental law in requiring public participation in governance suggests a value in jointly developing programs and norms.
- 8.1.4. Participation of all stakeholders may enhance compliance because if all those potentially affected by a norm participate in its drafting, they have a certain “ownership” of it. Even if some aspects are unfavourable, they are more likely to comply than if they had no hearing and were excluded from the process. Empowerment can be described as an expansion of freedom of choice and of action to shape one’s life, as well as being able to participate in, negotiate with, influence, control and hold accountable officials and institutions that affect that life. Empowerment contributes to ensuring the effectiveness of sustainable development through good governance. The World Bank has concluded that anti-poverty strategies are more effective when supported by civil liberties and that countries with strong public participation and accountability perform significantly better than those where rights are weakly guaranteed.^v Further empirical study of the impact of participation on compliance is warranted.
- 8.1.5. National implementation of international legal instruments is a sign of a government operating under the rule of law because it demonstrates the government’s willingness to fulfil the obligations it has freely entered into and thus is bound by. Clearly delineating the legally-binding norms and distinguishing them from the recommendatory may be conducive to implementation. In this respect, it may be useful to re-examine the evolving legal status of concepts and principles contained in the Rio Declaration such as precaution, environmental impact assessment, and the duty to warn of transboundary environmental harm.

- 8.1.6. The rule of law also has implications for the content of norms. Laws should be capable of compliance, having sufficient detail and direction that those subject to it should be able to adjust their conduct accordingly. It is not uncommon in legal systems for the judiciary to reject enforcement of laws deemed too vague to apply or which fail to give sufficient notice to the subjects of the conduct required. On the other hand, it may be necessary to retain flexibility, particularly in international law where the situations of States varies considerably. With many international norms and principles drafted in very general terms, national authorities may genuinely not know what is legally required of them; helping to give content to terms such as “precaution” and “equitable benefit-sharing” can assist governments and allow better monitoring of compliance.
- 8.1.7. Justice and equity also emerge in considerations of the rule of law. Studies on compliance show that the characteristics of an agreement matter in fostering compliance: States are more likely to comply with obligations they view as equitable. Equity plays perhaps a more important role in international environmental law than in any other area of international law, because environmental protection is largely concerned with the conservation and allocation of increasingly scarce or threatened resources. In most legal systems, equity has traditionally played a major part in determining the distribution of rights and responsibilities in conditions of scarcity.
- 8.1.8. While the general value of equity, or fairness, is largely accepted, debate centres on the appropriate principle on which to determine equitable allocation. Decisions can be based on notions such as need, prior entitlement, “just deserts” (retribution), the greatest good for the greatest number, and/or strict equality of treatment. In some instances, whatever notion preferred, the result may be the same: the party responsible for polluting a river, for example, may also have better financial and technological means to assume the burden of remediation which has harmed downstream prior uses, thus supporting a decision to impose the remedial burden on the upstream polluter. In other instances, however, the various concepts may point in different directions. It is also possible that a single equitable claim, such as need, may be asserted by more than one actor or group of actors. Much could be done to better articulate appropriate equitable principles for environmental sustainability.
- 8.1.9. Several equitable principles or approaches have become common in international environmental agreements. Indeed, almost all multilateral environmental agreements dealing with shared resources, common heritage, or common goods, contain equitable principles. Capacity-building through the provision of financial resources and transfer of technology are widely included in global multilateral environmental agreements and often become a condition for compliance by developing countries, as in the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer [Article 5(5)]. Explicitly stating that economic and social development and poverty eradication are the first and overriding priorities of developing country parties, the 1992 Convention on Biological Diversity (CBD) and 1992 UN Framework Convention on Climate Change make provision of financial resources and transfer of technology from developed country parties a condition for implementation of treaty obligations by developing country parties. Other conventions, such as the 1994

Desertification Convention, express a concern for the special needs and circumstances of developing countries, particularly the least developed. Equitable benefit-sharing is one of the objectives of the CBD and equitable utilization is a fundamental principle applicable to allocating non-navigational uses of international watercourses.

8.2. *Institutions*

- 8.2.1. The rule of law not only has a focus on the democratic process for adoption of norms; it is also fundamentally concerned with ensuring the proper administration of justice through the subordination of all government officials and bodies to the mandate of the law (“no one is above the law”) and ensuring accountability for misconduct by State and non-State actors.
- 8.2.2. Strong institutions are necessary for compliance and enforcement mechanisms to function properly. Without such institutions monitoring and supervising, compliance cannot be achieved. The norm-creating process can assist the institutions by developing indicators and measures that the institutions can use. The legislative process is also essential for ensuring that institutions are adequately and transparently funded with appropriate actions to prevent and punish corruption in the light of the 2003 UN Convention against Corruption and the 2000 UN Convention on Transnational Organized Crime.
- 8.2.3. The State must organize competent, informed bodies to produce judges who are well aware of environmental problems, as Justice Canivet recently stated.^{vi} An independent and well-trained judiciary is one of the key elements of a legal system operating under the rule of law. The judiciary is also a crucial partner in achieving the appropriate balance between environmental, social and developmental considerations to achieve sustainable development. Ensuring an informed and active judiciary is crucial to achieving the MDGs.
- 8.2.4. The vast domain of activities implicated in achieving MDG-7 on environmental sustainability means that most governmental agencies and institutions are within the reach of environmental law, especially when root causes like poverty and discrimination are made a focus. Institutional streamlining, coordination and cooperation can enhance fulfilment of societal goals, as well as fostering public confidence in an administration functioning under the rule of law. The international legal ordering of environmental protection involves institutional coordination both horizontally and vertically, because it includes not only legal norms intended to govern the behaviour of States and other actors of international law, but also international regulation creating international bodies and determining their functions.
- 8.2.5. The two sides of governance interact: different forms of international cooperation, conferences or permanent institutions create international legal norms whose implementation needs new forms of international institution. Agenda 21, Chapter 38 declared that governments, as well as regional economic and technical cooperation organizations, must play an important role in achieving the goals of UNCED; commitments and actions should be adequately supported by the UN system and

multilateral financial institutions. All agencies of the UN system have a key role to play in the implementation of Agenda 21 and there should be an effective division of labour between them based on their terms of reference and comparative advantages. The overall objective is the integration of environment and development issues at national, sub-regional and international levels.

- 8.2.6. The 2002 Johannesburg Plan of Implementation also proposes to strengthen collaboration within and between the UN system, international financial institutions, the Global Environment Facility and the World Trade Organization, mainly in the perspective of sustainable development (paragraphs 121-137). It is necessary to keep under review relevant arrangements, identify gaps, eliminate duplication of functions, and to continue to strive for greater integration, efficiency and coordination of the economic, social and environmental dimensions of sustainable development aiming at the implementation of Agenda 21 (para 139). Action should be pursued at the regional and sub-regional levels, through the commissions and other regional and sub-regional institutions and bodies (para. 140). The Plan invites partnerships between governmental and non-governmental actors for the achievement of sustainable development at all levels (para 151). The modalities of preparing and implementing such partnerships should be explored as a means to further the MDG goals.

8.3. Procedures

- 8.3.1. A key procedure that can enhance environmental sustainability is one that ensures access to information on environmental conditions, threats, and actions. This is part of Rio Principle 10. Similarly, Chapter 23 of Agenda 21, on strengthening the role of major groups, proclaims that individuals, groups and organizations should have access to information relevant to the environment and development, held by national authorities, including information on products and activities that have or are likely to have a significant impact on the environment, and information on environmental protection matters. Informational rights are also widely found in environmental treaties.^{vii}
- 8.3.2. The proper and full enforcement of legislative and regulatory mandates is a hallmark of governance under the rule of law. In contrast, the failure to enforce law not only frustrates the purpose of the law, but undermines the rule of law. Issues of compliance and enforcement should continue to be emphasized, especially through training of inspectors and prosecutors.
- 8.3.3. Access to justice for those whose international, constitutional or statutory rights have been violated is guaranteed by all global and regional human rights instruments and is contained in most environmental instruments as well. The right to a remedy is thus considered part of the rule of law. It is also widely recognized as a means of empowering marginalized groups such as indigenous people, minorities and women. Ensuring that information is disseminated to such persons and groups about their rights and duties under the law will enhance this process. Equally, judicial education and training on matters of environmental sustainability will be an essential mechanism for furthering all the MDGs.

8.3.4. International environmental agreements provide few avenues of redress for those harmed due to environmental degradation. As a consequence, many individuals and groups have turned to other international complaints mechanisms, particularly those created under international human rights treaties. The growing jurisprudence of international human rights commissions and courts attests to the desire of those affected to ensure the governments are held accountable and provide some redress when their actions result in environmental harm of such magnitude that it impacts internally-guaranteed rights such as life, health, privacy and home life.

9. Developing a Work Programme to utilize the Rule of Law in support of MDG-7

9.1. Action to realize MDG-7 can benefit from many disciplines: Scientists can provide further research and understanding of natural systems that must be protected as well as of the threats to them and means to prevent or remediate environmental degradation; economists can develop better measurements of the economic value of environmental services and indicate the costs and benefits of environmental sustainability as well as appropriate incentives and disincentives to various activities; ethicists and moral philosophers can further develop the foundations for action to achieve the MDGs. In this mix, the role of law, and the rule of law, are crucial. Without appropriate norms, institutions and procedures, the achievement of environmental sustainability, poverty eradication and elimination of discrimination against women, minorities, and indigenous peoples will be impossible. Various programs and projects designed to achieve MDG-7 can at the same time promote the realization of other MDGs.

9.2. As stated above, UNEP's work in the environmental legal field is founded in its Montevideo Programme. The halfway progress in the implementation of Montevideo III will be discussed at the upcoming 23rd session of the Governing Council/Global Ministerial Environment Forum. This review will also include a possible identification of areas that warrant giving special emphasis to during the second half of this decade, though it is also understood that all topics identified in MPIII remain of significance and should continue to be implemented. In considering these areas of focus for the future, MDG-7 will play a central role, and paragraph 5 of the Millennium Declaration, which provides that "the central challenge we face today is to ensure that globalization becomes a positive force for all the world's people" will be taken into account, since the globalization paradigm contains elements that are common to all of these areas of focus. Specifically, the phenomena of economic integration, the growing interconnectedness of states and societies, and the nexus between poverty, environment, and governance frame the relevant issues.

9.3. Among the areas in the Montevideo Programme III that are identified as requiring special attention are implementation and compliance and enforcement; strengthening and development of international environmental law; freshwater resources; coastal and marine ecosystems; and trade and environment. These are elaborated in UNEP/GC.23/INF/10, available at <http://www.unep.org/GC/GC23/documents/GC23-INF10.doc>, on the implementation of the Montevideo Programme III for the period 2000-2005. Below, as an example, two of these subject areas will be elaborated, as to show how to readjust subjects in Montevideo III to take into account the MDGs, without losing focus of the aim and legal perspectives of the Montevideo Programme III. Possible UNEP action in these areas will

be indicated and their linkages to the implementation of the MDGs, in particular MDG-7, will be pointed out.

9.3.1. Freshwater Resources

i. Conservation, Protection, and Sustainable Development of Freshwater Resources and International Watercourses

- The Millennium Declaration (para. 23) resolves to stop the unsustainable exploitation of freshwater resources by adopting integrated water management strategies at all appropriate levels of government. The WSSD Plan of Implementation (paras. 24 - 29) endorses this general goal in much greater detail. Preservation of freshwater resources serves as a critically important tool for achieving the drinking water access and affordability goals that are discussed above, and also directly addresses the need for ecosystem protection as an independent goal.
- UNEP should proceed to support freshwater resource protection strategies at various government levels. Activities at the national level should concentrate on providing assistance in developing and implementing national laws and policies relating to: conservation, protection, integrated management and sustainable use of fresh water resources, both surface water and groundwater; the prevention of pollution of water resources, including pollution from agriculture; and development and implementation of national legislation to implement international obligations concerning the use, protection and sustainable development of international watercourses.
- UNEP activities at the regional and international level should focus on reviewing existing rules and regulations, including agreements, relating to transboundary water issues in order to determine the need for more elaborate principles or standards to ensure sustainable use and development of trans-boundary water resources and associated ecosystems. Regional and international assistance should also be provided, upon request, to States in elaborating existing international rules and regulations including agreements to advance sustainable use and development of transboundary water resources. UNEP should also encourage cooperation between concerned States to enhance sustainable use development of shared water resources, e.g. by adopting agreements or establishing joint management mechanisms.

ii. Equitable, Affordable Access to Safe Drinking Water

- The Millennium Declaration (paras. 19 and 23) resolves to provide equitable and affordable access to safe drinking water, and adopts the specific goal of halving, by 2015, the proportion of people who are unable to reach or to afford safe drinking water and basic sanitation. Paragraphs 8 and 25 of the WSSD Plan of Implementation also incorporate this goal, as part of the effort to alleviate the effects of poverty, and with a particular focus on the needs of children. A right to water is articulated directly or indirectly in several international agreements.
- UNEP could focus on incorporating the legal dimensions into the ongoing water policy work at the national, regional and global levels, with a focus on legal mechanisms that will further Integrated Water Resource Management practices to achieve access and affordability goals while remaining mindful of the need for conservation and protection of both surface water and groundwater resources. In

developing these legal mechanisms, UNEP should take into account the results of the 2005 Millennium Ecosystem Assessment, which is examining the state of both surface water and groundwater resources and the potential impact that meeting the UN Millennium Development and WSSD water goal would have on such resources.

9.3.2. Trade and Environment

The Doha Ministerial Declaration and the Conference on Financing for Development recognized that in order to secure an appropriate balance between trade, investment, finance and environmental protection there is an urgent need to encourage further the complementarity and mutual supportiveness of measures relating to environmental protection, international trade, investment and finance. The Millennium Declaration (para. 30) also calls for greater policy coherence. The following specific issues could benefit from targeted action from UNEP:

i. Relationship Between Multilateral Trade Rules and Trade-Related Measures in Multilateral Environmental Agreements

- UNEP is already involved in helping to support some of the MEA secretariats in the current negotiations. These negotiations raise fundamental issues of international environmental governance and how legal conflicts between co-equal bodies of international law should be resolved – from both procedural and substantive viewpoints. In addition, UNEP has participated in examining the integration of trade and environmental concerns at the national level.

ii. Liberalization of Trade in Environmental Goods and Services

- The treatment of environmental goods and services (EGS) is on the negotiating agenda of the WTO. Many believe there could be win-win outcomes if trade in EGS is liberalized at an accelerated pace (wins for trade, the environment and economic growth). The main concerns at this point are definitional – how to define environmental goods and services. UNEP should work to ensure that any preferential trade terms for EGS be based on true environmental benefits from such products. UNEP should seek to be involved in the legal definitions of EGS in a way that helps produce economic as well as environmental benefits to developing countries.

iii. Environmentally Harmful Subsidies

- While largely an economic issue, identify environmentally harmful subsidies in various sectors, including fisheries, energy, forestry, and transportation may well require collective legal action, either through negotiation or by use of existing and future disciplines in the trade rules against subsidies. UNEP could, for example, see what legal tools can be used to get countries to reduce such subsidies, and a careful legal strategy is required in order to be able to remove those subsidies that are environmentally harmful while preserving the ability to subsidize environmentally beneficial activities.

iv. A More Nuanced Approach to Production and Process Methods (PPMs)

- Most environmental regimes distinguish between products or services based on the way in which they are produced or processed even if there is no discernable difference in the end product or service. Many in the trade regime historically regarded such distinctions as invalid, although recent jurisprudence at the WTO suggests otherwise. The issue is highly charged politically and underlies the inability of discussions at the WTO to make much progress on issues involving environmental regulations. UNEP should strive for a constructively nuanced approach to the PPM issue that would help move the Trade and Environment debate further than has been possible in the last decade, and UNEP should seek an approach to the PPM issue that will safeguard the legitimate exercise of national regulatory functions while ensuring that protectionist use of environmental regulation is addressed. One way that UNEP could contribute in this area is through the design of multilateral standards.

9.4. Another area of the Montevideo Programme that requires UNEP's attention and action is the Strengthening and Development of International Environmental Law. Also in relation to the implementation of the MDGs and in particular MDG-7, this may include, among others:

9.4.1. *Filling the gaps in international environmental law.*

The MPIII goal "to strengthen and further develop international environmental law, building on the existing foundations," reflects the need to fill the gaps and weaknesses in existing international environmental law in responding to existing and emerging global and regional environmental challenges. Pursuant to the Millennium Declaration resolution to "adopt in all our environmental actions a new ethic of conservation and stewardship" (para. 23), UNEP may want to pay particular attention to the possible need for work on legal mechanisms to address particular environmental threats that are widely acknowledged to present a clear danger of severe harm to human health and the environment, but which are not fully addressed by existing international instruments and national legislation and policies

9.4.2. *Public Participation*

Public participation needs to be increased, and the capacity of legal stakeholders needs to be enhanced. Compliance with legal obligations depends on two factors: will and capacity. The issue of will can be addressed at least in part by enhancing the rule of law and strengthening relevant institutions. The issue of capacity is more complex and achieving MDG-7 necessarily involves addressing other MDGs, in particular MDG-1 on poverty eradication, MDG-3 on gender equality and empowerment of women, and MDG-8 on partnerships for development. While programs grounded in law cannot alone achieve the goals, each of them may benefit from programs emphasizing the rule of law.

Capacity to achieve environmental sustainability requires basic knowledge of norms, procedures and institutions. National training programs developed in many countries have revealed the need for yet more training, especially across agencies and departments. Often, participants from the same country working on similar issues have never met and are unaware of the duplication of efforts. A work programme

should foster these links and provide basic knowledge about legal commitments through the provision of educational materials. In this way, compliance with international environmental obligations can be furthered, strengthening both environmental sustainability and the rule of law. Also, transnational networks of judges, prosecutors, legislators, and others involved in implementing MEAs to achieve environmental sustainability need to be supported and/or created. National training programmes need also to include representatives of major groups, including NGOs, women groups, and indigenous people representatives. Their increasing involvement and awareness will facilitate implementation of MEAs at the national and local level.

9.4.3. *Rights-Based Approach to Environmental and Development*

The Millennium Declaration (para. 25) resolves to “strive for the full protection and promotion in all our countries of civil, political, economic, social and cultural rights for all.” The relationship between international human rights law and international environmental law continues to emerge as an important area for promoting sustainable development. UNEP should undertake studies in cooperation with the appropriate intergovernmental bodies with a view to determining the nature, scope and possible application of rights-based environmental rules.

9.4.4. *Forests*

Forest resources are subject to intense and increasing pressures. Considering the vital role of forests in protecting our common environment, the Millennium Declaration (para. 23) calls upon the world community to “intensify our collective efforts for the management, conservation and sustainable development of all types of forests.” Paragraph 45 of the WSSD Plan of Implementation similarly acknowledges that sustainable forest management “is essential to achieving sustainable development as well as a critical means to eradicate poverty, significantly reduce deforestation, halt the loss of forest biodiversity and land and resource degradation and improve food security and access to safe drinking water and affordable energy.” Accordingly, MPIII’s strategic goal in this regard is to promote the development and implementation of measures aimed at the protection, conservation and sustainable use of forests. UNEP should assist on-going efforts addressing forest issues.

9.5. Another focus of UNEP’s Environmental Law Programme so as to include MDGs could be centred around identifying and developing cross-regime needs and priorities, to examine means of implementing key multilateral environmental agreements that can promote the goals of the agreements while also contributing to poverty alleviation and/or enhancing the role of women, indigenous people or other vulnerable sectors of society. Specific projects might address:

9.5.1. Legislation on land tenure and access to drinking water and sanitation in the context of implementing the Desertification Convention. Land and water may be the most important natural resources of any state today and there is a strong relationship between the two and between them and poverty, discrimination and environmental degradation. The principle mechanism for the allocation of land and water resources

is the institution of legal rights. Land tenure rights have played an important role in the socio-economic development of States. Inequalities in land distribution are linked to poverty and to ethnic conflicts as well as to misuse of land leading to environmental degradation. The issue of setting the appropriate limits on land use for purposes of environmental sustainability has been insufficiently studied. Land tenure itself is rarely discussed at the regional or international level; water management has been particularly in the context of transboundary watercourses.

9.5.2. Preservation of indigenous traditional knowledge and resources through adoption and implementation of prior informed consent procedures and development of model contracts on equitable benefit-sharing among the various stakeholders (indigenous people, pharmaceutical companies, States). One of the objectives of the 1992 CBD is equitable benefit-sharing stemming from the use of biological resources; much of the knowledge about such resources is held by indigenous peoples and traditional communities. Their rights must be respected, as well as the resources on which they depend. A program on this issue could involve cooperation with the ILO, the UN Forum on Indigenous Peoples, WIPO's work on intellectual property protection, UNESCO, and other organizations. The MDG goals of environmental sustainability, poverty alleviation and improving the status of women can all be enhanced through this program. Existing regional and national legal measures, including the Andean regional access measure and the Philippine legislation on access to traditional knowledge and resources, may be studied in order to make recommendations or provide assistance to States.

9.5.3. Another subject area from the Convention on Biological Diversity that UNEP could pay attention to that would further the implementation of the MDGs are Intellectual Property Issues. In this regard, UNEP should support the work currently underway to develop an international regime on access and benefit-sharing within the framework of the Convention on Biological Diversity, including with reference to the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising Out of Their Utilization. In addition, UNEP should build on the work conducted jointly with the World Intellectual Property Organization (WIPO) to identify any modifications necessary in international intellectual property rules to ensure that traditional knowledge is accessed with the prior informed consent of countries and communities and that the benefits arising from that access and use are shared equitably. Moreover, work with WIPO should be undertaken to establish the instances where existing forms of intellectual property protection may be appropriate for traditional knowledge, as well as to clearly establish the limitations of intellectual property mechanisms in that context.

9.6. The human rights dimension of environmental sustainability needs further exploration. The link between human rights and environmental sustainability has been asserted since the 1972 Stockholm Declaration, whose Principle 1 states: "Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations." A UNEP Work Program could focus on constructing integrated laws and policies through:

- 9.6.1. Contributing to the work of the special rapporteurs of the UN Human Rights Commission by develop jointly the legal aspects of their work. UN Special rapporteurs currently have mandates to address the right to health, the right to housing, and the right to food. In addition special rapporteurs are studying poverty as a human rights issue and the impact of toxic and hazardous wastes and substances on the enjoyment of human rights. All of these matters are directly related to environmental sustainability, but the rapporteurs generally come from a human rights background, not an environmental one. In some instances, the proposals made have environmental implications that have not been adequately addressed or even considered. Addressing the issues through joint programs can help ensure that achievement of one MDG goal does not overlook elements important to the achievement of others.
- 9.6.2. Examining issues of the justiciability of or other means to give effect to the right to a safe and healthy environment and related rights, like the right to safe drinking water, and including issues of the appropriate remedies. In his message of 22 March 2001 to the World Day of Water, UN Secretary General Kofi Annan stressed that “access to safe water is a fundamental human need and therefore a basic human right.” The right to water as a fundamental human right has already been recognized in a wide range of international documents, including treaties, declarations and other international normative instruments; the implications of this for environmental sustainability could be examined.
- 9.6.3. Considering the human rights component of environmental principles of access to information, public participation in decision-making and access to justice and how environmental laws and policies may reinforce them. Participation not only leads to better decisions leading towards environmental sustainability, but empowers the poor and marginalized and thus assists in achieving other MDG goals.
- 9.7. Another area of work that would bring together many aspects of MDGs would be international investment. The objective of MPIII, area 18 is 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.” Both public and private financial institutions that support international investment have begun developing standards for environmental assessment, transparency and in some cases environmental performance. These policies set important minimum standards governing project finance and both reflect and guide the development of international environmental standards. UNEP should analyze the gaps and strengths of various approaches to environmental standards for international investment and present guidance for minimum environmental standards for investment. The issues arising from agreements between host States and foreign investors, taking into account case law, should be analyzed. Prior efforts to draft a multilateral agreement on investment failed in part because relevant stakeholders objected that they were unbalanced and did not take into account the social and environmental consequences of investment projects. A new and participatory effort that considers these aspects could contribute to furthering many of the MDGs.

9.8. Montevideo III emphasizes the importance of implementation and compliance with international environmental obligations. Such implementation and compliance is also a feature of the rule of law, as noted above. Several programs could be undertaken within the context of Montevideo III to further the various MDGs, especially MDG-7, such as:

- 9.8.1. Examine the possibility of further opening international procedures to non-State actors, including development of petition or complaints procedures. In other areas of international law, such as human rights, it is clear that petition and complaint procedures open to individuals and other non-state actors are the single most effective means of bringing to light and remedying breaches of international obligations.
- 9.8.2. Develop innovative liability and incentive regimes to promote compliance with legal norms. It is worth recalling that the Rio Declaration called for the development of liability rules (Principle 13) In this context, consider whether the considerable discussion of the responsibility or liability of inter-governmental organizations for their actions is a matter appropriate to address.
- 9.8.3. Continue the process of streamlining and improving international State reporting procedures to enhance the capacity of States to comply. The effectiveness of State reporting procedures in monitoring and promoting State compliance with international obligations varies considerably. In the best of circumstances, the process is open and participatory, with relevant stakeholders able to comment on state reports and provide additional information to those reviewing the reports. The “constructive dialogue” that emerges facilitates compliance by revealing problems and achievements in the reporting states parties and allowing thoughtful recommendations to be made. However, a reporting procedure will only contribute to enhancing compliance and achieving the MDGs if States are able to fulfil their reporting duties. It is therefore necessary to foster compliance with this obligation in order to assist states in complying with their other obligations.

9.9. Training programmes for legal stakeholders, including the judiciary, could be used as a means to further all the MDGs. The rule of law, environmental sustainability, and human rights are all advanced when a strong and independent judiciary is well-informed and internationally supported in its work to give effect to international and domestic legal norms. Also, legal stakeholders such parliamentarians, government officers engaged in the area of environmental policy and law, prosecutors, legal officers, legal NGOs involved in environmental advocacy and litigation, enforcement officers, academics in the field of environmental law and major groups will benefit from training programmes that are not only interdisciplinary in nature but also clearly indicate the links between ensuring environmental sustainability, the rule of law and, for example, poverty.

9.10. In addition to 9.9., the provision of training and information materials is an important requirement for capacity-building. In UNEP’s experience, in all countries where national training programmes are organized, there is a great need for information and training materials. This was made explicitly clear at every of the nine Regional Needs Assessment Meetings of Chief Justices and other senior Judges that UNEP has organized during the period 1995-2004. The request was also reiterated in the conclusions and

recommendations which were submitted to the World Summit on Sustainable Development by the 2002 Global Judges Symposium. UNEP should more closely direct the dissemination of information, training materials, etc., in all media, including its publications, on the website, and via books, in order to maximize the availability of information and the impact of UNEP's activities.

10. Conclusion

10.1. The proposed projects within the Work Programme are based on the reality that achievement of MDG-7 both depends upon and can contribute to the achievement of the other goals, especially poverty eradication and gender equality. The interdependence and indivisibility of the MDGs are reflected in a recent definition of sustainable development, which can provide the basis for developing an integrated program for implementing MEAs. Art. 3(1)(a) of the Convention for Cooperation in the Protection and Sustainable Development of the Marine and Coastal Environment of the Northeast Pacific (Antigua, 18 Feb. 2002) defines sustainable development as “the process of progressive change in the quality of life of human beings, which places it as the centre and primordial subject of development, by means of economic growth with social equity and the transformation of methods of production and consumption patterns, and which is sustained in the ecological balance and vital support of the region. This process implies respect for regional, national and local ethnic and cultural diversity, and full participation of people in peaceful coexistence and in harmony with nature, without prejudice to and ensuring the quality of life of future generations.”

10.2. It has become obvious that neither environmental protection nor long-term economic development can be achieved independently of each other. Instead, as recognised in Principle 4 of the Rio Declaration, and in Paragraph 6 of the Ministerial Declaration adopted at the World Trade Organization meeting in Doha (2001) the two fields are interdependent and mutually reinforcing. Together with the social dimension reflected in the paragraph's references to human needs and the quality of life, this is the true meaning of the term “sustainable development”.^{viii} The World Summit on Sustainable Development (2002) identified environmental, economic and social goals as the three “pillars” of sustainable development. At the end of the conference the participating governments adopted a Declaration on Sustainable Development affirming their will to “assume a collective responsibility to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development – economic development, social development and environmental protection – at local, national, regional and global levels”. Actions to promote implementation of MEAs thus should be based upon consideration of how they will contribute to achieving the other MDGs.

10.3. Poverty represents an enormous global challenge and its eradication is indispensable for sustainable development. While poverty eradication is the primary responsibility of each country and should be addressed through national policies and development strategies,^{ix} at the same time concerted and concrete measures are required at all levels to enable developing countries to achieve their sustainable development through poverty-related targets and goals. This is expressed in the necessity of a global partnership. Eradication of poverty should be addressed in an integrated way, as set out in the Johannesburg Plan of

Implementation and other international instruments.^x Poverty is multidimensional, involving not only low incomes and assets, but limited economic opportunity, multiple deprivations such as hunger and malnutrition, unsafe water, poor sanitation, disease and inadequate education, as well as relative powerlessness and severely limited freedom of choice and action in all walks of life. Thus, poverty eradication must take into account the importance of sectoral strategies in such areas as education, development of human resources, health, human settlements, rural, local and community development, productive employment, population, and of course, environment, water and sanitation, food security, and energy. Within the context of action for the eradication of poverty, special attention should be given to the multidimensional nature of the problem and the relationship of poverty eradication to environmental sustainability.

10.4. The empowerment and emancipation of women are essential to achieving sustainable development, as recognized by the Rio Declaration, Agenda 21, the WSSD and the General Assembly resolutions on Implementation of the first United Nations Decade for the Eradication of Poverty (56/207 and 57/266). The participating States at the WSSD affirmed their commitment to ensuring that women's empowerment, emancipation and gender equality are integrated in all the activities encompassed within Agenda 21, the Millennium development goals and the WSSD Plan of Implementation. This clause reiterates that pledge. The WSSD Plan of Implementation calls on all countries to promote women's access to and full and equal participation in decision-making at all levels, mainstreaming gender perspectives in all policies and strategies and improving the status, health and economic welfare of women and girls through full and equal access to economic opportunity, land, credit, education and health care services.

10.5. Humanity stands at a decisive point in history because the growing degradation of the world's environment could produce irreversible destruction. It therefore is incumbent upon mankind to recognise fully the urgency of maintaining the stability and quality of nature to ensure the continued functioning of the biosphere. The need to maintain and improve the conditions of life is a common thread binding together humanity. Progress in communications and the ability to perceive the biosphere as a whole, along with science and technology capable of addressing global problems, increase the responsibility and capacity to act. This fundamental common interest leads to the concept of a global partnership. The requirement of "partnership" is based upon the existing fundamental obligation of co-operation between States,^{xi} as well as with and between individuals, implying greater interdependence and joint responsibility for the well-being of all.^{xii}

Endnotes:

ⁱ This Background Paper has been prepared by UNEP/DPDL with the invaluable help of Professor Dinah L. Shelton, Patricia Roberts Harris Professor of Law, George Washington University Law School

ⁱⁱ New York, 21 September 2004 - Secretary-General's address to the General Assembly, available at <http://www.un.org/apps/sg/sgstats.asp?nid=1088>

ⁱⁱⁱ The Code of Hammurabi is available at <http://www.constitution.org/ime/hammurabi.htm>

^{iv} In addition to the treaties discussed in the text, other agreements referring to public participation are the: Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution Concerning the Control of Emissions of Volatile Organic Compounds or Their Transboundary Fluxes (Geneva, 18 November 18 1991), Art. 2(3)(a)(4); Convention on the Protection and Utilization of Transboundary Rivers and Lakes (Helsinki, 17 March 1992), Art. 16; Convention on the Transboundary Effects of Industrial Accidents (Helsinki, 17 March 1992), Art. 9; Convention for the Protection of the Marine Environment of the Baltic Sea (Helsinki, 9 April 1992), Art. 17; Convention for the Prevention of Marine Pollution of the North-East Atlantic (Paris, 22 September 1992), Art. 9; Convention on Civil Responsibility for Damage resulting from Activities Dangerous to the Environment (Lugano, 21 June 1993), Arts. 13-16; North American Convention on Cooperation in the Field of the Environment (Washington, 14 September 1993), Arts. 2(1)(a), 14; Convention on Cooperation and Sustainable Development of the Waters of the Danube (Sofia, 29 June 1994), Art. 14; Protocol to the 1975 Barcelona Convention on Specially Protected Zones and Biological Diversity in the Mediterranean (Barcelona, 10 June 1995), Art. 19; Joint Communique and Declaration on the Establishment of the Arctic Council (Ottawa, 19 September 1996), Preamble and Arts. 1(a), 2, 3(c); Kyoto Protocol to the United Nations Framework Convention on Climate Change (11 December 1997), Art. 6(3); Convention on Persistent Organic Pollutants (22 September 2001), Art.10(1)(d).

^v The World Bank, *Empowerment and Poverty Reduction* (2002) pp. xviii-xix.

^{vi} CANIVET, G., *Force of Law*, Our Planet, UNEP, Volume 15, No. 3, 2004, 9.

^{vii} E.g.: Convention for the Protection of the Marine Environment of the North-East Atlantic (Paris, 22 September 1992) Art. 9; Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment (Lugano, 21 June 1993), Arts.13-16; North-American Agreement on Environmental Co-operation (13 September 1993), Art. 2(1)(a); International Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa (Paris, 17 June 1994), Preamble, Arts. 10(2)(e), 13(1)(b), 14(2), 19 and 25; Convention on Co-operation and Sustainable Use of the Danube River (Sofia, 29 June 1994), Art.14; Energy Charter Treaty (Lisbon 17 December 1994), Arts. 19(1)(i) and 20; Amendments to the 1976 Barcelona Convention for the Protection of the Mediterranean Sea against Pollution (Barcelona, 10 June 1995), Arts.15 and 17; Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean (Barcelona, 10 June 1995), Art.19; Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (10 September 1998), Art.15(2); Protocol on Water and Health to the 1992 Convention on the Protection and use of Transboundary Watercourses and International Lakes (London, 17 June 1999), Art. 5(i); Cartagena Protocol on Biosafety (Montreal, 29 January 2000), Art. 23; International Treaty on Plant Genetic Resources for Food and Agriculture (3 November 2001).

^{viii} World Conservation Strategy (1980), WCED Brundtland Report (1987), Caring for the Earth (1991).

^{ix} See G.A. Res. 57/266, Implementation of the first United Nations Decade for the Eradication of Poverty (1997-2006).

^x See e.g. the Asian Development Bank, *Poverty Reduction Strategy* (1999); World Bank, *World Development Report 2000/2001, 2002*; OECD Development Assistance Committee, *Guidelines for Poverty Reduction*

(2001).

^{xi} Article 1(3) of the UN Charter (1945); Article 1 of the Declaration of Principles of International Law (1970) (Principle of Co-operation).

^{xiii} This proposition is supported by Part XII of UNCLOS (1982), especially Articles 194(1), 197, 202, 205; Article 1 of the UN Charter (1945) and by Agenda 21 (1992), particularly Chapters 1 (Preamble), 34 (Transfer of environmentally sound technology, cooperation and capacity-building), 35 (Science for sustainable development), and 37 (National mechanisms and international cooperation for capacity-building in developing countries).