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# THE UNITED NATIONS ENVIRONMENT PROGRAM

MICHAEL HARDY\*

The attention given by the international community to environmental concerns in recent years has proceeded from a number of premises. The first, and most general, has been the conviction that the time had come when some degree of concerted, international action was required in order to deal with the problem, or problems, of maintaining the quality of the environment. Proceeding from this point of broad agreement to the adoption of specific measures was not, however, a matter of making simple deductions. Just how great was the concern felt and what, in precise terms, needed to be done? The fact the word "environment" may be interpreted to include the entire relationship between man and his surroundings lent support to calls for resolute, universal action. Rigorously pursued, however, all-embracing interpretations of this character, while serving to rally support, led naturally to the question of whether there were any human activities and organizations which did not need to be examined and recast. Were all existing arrangements and bodies henceforth to be subsumed under the heading "environment"? At this juncture, the all-inclusive claims inherent in the concept of the "environment" fell to be considered against the pragmatic realities of a world composed of different sovereign States, full of people busy (or eager to be busy) getting and spending,—and, on a prosaic level, in terms of the problem, not inconsiderable even from a purely administrative standpoint, of determining exactly what action was to be taken by particular organizations at particular times and places. The initial premise that something should be done—on which there was universal agreement—thus became converted, so far as the organized international community was concerned, by a process of logic and political evolution, into two further propositions: (1) What was to be the agreed content of the "environment" as an international issue? and (2) What actions could only, or only best, be carried out internationally?

The answers given to these two questions, as contained in the preparations for the Stockholm Conference<sup>1</sup> and the work achieved there, largely determined the nature of the organizational arrangements which form the subject of this paper, namely, the organizational arrangements made by the United Nations following the

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\* Office of Legal Affairs, United Nations. The views are those of the author in his personal capacity.

1. The United Nations Conference on the Human Environment was held at Stockholm, June 5-16, 1972.

Conference and which together form what is to be known as "the United Nations Environment Programme". In resolution 2997 (XXVII) of 15 December 1972, the General Assembly<sup>2</sup> established four bodies: the Governing Council of the United Nations Environment Programme; the Environment secretariat, headed by the Executive Director of the Programme; the Environment Fund; and the Environment Co-ordination Board. This institutional machinery, which constitutes the United Nations Environment Programme (UNEP), is to be responsible for the implementation of the Action Plan adopted at Stockholm and for such other environmental activities as may be undertaken in the future by the United Nations. The UNEP Governing Council, an inter-governmental body, is to provide overall policy guidance as regards the steps to be taken to deal with environmental concerns of international significance. The Environment secretariat which is to be headed by the Executive Director of the UNEP, Mr. Maurice Strong, who previously served as Secretary-General of the Conference, is to act as "a focal point for environmental action and co-ordination within the United Nations system."<sup>3</sup> The Environment Fund, which it is hoped will reach one-hundred million dollars in voluntary contributions over the next five years, is to be used to finance new environmental initiatives, including those envisaged in the Action Plan. The Environmental Co-ordinating Board, chaired by the Executive Director, is to ensure co-operation and co-ordination among the United Nations bodies concerned with the implementation of environmental programs.

Before examining more closely the legislative history of these institutional arrangements and the functions which the new machinery is to perform, reference should be made to the context in which the pertinent decisions were taken. During the two and a half years of intensive preparations leading to the United Nations Conference on the Human Environment—indeed, in all, four years elapsed between the initial steps<sup>4</sup> and the holding of the Conference—there were several important shifts in emphasis. At the outset there were those who considered that the situation was so critical that major changes were urgently required in order to avert a series of environmental disasters. The sense of imminent doom was not, however, one which

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2. By a vote of 116 in favor, none against and 10 abstentions. The States which abstained were those which did not attend the Stockholm Conference because the German Democratic Republic was not invited.

3. G.A. Res. 2997 (XXVII), §II, ¶1, U.N. Doc. A/890 and Corr. 2, at 3 (1973).

4. The question of convening an international conference on the environment was raised by the Economic and Social Council at its forty-fifth session in July 1968. The Council's recommendations were endorsed by the General Assembly in Res. 2398 (XXIII), December 13, 1968.

was sustained. Attention became concentrated instead on issues relating to the acquisition of knowledge in different areas: the need to discover the results, actual and potential, of the increasing impact of man on his environment, and to relate those findings to governmental policies—an “earthwatch” rather than “earthstop” (or “man stop”) program. This aspect became the centralizing theme of the environment debate, at least as conducted by government representatives, and proposals relating to the assembling of knowledge and data constitute the principal new thrust introduced by the Stockholm recommendations. The emphasis on functions relating to environmental information was joined, as the preparatory process continued, by a rising tide of concern on the part of the developing countries over the question of development and the relationship between their economic needs and the environmental preoccupations of the developed countries. The environment, as a generic term covering the conditions under which men live, included, as the representatives of developing countries pointed out, not only pollution and other ill-effects of industrialization, but also the problems of under-development: malnutrition, bad housing and a low standard of living—and were only to be overcome by more intensive economic activity. While ‘development’ and ‘environment’ considerations can be reconciled, the developing countries wished to ensure that their requirements, and their independence, were fully respected, that environmental protection measures taken by the developed countries did not have undesirable economic effects (as by the creation of new trade barriers), and that the establishment of the Environment Fund did not entail any decline in the international aid otherwise available for development purposes. Account had to be taken, moreover, of the large amount of environmental activity in which United Nations organizations, and many other bodies, were already engaged. The specialized agencies, within the spheres of their particular competence, were conducting numerous programs of environmental interest. The United Nations itself and organs, such as UNCTAD, immediately associated with it, as well as regional organizations, and many specialist non-governmental bodies, were doing likewise. Were all these activities to be fused under a single, mammoth entity? If a greater degree of co-ordination were to be introduced, how was it to be implemented as regards formally independent organizations?

The organizational arrangements eventually agreed upon constitute on the face of it, a modest innovation. To understand fully the nature of the changes made it is necessary to bear in mind, however, that the organs established by the General Assembly at its Twenty-seventh Session were devised as an essential complement to the Action Plan

which was drawn up at Stockholm. In addition to the Declaration on the Human Environment, the Conference adopted an extensive Action Plan consisting of 109 recommendations directed to governments, to the Secretary-General, to the new environment organs, to the specialized agencies and to regional and non-governmental organizations. The recommendations, which were the outcome of over two years intensive discussions, constitute a detailed program of endeavors which may well take a decade or more to carry out—if not indeed require till the end of the century. The Action Plan marks, in at least two respects, a new departure in international affairs. At its widest, it witnesses, together with the Declaration, the acceptance by the international community of the need to adopt more conscious policies towards the use of the environment—a recognition of the extent of human power over the environment and of the ability (and need) to apply knowledge in determining how that power shall be exercised. Secondly, and more narrowly, it constitutes a new chapter in the history of international organizations. In the standard case, international bodies have a formal constitution—the Charter of the United Nations, for example, or the Constitution of UNESCO—in which the ‘static’ elements relating to the composition and powers of the constituent organs and the rights and duties of members are spelt out, but the objectives of the organization, and the steps to be taken to implement them, are expressed only in very general terms. The structuring of the constituent instrument in this way is almost inevitable when the organization is required to perform general functions and is established by means of treaty. However, organizations—or, technically, organs or institutional arrangements between organizations,—may be established in which this constitutional balance is reversed. UNCTAD and UNDP differ from their parent institutions not only because they are creations within an existing system, but also because the objectives they are to pursue are specified more precisely. The arrangements made with regard to the environmental bodies carry this process a stage further. The Action Plan, some fifty pages in length, is far more detailed in its terms than any constituent instrument. As befits its comprehensive approach, it is directed to various entities: to governments, the United Nations, specialized agencies and others; and it is intended to be implemented at national and regional levels no less than at the international level. Insofar, however, as the Action Plan is directed in particular to the Secretary-General and the UNEP organs, it takes on, for them, the character of what may be termed a constituent program—a series of organizational directives as to what they are called upon to do. In this particular instance, therefore, it is necessary to have regard not only

to the new environmental arrangements qua organization entities, but also to the contents of the Action Plan which indicate the tasks these bodies are intended to carry out.

Turning to the legislative history of the organizational proposals, in resolution 2581 (XXIV) of December 15, 1969, the General Assembly, acting in pursuance of its earlier decision<sup>5</sup> to convene the United Nations Conference on the Human Environment in 1972, endorsed the proposals which the Secretary-General had submitted regarding the purposes and objectives of the Conference, entrusted him with over-all responsibility for organizing the Conference, and requested him to appoint a Secretary-General of the Conference. The General Assembly also set up a Preparatory Committee for the Conference, consisting of the representatives of twenty-seven States, to advise the Secretary-General. The Preparatory Committee held four sessions, at the second of which, in February, 1971, it agreed on the proposed agenda of the Conference. It was decided that, in addition to the Declaration on the Human Environment, six main substantive items would be considered: the planning and management of human settlements for environmental quality; environmental aspects of natural resource management; identification and control of pollutants of broad international significance; educational, informational, social and cultural aspects of environmental issues; development and environment; and the international organizational implications of action proposals. It was thus agreed more or less from the outset that some kind of institutional arrangements would have to be made for the period after Stockholm. Attention was initially concentrated, however, on the five substantive areas, on the ground that "form follows function" as was said at the time—*i.e.*, that until it had become clearer what new tasks would have to be performed internationally there would be little purpose in discussing particular organizational questions. Nevertheless, numerous meetings and consultations were held on this issue, within and outside the United Nations system, and the Secretary-General's report of 30 July 1971, to the third session of the Preparatory Committee contained a statement of the criteria by which the Conference secretariat was guided in its approach.

- (a) Any organizational arrangement should be based first on agreement about what needs to be done. Until this is reached, no firm decision can be made on the ways and means to be adopted.
- (b) All functions that can best be performed by existing organizations should be assigned to those organizations, both international

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5. G.A. Res. 2398 (XXIII), December 3, 1968.

and national, most capable of carrying them out effectively. No unnecessary new machinery should be created.

(c) It is more logical to consider a network of national, international, functional and sectoral organizations with appropriate linkages and "switchboard" mechanisms, whereby international organizations supplement and complement national organizations, than to think in terms of a global "super agency".

(d) Any action envisaged should allow for the preliminary state of knowledge and understanding of environmental problems, and should be flexible and evolutionary;

(e) Governments will want to attach highest priority to the need for co-ordination and rationalization of the activities and programmes of the various international organizations active in the environmental field. This is essential in order to avoid overlap and duplication and to assure most effective use of scarce resource of money and manpower;

(f) Any policy centre that is expected to influence and co-ordinate the activities of other agencies should not itself have operational functions which in any way compete with the organizations over which it expects to exercise such influence.

(g) In the establishment of any additional or new machinery it is essential to provide strong capability at the regional level.

(h) The United Nations should be the principal centre for international environmental co-operation.

(i) The organization of environmental activities within the United Nations should be so designed as to strengthen and reinforce the entire United Nations system.<sup>6</sup>

These criteria, which received general support from the Preparatory Committee, illustrate clearly the trend of the discussion—or, to put the matter more accurately, the organizational implications of the wider discussion which was under way regarding the substantive items,—and retain their interest as indications of the kind of institutional arrangements which were intended to be established. The fourth and last session of the Preparatory Committee, held in March 1972, had before it the position paper prepared by the Secretariat for submission to the Conference itself. The paper, entitled "International Organizational Implications of Action Proposals,"<sup>7</sup> distinguished four new functions to be performed at international level: knowledge acquisition and assessment (sub-divided into evaluation and forecasting, research, monitoring and information exchange); environmental quality management (sub-divided into goal setting,

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6. Report of the Secretary-General to the third session of the Preparatory Committee, U.N. Doc. A/CONF.48/PC.11, ¶222.

7. *United Nations Conference on the Human Environment, International organizational implications of action proposals (subject area VI)*, U.N. Doc. A/CONF.48/11.

consultations on proposed actions affecting the international environment, and international agreements); the prevention and settlement of disputes; and international supporting actions (comprising technical co-operation, education and training, and public information activities). The institutional arrangements discussed consisted basically of three components: inter-governmental arrangements, a secretariat, and the question of an international environmental fund. In addition to the Conference document, the Preparatory Committee also had before it a summary of a report prepared by the Administrative Committee on Co-ordination (ACC), describing the work already undertaken by the various bodies and organizations of the United Nations system in relation to the environment.<sup>8</sup>

In the discussions in the Preparatory Committee in March 1972<sup>9</sup> there was broad agreement as to the general nature of the proposals. The United States submitted a draft resolution on funding and institutional arrangements, including a brief statement on the uses to which an environmental fund could be put.<sup>10</sup> Within the overall consensus, issues on which different views were expressed included the question of whether the inter-governmental body should be a subsidiary organ of the Economic and Social Council (ECOSOC) or of the General Assembly, and its size. Suggestions ranged from a body of twenty-seven (the same size as the Preparatory Committee) to fifty-four (as in the case of standing committees of ECOSOC). It was agreed that the specific functions to be performed would be dependent on the Stockholm recommendations. As regards the question of disputes settlement, there was a divergence of views. While some delegations were prepared to consider favorably the suggestion that the environment machinery might exercise functions with regard to the prevention and settlement of disputes, others expressed their opposition to the inclusion of express procedures in this regard. The question of the nature of the links between the proposed machinery and the scientific and technical community was left open. In regard to the environment fund, there was some discussion as to the relative roles of the head of the future Environment secretariat and of the inter-governmental body. Particular emphasis was placed on the principle of additionality—i.e., that the environment fund should be

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8. *International organizational implications of recommendations for action by the Conference, including financial implications*, U.N. Doc. A/CONF.48/PC/15/Add.2 The consolidated document on the *UN System and the Human Environment* is contained in the U.N. Doc. A/CONF.48/12.

9. A summary of the discussions is contained in the report of the Preparatory Committee's fourth session, U.N. Doc. A/CONF.48/PC/17, the relevant chapter being also reproduced in the Conference document *International organizational implications of action proposals, addendum no. 1*, U.N. Doc. A/CONF.48/11/Add.1.

10. The draft resolution is reproduced in U.N. Doc. A/CONF.48/PC/17, Annex III.



additional to existing sources of development aid and should not result in any reduction in contributions to those sources.

The discussion at the Stockholm Conference on the organizational issue followed very similar lines.<sup>11</sup> There was general agreement from the outset regarding the basic organizational pattern and attention centered accordingly on various specific issues. As regards the governing council, for example, which it was considered should report to the General Assembly through ECOSOC and the Conference eventually agreed that the new body should have fifty-four members. The question of the location of the Environment secretariat was referred to the General Assembly for decision. Although the resolution adopted by the Conference referred to collaboration between the Governing Council and the Environment secretariat and the international scientific and other professional communities, it was felt that it would be premature to try to establish any permanent mechanism for this purpose, pending the initial setting up of the basic organs. Contributions to the Environment Fund were announced by a number of countries.<sup>12</sup> The high priority to be given to economic and social development in environment programs was stressed by speakers from developing countries.

The resolution adopted by the Stockholm Conference on institutional and financial arrangements was cast in the form of a recommendation to the General Assembly, and was appropriately reported to the Assembly at its Twenty-seventh Session.<sup>13</sup> In the discussions held in the Assembly's Second Committee between 19 October and 10 November 1972, a draft resolution was presented embodying the Stockholm proposals.<sup>14</sup> This draft was adopted by the Second Committee,<sup>15</sup> and subsequently by the General Assembly, the only amendment being a further increase in the size of the Governing

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11. For a summary of the discussions see *Report of the United Nations Conference on the Human Environment held at Stockholm, 5-16 June 1972*, U.N. Doc. A/CONF.48/14, at 83-84 and 109-112.

12. Australia, \$2.5 million; Canada, \$5 to \$7.5 million; Netherlands, up to \$1.5 million; Sweden, \$5 million; United States, up to \$40 million, on a matching basis. Many other countries, including France, the Federal Republic of Germany, Italy, Japan and the United Kingdom, expressed their support. The contributions specified are subject in most cases to parliamentary approval and are to be paid over a five year period. The delegate of Israel put forward the suggestion that, in order to deal with the scale of the problem, three per cent of any special drawing rights created by the International Monetary Fund should be used to provide funds for environmental amelioration.

13. *United Nations Conference on the Human Environment: Report of the Secretary-General*, U.N. Doc. A/8783.

14. Draft resolution A/C.2/L. 1228, sponsored by Argentina, Brazil, Canada, Iran, Kenya, Jamaica, New Zealand, Swaziland, Sweden, United Republic of Tanzania and the United States. The draft proposed that the members of the Governing Council be elected by the General Assembly and not by ECOSOC, a point which had been left open in the Stockholm proposal.

15. By a vote of 115 in favor, none against and 9 abstentions.

Council, from fifty-four to fifty-eight members.<sup>16</sup> It was decided that the headquarters of the new Programme should be in Nairobi.<sup>17</sup> Although arguments were advanced that it would be preferable, in view of the co-ordinating role to be played, for the Environment secretariat to be located nearer to the existing offices of the specialized agencies, the majority were firmly of the opinion that it was highly desirable that a site in a developing country should be chosen.

Besides establishing the new environmental machinery, which was the major outstanding issue on which the Assembly was required to act, the Assembly referred the Action Plan as a whole to the UNEP Governing Council "for appropriate action" and drew the attention of Governments to the Declaration on the Human Environment and to the recommendations to be implemented at national level.<sup>18</sup> In addition to these two resolutions of a general character arising out of the Stockholm Conference, a number of others were adopted on particular aspects,<sup>19</sup> including several relating to the future work of the Governing Council. Thus, in resolution 3002 (XXVII), the General Assembly stressed that environmental measures which might assist in accelerating the economic development of developing countries should receive "special consideration" in the formulation of programs and priorities by the Governing Council. The Governing Council, together with ECOSOC, was asked in this connection to ensure the compatibility of environmental programs with the objectives of the International Development Strategy for the Second United Nations Development Decade and with the steps to be taken in accordance with that Strategy. Three resolutions were also adopted relating to human settlements. Besides requesting development assistance agencies, in particular the International Bank, to give increased assistance in this area,<sup>20</sup> the Assembly endorsed, in principle, the establishment of an international fund or financial institution for the purpose envisaged in Recommendation 17 of the Conference. The Assembly

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16. This was at the request of the Asian countries, who considered that their region was under-represented and introduced an amendment (U.N. Doc. A/C.2/L.1243) which became operative paragraph 1 of the resolution.

17. G.A. Res. 3004 (XXVII) (Dec. 15, 1972).

18. G.A. Res. 2994 (XXVII) ¶2 (Dec. 15, 1972). The Governing Council was also asked to study the question of the convening of a second United Nations Conference on the Human Environment. In addition the Assembly decided to designate June 5 as "World Environment Day".

19. There were two concerning principles 20, 21 and 22 of the Declaration: G.A. Res. 2995 (XXVII) (Dec. 15, 1972), dealing with the need for States to inform each other of actions taking place within their jurisdiction which may have deleterious environmental effects beyond their boundaries; and G.A. Res. 2995 (XXVII) (Dec. 15, 1972), concerning the international responsibility of States in regard to the human environment.

20. G.A. Res. 2998 (XXVII) (Dec. 15, 1972).

requested the Secretary-General to prepare a study, together with his recommendations and proposals on the matter, for submission to the Assembly at its twenty-ninth session, through the Governing Council and ECOSOC.<sup>21</sup> Lastly, the Assembly decided to accept the invitation of Canada to act as host for a Conference/Demonstration on Experimental Human Settlements in 1975, and requested the Secretary-General to make a report to the Governing Council at its first session containing a plan for the meeting.<sup>22</sup>

The main provisions of resolution 2997 (XXVII) establishing, as its title states, "Institutional and financial arrangements for international environmental co-operation", are set out below.

### *1. Governing Council of the United Nations Environment Programme.*

Paragraph 1 of section I of the resolution provides for the establishment of the UNEP Governing Council, composed of fifty-eight members elected by the General Assembly for three year terms. The distribution of membership is specified as follows: African States, sixteen seats; Asian States, thirteen seats; Latin-American States, ten seats; Western European and other States, thirteen seats; and Eastern European States, six seats.<sup>23</sup>

The Governing Council is entrusted in section I, paragraph 2, with the following functions and responsibilities:

- (a) To promote international co-operation in the field of the environment and to recommend, as appropriate, policies to this end;
- (b) To provide general policy guidance for the direction and co-ordination of environmental programmes within the United Nations system;
- (c) To receive and review the periodic reports of the Executive Director, referred to in section II, paragraph 2, below, on the

21. G.A. Res. 2999 (XXVII) (Dec. 15, 1972).

22. G.A. Res. 3001 (XXVII) (Dec. 15, 1972).

23. The States elected were as follows: (a) Burundi, Cameroon, Central African Republic, Gabon, Ghana, Kenya, Madagascar, Malawi, Morocco, Nigeria, Senegal, Sierra Leone, Somalia, Sudan, Tunisia and United Republic of Tanzania.

(b) China, India, Indonesia, Iran, Iraq, Japan, Jordan, Kuwait, Lebanon, Pakistan, Philippines, Sri Lanka and Syrian Arab Republic.

(c) Argentina, Brazil, Chile, Guatemala, Jamaica, Mexico, Nicaragua, Panama, Peru and Venezuela.

(d) Australia, Austria, Canada, France, Federal Republic of Germany, Iceland, Italy, Netherlands, Spain, Sweden, Turkey, United Kingdom and United States.

(e) Czechoslovakia, German Democratic Republic, Poland, Romania, U.S.S.R. and Yugoslavia.

It was decided that 20 of the 58 members would serve for three years, 19 for two years and 19 for one year; the number of States involved each time was proportionally divided among the various categories.

implementation of environmental programmes within the United Nations system;

(d) To keep under review the world environmental situation in order to ensure that emerging environmental problems of wide international significance receive appropriate and adequate consideration by Governments;

(e) To promote the contribution of the relevant international scientific and other professional communities to the acquisition, assessment and exchange of environmental knowledge and information and, as appropriate, to the technical aspects of the formulation and implementation of environmental programmes within the United Nations system;

(f) To maintain under continuing review the impact of national and international environmental policies and measures on developing countries, as well as the problem of additional costs that may be incurred by developing countries in the implementation of environmental programs and projects, and to ensure that such programmes and projects shall be compatible with the development plans and priorities of those countries;

(g) To review and approve annually the programme of utilization of resources of the Environment Fund referred to in section III below.

The Governing Council is to report annually to the General Assembly through ECOSOC, which will transmit its comments "particularly with regard to questions of co-ordination and to the relationship of environment policies and programmes within the United Nations system to over-all economic and social policies and priorities".<sup>24</sup>

## 2. *Environment secretariat.*

The General Assembly decided "that a small secretariat shall be established in the United Nations to serve as a focal point for environmental action and co-ordination within the United Nations in such a way as to ensure a high degree of effective management."<sup>25</sup> The secretariat is to be headed by the Executive Director of UNEP, elected by the General Assembly on the nomination of the Secretary-General for a term of four years. As mentioned, Mr. Maurice Strong, who previously served as Secretary-General of the United Nations Conference on the Human Environment, has been appointed Executive Director. The responsibilities of the Executive Director are specified as being:

(a) To provide substantive support to the Governing Council of the United Nations Environment Programme;

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24. G.A. Res. 2997 (XXVII), §1, ¶3, U.N. Doc. A/8901 and Corr. 2, at 2 (1973).

25. *Id.* at §2, ¶1.

- (b) To co-ordinate under the guidance of the Governing Council, environment programmes within the United Nations system, to keep their implementation under review and to assess their effectiveness;
- (c) To advise, as appropriate and under the guidance of the Governing Council, intergovernmental bodies of the United Nations system on the formulation and implementation of environmental programmes;
- (d) To secure the effective co-operation of, and contribution from, the relevant scientific and other professional communities in all parts of the world;
- (e) To provide, at the request of all parties concerned, advisory services for the promotion of international co-operation in the field of the environment;
- (f) To submit to the Governing Council, on his own initiative or upon request, proposals embodying medium-range and long-range planning for United Nations programmes in the field of the environment;
- (g) To bring to the attention of the Governing Council any matter which he deems to require consideration by it;
- (h) To administer, under the authority and policy guidance of the Governing Council, the Environment Fund referred to in section III below;
- (i) To report on environment matters to the Governing Council;
- (j) To perform such other functions as may be entrusted to him by the Governing Council.<sup>26</sup>

The costs of servicing the Governing Council and providing the small-core secretariat are to be borne by the United Nations regular budget. Operational program costs, program support and administrative costs of the Fund are to be borne by the Fund.

3. *Environment Fund.* In order, as is stated in section III, paragraph 1, "to provide for additional financing for environmental programmes", a voluntary fund is established with effect from 1 January 1973. As regards to the use to which the Fund may be put, section III, paragraphs 2 and 3 provide as follows:

[*The General Assembly . . .*]

2. *Decides* that, in order to enable the Governing Council of the United Nations Environment Programme to fulfill its policy-guidance role for the direction and co-ordination of environmental activities, the Environment Fund shall finance wholly or partly the costs of the new environmental initiatives undertaken within the United Nations system—which will include the initiatives envisaged in the Action Plan for the Human Environment

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26. *Id.* at §2, ¶2.

adopted by the United Nations Conference on the Human Environment, with particular attention to integrated projects, and such other environmental activities as may be decided upon by the Governing Council—and that the Governing Council shall review these initiatives with a view to taking appropriate decisions as to their continued financing;

3. *Decides* that the Environment Fund shall be used for financing such programmes of general interest as regional and global monitoring, assessment and data-collecting systems, including, as appropriate, costs for national counterparts; the improvements of environmental quality management; environmental research; information exchange and dissemination; public education and training; assistance for national, regional and global environmental institutions; the promotion of environmental research and studies for the development of industrial and other technologies best suited to a policy of economic growth compatible with adequate environmental safeguards; and such other programmes as the Governing Council may decide upon, and that in the implementation of such programmes due account should be taken of the special needs of the developing countries.

Under the terms of paragraph 3 measures are to be taken to provide additional financial resources to developing countries on terms compatible with their economic situation; the Executive Director is to keep this matter under continuing review. The Fund is to be directed to the need for effective co-ordination in the implementation of international environmental programs (paragraph 4). In the implementation of programs financed by the Fund, organizations outside the United Nations system, particularly those in the countries and regions concerned, are to be utilized as appropriate, in accordance with procedures established by the Governing Council (paragraph 5).

4. *Co-ordination.* The Environmental Co-ordinating Board, chaired by the Executive Director, is established within the framework of the Administrative Committee on Co-ordination, “in order to provide for the most efficient co-ordination of United Nations environmental programmes” (section IV, paragraph 1). The Board is to report annually to the Governing Council. The organizations of the United Nations system are invited to adopt measures that may be required “to undertake concerted and co-ordinated programmes with regard to international environmental programmes, taking into account existing procedures for prior consultation, particularly on programme and budgetary matters” (paragraph 3). The regional economic commissions and the Economic and Social Office in Beirut are invited to intensify their efforts to assist in the implementation of environmental

programs (paragraph 4). Other inter-governmental and non-governmental organizations with an interest in the field of environment are also invited "to lend their full support and collaboration to the United Nations with a view to achieving the largest possible degree of co-operation and co-ordination" (paragraph 5). The General Assembly also called upon Governments to ensure that "appropriate national institutions" are "entrusted with the task of the co-ordination of environmental action, both national and international" (paragraph 6). Lastly, the Assembly decided that it would review the above institutional arrangements at its thirty-first session, to be held in 1976.

As regards to the particular tasks to be performed by the new environmental machinery, some indication is given by the terms of resolution 2997 (XXVII) itself. The other resolutions concerning the environment adopted at the twenty-seventh session of the Assembly also illustrate the wishes of States in this regard. The major source of guidance, however, is the Action Plan adopted at Stockholm. As Mr. Maurice Strong stated when he introduced the report on the United Nations Conference to the Second Committee,<sup>27</sup> the program proposals to be submitted to the Governing Council at its first session<sup>28</sup> will be based on the recommendations contained in the Plan. Although the Action Plan provides the main indication of the activities with which the UNEP machinery will be concerned, it is not easy to briefly and accurately describe the range and nature of those activities and the part the new bodies will play in relation to them. Not only are the Action Plan recommendations directed to a variety of recipients—to national and regional authorities, to technical institutions, and to virtually all parts of the United Nations system, as well as to the new UNEP organs; there is also the fact that the activities proposed are, in many cases, not totally new undertakings but rather the bringing together of existing projects and inquiries, with a view to strengthening them and carrying them to a further, more fully articulated and comprehensive, scale of operations. The new environmental machinery has a special role to play as the centralizing element—the prime mover—uniting old and new programs and giving shape and direction to the whole enterprise. It should also be borne in mind that the recommendations directed to the environment organs, or to the Secretary-General which will be acted on by the Environment secretariat, will have a particularly direct and immediate force in that these recipients will be required to show what steps they have taken to implement them. Insofar as the co-ordination of activities involving various parts of the United

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27. 1466th meeting, October 19, 1972.

28. To be held in June 1973.

Nations system is involved, this will be done primarily by the Environmental Co-ordinating Board, under the chairmanship of the Executive Director. The Environment secretariat, while it will not itself be engaged in direct operational tasks, will be very much concerned with the results and data obtained by those (including national administrations) who are, and in determining what gaps in the range of knowledge exist and how they should be filled. In putting forward proposals, the Environment secretariat will, of course, act within the framework established by the Stockholm Declaration and the Action Plans and its suggestions will be subject to the approval of the Governing Council. From the nature of the case, however, although the Governing Council—and above it the Economic and Social Council and the General Assembly—will have final responsibility for overall policy and the determination of priorities, it is the Executive Director who, in the words of resolution 2997 (XXVII), is charged with the provision of “substantive support” to the Council and called on to submit medium- and long-range planning proposals. Similarly, as regards the Environment Fund and the uses to which it may be put, the Executive Director will be concerned with its administration, under the authority and guidance of the Governing Council, and will no doubt make suggestions for the Council’s consideration as to how the programs listed in section III, paragraph 3, of resolution 2997 (XXVII) should actually be implemented. Thus, while the decision making power will rest with the Governing Council, the Executive Director will normally be responsible for initiating proposals; and it is the Environment secretariat, under his direction, which will be required to translate many of the recommendations of the Action Plan, particularly those directed to the Secretary-General, into specific measures.

That much having been said, it is not proposed to go through the Action Plan *seriatim*, describing each of the recommendations in turn. The following account attempts merely to draw attention to the kind of new initiatives—new not in a basic sense, but in their characteristics or scale—which are prescribed under the Action Plan and which will be of particular concern to the environmental bodies. As will be seen, the feature which many of these proposals have in common is that they relate to the acquisition of knowledge and the assembling of data, on the basis of which more informed decisions of social and economic policy can be taken. It may be emphasized that the recommendations mentioned are by no means the only ones which could be referred to, but merely those which, for one reason or another, constitute the most salient examples.

In the case of pollutants, a series of proposals are put forward for



examining and monitoring various actual or potential contaminants. Thus, the Secretary-General is asked to take steps "to ensure proper collection, measurement and analysis of data relating to the environmental effects of energy use and production within appropriate monitoring systems", particular reference being made to the need to monitor "the environmental levels resulting from emission of carbon dioxide, sulphur dioxide, oxidants, nitrogen oxides (NO<sub>x</sub>), heat and particulates, as well as those from releases of oil and radioactivity" (Recommendation [hereinafter abbreviated as Rec.] 57)<sup>29</sup>

In regard to man-made pollutants, the Secretary-General "drawing on the resources of the entire UN system, and with the active support of Governments and appropriate scientific and other international bodies", is asked to increase the capability of the United Nations system to provide "awareness and advance warning" of the deleterious effects involved, in a form "which is useful to policy-makers at the national level" (Rec. 74). To achieve these ends, the Secretary-General is to improve testing procedures on an international basis. International testing schedules are to be developed, together with an agreed system of international intercalibration, which will permit more meaningful comparisons of national data. Plans are to be made for the establishment of an "International Registry of Data on Chemicals in the Environment", based on available scientific data with respect to the major man-made chemicals and "containing production figures of the potentially most harmful chemicals" (*ibid.*). The new environmental mechanism is asked to include among its functions the development of an internationally accepted procedure "for the identification of pollutants of international significance and for the definition of the degree and scope of international concern". The appointment of intergovernmental expert bodies "to assess quantitatively the exposures, risks, pathways and sources of pollutants of international significance" is also requested (Rec. 85).<sup>30</sup> The Secretary-General is to ensure that research activities in terrestrial ecology be "encouraged, supported and co-ordinated" so as to provide adequate knowledge of "pollutants identified as critical" (Rec. 80). Activities within the framework of the Man and the Biosphere Programme are to be strengthened, so as "to facilitate intensive analysis of the structure and functioning of ecosystems", and to

29. Here and subsequent references are to the recommendations in the Action Plan, reproduced in the Report of the Conference, U.N. Doc. A/CONF. 48/14.

30. In establishing standards for pollutants of international significance, governments are recommended to "take into account the relevant standards proposed by competent international organizations" and to act in concert with "other concerned Governments and the competent international organizations in planning and carrying out control programmes for pollutants distributed beyond the national jurisdiction from which they are released" (Rec. 72). See also in this connexion principles 21 and 22 of the Stockholm Declaration.

monitor the accumulation of hazardous compounds in biological and abiotic material and the effect of such accumulations on the reproduction and population size of selected species. As regards noise, the Governing Council is asked to ensure that surveys are made "concerning the need and the technical possibilities for developing internationally agreed standards and measuring and limiting noise emissions and if that it is deemed advisable, such standards shall be applied in the production of means of transportation and certain kinds of working equipment, without a large price increase or reduction in the aid given to developing countries" (Rec. 14).

In the case of marine pollutants, the recommendations include several proposals for strengthening existing programs<sup>31</sup> and bodies.<sup>32</sup> Among the new measures proposed it is suggested that steps be taken to establish a world registry of major rivers, arranged regionally and classified according to their discharge of water and pollutants, and also a registry of clean rivers, defined in accordance with agreed quality criteria, to which nations would contribute on a voluntary basis (Rec. 55). Governments are asked to provide to the United Nations, the (FAO) and UNCTAD, as appropriate, "statistics on the production and use of toxic or dangerous substances that are potential marine pollutants, especially if they are persistent" (Rec. 87). The new environmental mechanism is asked to include among its functions "overall responsibility for ensuring that needed advice on marine pollution problems shall be provided to Governments" (Rec. 93). More generally, the question of marine pollution is left to be dealt with by the United Nations Conference on the Law of the Sea and the Intergovernmental Maritime Consultative Organization (IMCO) Conference on Marine Pollution.

As regards the climate, it is recommended that ten "baseline stations" should be established in areas remote from pollution "in order to monitor long-term global trends in atmospheric constituents and properties" (Rec. 79). A larger network of at least 100 stations is to be set up "for monitoring properties and constituents of the atmosphere on a regional basis and especially changes in the distribution and concentration of contaminants" (*ibid.*). These programs, to be guided by the World Meteorological Organization (WMO), are based on existing activities but will constitute a significant increase in the means available to assess environmental

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31. In particular Global Investigation of Pollution in the Marine Environment (GIPME) and the Integrated Global Ocean Station System (IGOSS).

32. Notably the Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) and the Intergovernmental Oceanographic Commission (IOC). The latter is asked, *inter alia*, to initiate "an interdisciplinary marine pollution data and scientific information referral capability" (Rec. 91).

conditions determined by atmospheric factors. While these stations will be concerned with climatic conditions generally, more specialized networks (no doubt linked to the former) are to be built up to deal with natural disasters. The Secretary-General is asked, with the assistance of the United Nations Disaster Relief Co-ordinator, to assess the needs for additional observational networks for natural disaster detection and warnings of tropical cyclones and associated storm surges, torrential rains, floods, tsunamis, earthquakes; to evaluate the existing systems for the communication of disaster warnings; and to promote, through existing national and international organizations, the establishment of an effective world-wide natural disaster warning system, with special emphasis on tropical cyclones and earthquakes (Rec. 18).<sup>33</sup>

The very diversity of tasks to be undertaken with regard to the environment and the range of persons requiring information has raised, in an acute form, the question of how the relevant information, especially of a socio-economic nature (as distinct from immediate scientific data) is to be handled; and how it is to be presented in a way which will best fit the needs of actual decision-makers. While, in part, the problem can be resolved through increased specialization—the development of the disaster warning networks just mentioned is an example—there are many areas of policy in which it is necessary to bring different kinds of knowledge together before an informed judgement can be made. During the preparations for the Stockholm Conference many speakers touched on aspects of the problem, or problems, involved in this area. While it was recognized that there were many other issues which required attention, the question of providing ready access to sources of information became identified as the major problem on which international efforts should first be concentrated. It was with this in mind that an “International Referral Service for sources of environmental information” was recommended. Such a service, it was said “would enable the maximum benefit to be gained from the exchange of information about local, national and international research, application and legislative and management experiences in environmental matters”.<sup>34</sup> The Stockholm Conference recommended that the Secretary-General should take the appropriate steps to organize such a Service, in order to “assist in the successful

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33. Taking “full advantage of existing systems and plans, such as the World Weather Watch, the WMO’s Tropical Cyclone Project, the International Tsunami Warning System, the World Wide Standardized Seismic Network and the Desert Locust Control Organization” (Rec. 18). Pre-disaster planning is also to be developed, as a component of country programming, within the framework of UNDP.

34. *United Nations Conference on the Human Environment, Educational, Informational, Social and Cultural Aspects of Environmental Issues*, U.N. Doc. A/CONF.48/9, ¶130.

implementation of all the recommendations” on educational, informational, social and cultural aspects of environmental issues, and of “most of the recommendations envisaged in the other substantive subject areas” (Rec. 101). Governments were asked to make available, through the International Referral Service, “such information as may be requested on their pollution research and pollution control activities, including legislative and administrative arrangements, research on more efficient pollution control technology, and cost-benefit methodology” (Rec. 84). As described in the preparatory paper,<sup>35</sup> the initial users of the Service will be governments and bodies of the United Nations system. The Referral Service will cover the five substantive subjects of the Conference area and will catalogue all relevant governmental and international sources of data, technological and scientific information, social and economic information, legislative, administrative and policy information, and public information. The catalogue will be held in a computerized form, which will assist up-dating and make it easier to locate the desired material. The user will receive a computer print-out, listing the sources of information selected for his particular requirements. At a later stage it may prove possible for the Referral Service to publish, on magnetic tape or in book form, edited catalogues covering specific areas of interest. A survey by the Conference secretariat of the relevant information systems of United Nations bodies and of some of their clients indicated that an initial catalogue of sources could be easily assembled with the help of governments. The International Computing Centre, maintained by the United Nations in Geneva, provides the basis for the necessary computing facilities. With suitable feedback from users, indicating which of the sources of information provided had been most useful to them, the functional link between the users and producers of information could be strengthened and the Referral Service modified accordingly.

From the standpoint of environmental concerns as a whole, the International Referral Service constitutes one of the most original and potentially significant of the proposals launched by the Stockholm Conference. Other proposals relating to specific aspects, however, besides those already mentioned, are of interest as indicating the measures required in particular—albeit very broad—areas which will serve to build up the array of data required before policy decisions can be taken. There is a series of important recommendations, for example, dealing with the steps to be taken by governments, in co-operation with the Secretary-General and FAO, concerning the preservation of genetic resources (Recs. 39-45). The Secretary-General

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35. *Id.* at ¶¶131-36.

is asked to examine various aspects of integrated planning and to incorporate environmental impact considerations among the criteria of development project analysis (Recs. 60-63, 65, 68 and 100). A series of measures are to be adopted by governments and appropriate United Nations bodies to improve systems of water management (Recs. 51-54). Proposals relating to land management range from soil conservation (Rec. 20) to forestry (Recs. 24-27), many of them being based on work undertaken by the FAO. As regards fishing resources, besides measures to strengthen existing programs and bodies, it is suggested that the data now available should be extended (so as, for example, to take account of biological parameters) in order to determine the interaction of particular stocks and the task of managing the combined resources of a number of stocks (Recs. 46-50). The Secretary-General is to give special attention to providing a mechanism for the exchange of information on energy; data on environmental consequences of different energy systems is to be provided through meetings, studies and so forth, and a register of research maintained (Rec. 58). A comprehensive study on available energy sources, new technology and consumption trends is to be undertaken by the Secretary-General, with the aim of submitting a first report by 1975, "in order to assist in providing a basis for the most effective development of the world's energy resources, with due regard to the environmental effects of energy production and use" (Rec. 59).

In the sphere of international economic relations, United Nations agencies are asked to undertake studies on the relative costs and benefits of synthetic versus natural products serving identical uses (Rec. 64); to identify the major threats to exports, particularly those of developing countries, that arise from environmental concerns; and to assist governments to develop mutually acceptable common international environmental standards on products considered to be of significance in foreign trade (Rec. 104). The Secretary-General is requested to examine the extent to which pollution problems could be ameliorated by a reduction in current production levels and in the future rate of growth of synthetic products, and to make recommendations for national and international action. He is also asked to review the practical implications of environmental concerns, in particular, as to ways in which developing countries may be assisted to take advantage of opportunities and to minimize risks in this area (Rec. 106; see also Recs. 108 and 109, the latter relating to the integration of environmental considerations in the review and appraisal of the International Development Strategy for the Second Development Decade). As regards to human settlements, it is

suggested that the new environment mechanism should be entrusted with overall responsibility for an agreed program of environmental research; existing United Nations bodies would be responsible for the research in specific areas (Rec. 4). The adoption by the General Assembly at its twenty-seventh session of a number of resolutions concerning human settlements, based on the Stockholm recommendations, has already been noted. In the related field of population, the Secretary-General is asked to ensure that, in the preparations for the 1974 World Population Conference, special attention is given to "population concerns as they relate to the environment and, more particularly, to the environment of human environment" (Rec. 11). Recommendation 12 deals with assistance to governments in the field of family planning and WHO research, and Recommendation 13 concerns assistance in combating human malnutrition.

Lastly, besides public information activities (Rec. 97,) the Secretary-General is asked to make arrangements for an environmental report system. Countries are to be provided, at their request, with technical and financial assistance to enable them to prepare national reports on the environment, as well in setting up machinery for monitoring environmental developments from the social and cultural standpoint. Besides organizing the exchange of information, the Secretary-General is to prepare, on the basis of the national reports, "periodic reports on regional or subregional situations and on the international situation in this matter", the activities so described being co-ordinated by the new environmental mechanism (Rec. 95).

This rapid survey of the Action Plan recommendations, in particular those which are of special concern to the UNEP bodies, shows once again how varied a range of tasks and pre-occupations lies contained within the word "environment" or the phrase "international concern for the environment." The dilemma stated at the beginning of this article, posed by the potentially boundless scope of environmental concerns, remains—but a start, in terms of the adoption of specific proposals and the establishment of an agreed international mechanism, has now been made.