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Declaration on the Human Environment

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The Stockholm Conference: A Synopsis and Analysis*

THE UNITED NATIONS CONFERENCE on the Human Environment met at Stockholm, Sweden, from the fifth through the sixteenth of June, 1972;¹ during that time the participants at the Conference heard the views of delegates from 113 nations, 21 UN agencies, and 16 intergovernmental organizations.² In addition, there were 258 nongovernmental organization (NGO) observers, representing interest groups as varied as the International Federation of Beekeepers, the Sierra Club, and the International Association of Art Critics.³ Whether the delegates saw themselves as creating a basis for future international legal principles or as trying to enunciate some shared perceptions of environmental concern,⁴ there was invariably conflict in every subject area and over the Declaration on the Human Environment.⁵

As schematically represented on the next page in a flow-chart (and the supplementary notes thereto), an elaborate series of preparatory efforts over the course of two years laid the groundwork for the partici-

* This Note was prepared by Barbara L. Angstman, David A. Clarke, Bryant G. Garth, David J. Hooker, Kris D. Knudsen, James C. Noonan, and Barton H. Thompson, students at Stanford Law School, under the general direction of John Nys. However, the sections have been individually authored as noted on subsequent pages, and the views expressed in each section are those of its author.

Basic sources of information for the research of this Note were the reports of the meetings of the Preparatory Committee, which met four times in advance of the Conference, the seven basic Conference Documents (*see note 7 infra*), the three Committees' and the Plenary's conference room papers (CRP's), the final Conference Report, press releases issued by the United States Information Service (USIS) and the United Nations during the two weeks of the Conference, and, in the case of the section on the Declaration on the Human Environment, other secondary sources available in Stockholm during the Conference.

Even depository libraries for United Nations documents usually do not receive copies of conference room papers or UN press releases issued at the site of a conference. Similarly, depository libraries for the United States government publications do not receive copies of USIS press releases issued overseas. Accordingly, the sources mentioned here have been deposited by the Stanford Journal of International Studies with the Stanford Law School Library. Readers unable to obtain the sources elsewhere may write to the Librarian, Stanford Law School, Stanford, California 94305.

¹ Hereinafter referred to in text as the Conference.

² List of Participants, U.N. Doc. A/CONF. 48/INF. 5 (1972).

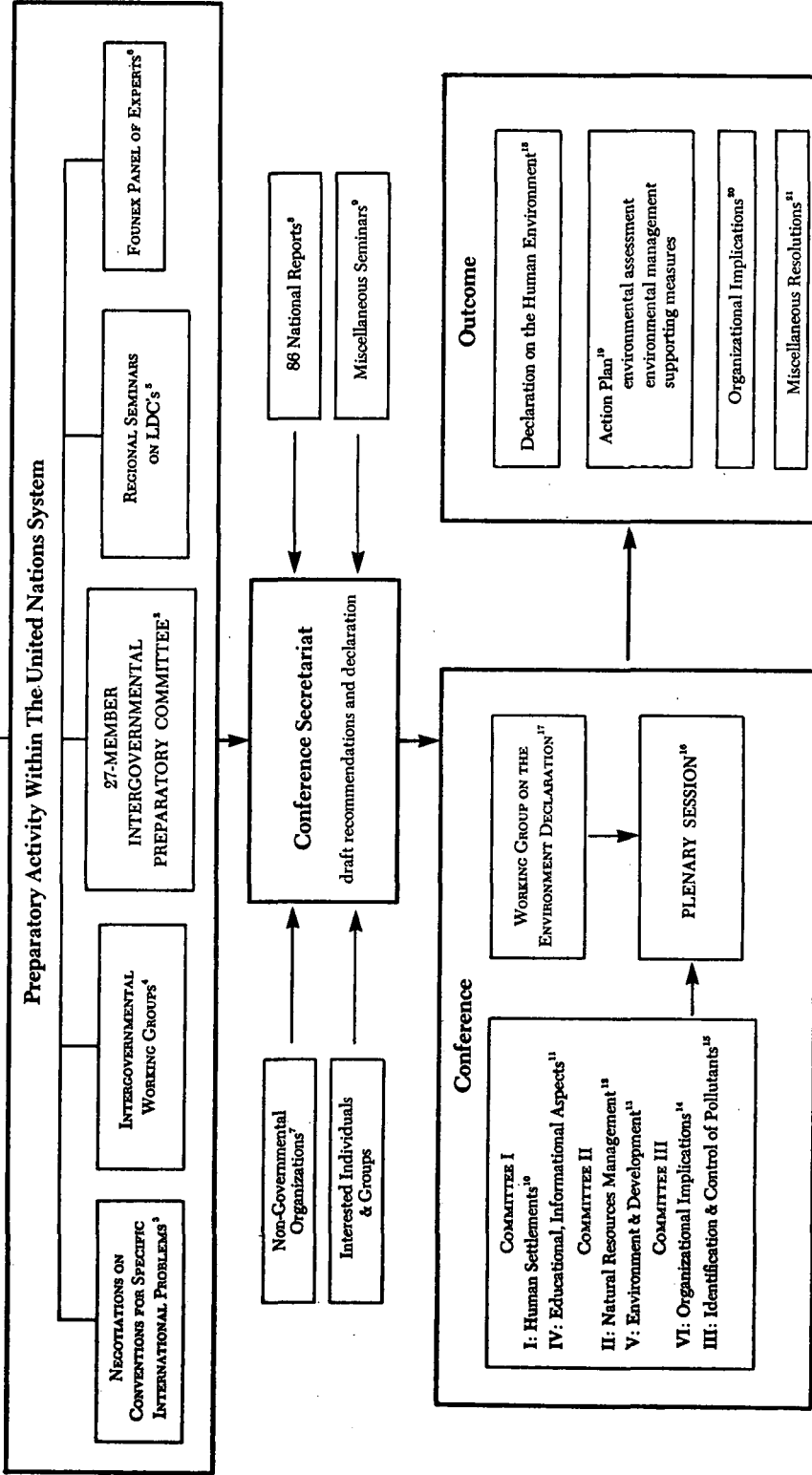
³ List of NGO (Nongovernmental Organizations) Observers, U.N. Doc. A/CONF. 48/INF. 6 (1972).

⁴ *See generally, Thacher, Assessment and Control of Marine Pollution: The Stockholm Recommendations and Their Efficacy, infra.*

⁵ Declaration on the Human Environment [hereinafter referred to in text as the Declaration] in the Report of the United Nations Conference on the Human Environment, at 2-7, U.N. Doc. A/CONF. 48/14 (1972) [hereinafter cited throughout this Note as Conference Report].

THE STOCKHOLM CONFERENCE PROCESS*

1968 UN RESOLUTION¹



* Prepared by Paul S. Muther.

1 A United Nations Conference on the Human Environment was first officially proposed in May 1968 by the Swedish delegate to the UN. The idea was embodied in an Economic and Social Council (ECOSOC) resolution of July 30, 1968, ECOSOC Res. 1346, 45 U.N. ECOSOC, Supp. 1, at 8. Within slightly over six months, the Swedish resolution had 54 sponsors, including the United States. In its final form calling for a 1972 conference to explore the possibilities of cooperation to "eliminate the impairment of human environment," the resolution was adopted by the General Assembly (GA) unanimously. GA Res. 2398, 23 U.N. GAOR Supp. 18, at 2, U.N. Doc. A/L.553 and Add. 1-4 (1968). Formal plans for the Conference were left for subsequent ECOSOC and GA action. See ECOSOC Res. 1536, 49 U.N. ECOSOC, Supp. 1, at 8; GA Res. 2581, 24 U.N. GAOR Supp. 30, at 44, U.N. Doc. A/7866 (1969); GA Res. 2657, 25 U.N. GAOR Supp. 28, at 51, U.N. Doc. A/8105 (1970); GA Res. 2850, 26 U.N. GAOR Supp. 29, at 72, U.N. Doc. A/8577 (1971).

2 The 27-member Preparatory Committee was established by the GA in December 1969 to advise the Secretary-General in the organization of the Conference. The Committee met at length on four occasions and had an informal meeting in New York as well on November 9-10, 1970. The dates and reports of the meetings include: First Session, March 10-20, 1970 (NY), *Report of the Preparatory Committee for the UN Conference on the Human Environment*, U.N. Doc. A/CONF.48/PC/6 (1970); Second Session, February 8-19, 1971 (Geneva), *Report of the Preparatory Committee for the UN Conference on the Human Environment*, U.N. Doc. A/CONF.48/PC/9 and Corr. 1 (1971); Third Session, September 13-24, 1971 (NY), *Report of the Preparatory Committee on its Third Session*, U.N. Doc. A/CONF.48/PC/13 and Corr. 1 (1971); Fourth Session, March 6-10, 1972 (NY), *Report of the Preparatory Committee on its Fourth Session*, U.N. Doc. A/CONF.48/PC/17 (1972).

Members of the Preparatory Committee were: Argentina, Brazil, Canada, Costa Rica, Cyprus, Czechoslovakia, Egypt, France, Ghana, Guinea, India, Iran, Italy, Jamaica, Japan, Mauritius, Mexico, Netherlands, Nigeria, Singapore, Sweden, Togo, USSR, UK, USA, Yugoslavia, and Zambia.

3 Negotiations on conventions for specific international problems were conducted within the UN system in conjunction with the Conference preparatory process. It was hoped that a number of such conventions would be presented for adoption by the Conference or would be opened for sig-

nature at that time, although some delegations to the Preparatory Committee expressed reservations about the desirability of adopting conventions at the Conference. (See, e.g., *Report of the Preparatory Committee on its Fourth Session*, at 6, U.N. Doc. A/CONF.48/PC/17 [1972]). Among the possible conventions were four being reviewed by the Intergovernmental Working Group (IWG) on Conservation (note 4, *infra*): (1) Convention on Conservation of the World Heritage; (2) Convention on Conservation of Wetlands of International Importance; (3) Convention on Conservation of Certain Islands for Science; and (4) Convention on Export, Import and Transit of Certain Species of Wild Animals and Plants. The major provisions of these conventions are summarized in *IWGC Progress Report*, U.N. Doc. A/CONF.48/PC/11/Add. 3 (1971). Under the auspices of the IWG on Marine Pollution (note 4, *infra*) negotiations proceeded on a Convention on Ocean Dumping. None of these conventions was in fact ready for signature or adoption by the Conference by June 1972, although the Ocean Dumping Convention was agreed upon later in 1972 in London. (The Convention is reprinted in XI I.L.M. 1291 [1972].)

4 Five Intergovernmental Working Groups (IWG) were established to deal with specific subjects during the preparatory process. These included: (1) an IWG on the Declaration on the Human Environment which had two substantive sessions May 10-28, 1971, and January 5-14, 1972, summarized in *Report of the IWG on the Declaration on the Human Environment*, U.N. Doc. A/CONF.48/PC/12 (1971) and *Report of the IWG on the Declaration on the Human Environment on its Second Session*, U.N. Doc. A/CONF.48/PC/16 (1972); (2) an IWG on Marine Pollution, consisting of 35 nations, which met twice in 1971, in London (June 14-18, 1971) and Ottawa (November 8-12, 1971), summarized in *Report of the IWGMP*, U.N. Doc. A/CONF.48/IWGMPI/8 (1971) and *Report of the IWGMP on its Second Session*, U.N. Doc. A/CONF.48/IWGMPII/5 (1971); (3) an IWG on Monitoring or Surveillance, consisting of 28 countries, which met in Geneva, August 16-20, 1971, summarized in *IWGM Progress Report*, U.N. Doc. A/CONF.48/PC/11/Add. 1 (1971); (4) an IWG on Conservation, with 24 countries, which met in New York September 14-17, 1971, summarized in *IWGC Progress Report*, U.N. Doc. A/CONF.48/PC/11/Add. 3 (1971); and (5) an IWG on Soils, consisting of 29 nations, which met in Rome, June 21-25, 1971, summarized in *Report of the IWGS on its First Session*, U.N. Doc. A/CONF.48/IWGS.I/24 (1971).

⁵ Regional seminars on development and environment under the auspices of the regional economic commissions were organized by ECAFE, at Bangkok, August 17-23, 1971; by ECA, at Addis Ababa, August 23-27, 1971; by ECLA, at Mexico City, September 6-11, 1971; and by UNESOB, at Beirut, September 27-October 2, 1971. The first three are summarized in *Regional Seminars on Development and Environment*, U.N. Doc. A/CONF. 48/PC/11/Add. 2 (1971). The meetings of experts in the various regions were convened to ensure the participation of the developing countries in the preparatory work of the Conference and that their particular problems could be brought to the attention of the Conference. A further objective was to suggest ways of incorporating environmental considerations into the development process. The seminars were financed largely by special contributions from developed nations and by an assumption of part of the costs by interested institutions within the regions themselves.

⁶ The Secretary-General of the Conference convened a panel of 27 senior experts to define the relationship of development to environment. The panel met at Founex, Switzerland, June 4-12, 1971, and its deliberations and conclusions resulted in a Report on Development and Environment (the "Founex Report"). *Report of a Panel of Experts Convened by the Secretary-General of the United Nations on the Human Environment*, Annex I, U.N. Doc. A/CONF. 48/10 (1971), reprinted with commentary by Miguel Ozorio de Almeida, Wilfred Beckerman, Ignacy Sachs and Gamani Corea, as *Environment and Development: The Founex Report* 586 INT'L CONCILIATION 7 (1972). The basic ideas expressed in the Founex Report shaped much of the discussion at the Regional Seminars on LDC's, *supra* note 5.

⁷ The Secretariat solicited basic input material from nongovernmental organizations (NGO's) on subjects relevant to their fields of competence and interest. Other basic contributions were submitted by NGO's on their own initiative. A catalogue of the material is listed in *Bibliography*, U.N. Doc. A/CONF. 48/13 and Rev. 1 (1972).

⁸ National reports on the status of environmental protection were prepared by most of the participating nations and were submitted to the Conference Secretariat as part of the basis for action proposals. Many LDC's prepared surveys of their environmental concerns for the first time, often as a result of financial contributions from a number of developed countries that permitted the Secretariat to make experts available to the LDC's for

assistance. The reports are listed in *Bibliography*, *supra* note 7. National reports submitted prior to February 1, 1972, have been summarized in WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS, *THE HUMAN ENVIRONMENT: VOLUME II, SUMMARIES OF NATIONAL REPORTS* (1972).

⁹ Numerous seminars met principally during 1971 in part to prepare basic input documents for the Conference Secretariat. For a comprehensive listing with dates, localities and published reports, see Thacher, *Assessing and Control of Marine Pollution: The Stockholm Recommendations and Their Efficacy*, in this volume, n. 3.

¹⁰ The basic Conference Document for Subject Area I was *Planning and Management of Human Settlements for Environmental Quality*, U.N. Doc. A/CONF. 48/6 (1971). For a summary of the Committee's work in this area see *Report of the United Nations Conference on the Human Environment held at Stockholm, 5-16 June 1972*, at 89-95, U.N. Doc. A/CONF. 48/14 (1972) [hereinafter cited as Conference Report].

¹¹ The basic Conference Document for Subject Area IV was *Educational, Informational, Social and Cultural Aspects of Environmental Issues*, U.N. Doc. A/CONF. 48/9 (1971). For a summary of the Committee's deliberations in this subject area see Conference Report at 95-97.

¹² The basic Conference Document for Subject Area II was *Environmental Aspects of Natural Resources Management*, U.N. Doc. A/CONF. 48/7 (1972). For a summary of the Committee's deliberations in this subject area see Conference Report at 98-101.

¹³ The basic Conference Document for Subject Area V was *Development and Environment*, U.N. Doc. A/CONF. 48/10 (1971). For a summary of the Committee's debate in this subject area see Conference Report at 101-05.

¹⁴ The basic Conference Document for Subject Area III was *Identification and Control of Pollutants of Broad International Significance*, U.N. Doc. A/CONF. 48/8 (1972) and Corr. 1 and Add. 1. For a summary of the debate in Committee on this subject area see Conference Report at 106-09.

¹⁵ The basic Conference Documents for Subject Area VI were *Organizational Implications of Action Proposals*, U.N. Doc. A/CONF. 48/11 (1972) and Add. 1, and *The United Nations system and the human environment: consolidated document submitted by the Administrative Committee on Coordination*, U.N. Doc. A/CONF. 48/12 (1972). For a summary of the Committee's work in this subject area see Conference Report at 109-10.

¹⁶ While the three Committees were deliberating the details of recommendations during the first week of the Conference, representatives of NGO's, UN agencies and intergovernmental organizations as well as delegates from the participating nations were each allotted a short period of time to address the Conference in Plenary Session on matters of concern to them. A total of 141 speakers participated during the first 11 meetings. Some of these addresses received wide press coverage, among them those of Robert McNamara, speaking for the International Bank for Reconstruction and Development (World Bank); Olof Palme, Prime Minister of Sweden, whose remarks about ecocide and the effects of war on the environment were characterized as an attack on American policies in Vietnam; Margaret Mead, speaking for the NGO's as a group; and Tang Ke, chairman of the delegation of the People's Republic of China. For a summary of the general debate in Plenary see Conference Report at 80-85.

In the second week, the character of the Plenary meetings changed to a consideration of the work which the Committees were completing in their respective subject areas and to several miscellaneous resolutions. See note ²¹ *infra*. The Committees reported in turn to the Plenary at which recommendations were debated and approved. For a summary of this Plenary action see Conference Report at 86-122.

¹⁷ At an early (the fourth) meeting of the Plenary, China interrupted the pattern of speeches being there presented with a call for a reassessment of the draft Declaration (U.N. Doc. A/CONF. 48/4 [1972]) which had been hammered out as a compromise document by the Preparatory Committee. China's resolution led to the establishment (at the seventh meeting) of a Working Group on the Declaration on the Human Environment which met days and nights to work up a new compromise draft; the Working Group did not finally complete its task until the early morning of the last day of the Conference. For the text of the Chinese resolution, see Conference Report at 86; for the report of the Working Group to the Plenary, see *Id.* at Annex II.

¹⁸ The Declaration on the Human Environment as it emerged from the Conference reflected inability to reach a compromise on two issues. The formulation of Principle 26 on nuclear weapons was not adequate as far as China and Tanzania were concerned, and China threatened not to participate in the voting if the Conference insisted on including the principle in its present form; however, a vote was averted by a parliamentary maneuver by the Conference President calling for adoption of the Declaration

by acclamation. Principle 20 sought to define the responsibility of states to other states in regard to the effects on the environment in areas outside their national jurisdiction as a result of activities within their jurisdiction or under their control; the formulation was unsatisfactory to Brazil and others and the Conference adopted it only after agreement to refer the principle to the GA for further consideration. For the full text of the Declaration see Conference Report at 2-7, reprinted in 28 BULL. OF THE ATOMIC SCIENTISTS 33 (Sept. 1972).

¹⁹ The Action Plan consists of 109 substantive recommendations of an international character approved by the Conference and addressed to states, international organizations and various agencies within the UN system. The recommendations were dealt with under five substantive subject areas during the Conference, but may also be grouped by function within a three-element framework consisting of (1) a global *environmental assessment* program, called "Earthwatch," and consisting of such functions as evaluation and review, research, monitoring and information exchange; (2) *environmental management* activities such as goal setting and planning; and international consultation and agreements; and (3) international *supporting measures* to facilitate the national and international actions of assessment and management. For the substance of the recommendations see Conference Report at 8-65.

²⁰ The Conference's recommendation on institutional and financial arrangements within the UN system was in the form of a separate resolution calling for establishment by the GA of a Governing Council for Environmental Programmes, an Environment Secretariat, a Fund and an Environmental Co-ordinating Board with an Executive Director within the framework of the Administrative Committee on Co-ordination. See Conference Report at 61-65.

²¹ Several miscellaneous resolutions were adopted by the Conference including (1) recommending designation of June 5 as a World Environment Day; (2) condemning nuclear weapons tests; (3) recommending convening of a second United Nations Conference on the Human Environment; (4) expressing thanks to Sweden for hosting the Conference. In addition, the Conference formally commended the numerous recommendations for action at the national level contained in the Conference Documents to the attention of participating states for their consideration and implementation where appropriate. For the text of these resolutions see Conference Report at 66-68.

pants at Stockholm and produced the basic working documents. The documents provided background information and the preliminary recommendations⁶ that shaped the Conference's discussions. Recommendations were grouped into six subject areas with a separate basic working document for each and a seventh for the Draft Declaration.⁷

The Conference itself was divided into three phases: (1) the general debate in Plenary, (2) the meetings of the three Committees and a Working Group on the Declaration, and (3) the final Plenary sessions. The general debate in Plenary consisted of eleven meetings in which the participants addressed the Conference on topics such as development, marine pollution, population, and conservation, all of which were considered in greater detail in the Committees.⁸ The bulk of the actual work in Stockholm was done at the committee level; each Committee handled two of the six subject areas. After discussion and amendment in committee, the recommendations were further discussed, amended, and eventually acted upon in the final Plenary sessions.

The final written products of the Stockholm Conference were an Action Plan consisting of 109 recommendations for action of an international character and the Declaration on the Human Environment. The recommendations of the Action Plan were grouped in addition to their arrangement by the six subject areas into three broad functional categories: (1) environmental assessment, consisting of research, monitoring, information exchange and evaluation and review; (2) environmental management, consisting of goal setting and planning and international consultation and agreements; (3) and supporting measures such as education and training, public information, technical cooperation, organization and financing.

This Note is divided into seven sections, the first dealing with the Declaration, and the second through the seventh with the recommendations of Subject Areas One through Six respectively. Each section examines the most salient or recurring themes as they emerged in the Committees' deliberations, and attempts to isolate the areas of conflict that did

⁶ The Conference agreed on 109 recommendations. Conference Report at 8-58. In the text which follows, all recommendation numbers refer to the final number of the recommendation in the Conference Report. In footnotes, citations to the recommendations have two numbers, the number of the preliminary recommendation and the final recommendation number, although not necessarily in that order. The number appearing first will be the number that the recommendation appears under in the particular document the author is citing; the number in parentheses is the recommendation's designation in the alternative source.

⁷ The six subject areas and their corresponding Conference Documents are enumerated in the flow-chart and the notes thereto.

⁸ For a review of the general debate in Plenary see Conference Report at 80-85.

occur. The section on the Declaration traces the evolution of that document from its preliminary formulations earlier in the Stockholm Conference Process rather than focusing almost exclusively on the Conference developments themselves, as do the other six sections. At the same time, the United States' position on the important issues is pointed out. Where available, information on recent developments in the UN system concerning the recommendations has been included. Following the text of the Note are two tables: one summarizes the evolution of the Declaration from its earlier formulations; the other presents the basic components of the organizational structure to be established by the United Nations and catalogues the various amendments offered at the Conference which sought to shape the character of the original conception in one direction or another.⁹

I. DECLARATION ON THE HUMAN ENVIRONMENT*

Maurice Strong, Secretary-General of the Stockholm Conference, called the Declaration on the Human Environment "a new and important—indeed an indispensable—beginning of an attempt to articulate a code of international conduct for the age of environment."¹ The Conference, embroiled in conflict about the content of such a Declaration, almost adjourned with none at all. So uncertain was the fate of the Declaration that *Stockholm Conference Eco*, the unofficial Conference newspaper, on the next to last day of the Conference reported that "It is overwhelmingly probable that a draft Declaration will be finalized this evening. Or that it will not. This is the unanimous opinion of those privy to the deliberations now taking place."² The Declaration was completed only after a strenuous 14-hour negotiating session that ended on the last day of the Conference.

This section examines the important issues and conflicts that emerged during the drafting of the Declaration on the Human Environment. It focuses particularly on the disagreement between rich and poor nations

⁹ While researching this Note, the authors prepared comprehensive tables of the "legislative history" of the Declaration, the 109 recommendations in the Action Plan (i.e., Subject Areas I-V), and the resolution on organizational implications. Largely for cost considerations and because of the limited utility of such tables for most readers, the tables of "legislative history" for the 109 Action Plan recommendations have not been printed herein. However, as noted in the text, the other two tables have been printed. Photocopies of the lengthy tables on the Action Plan recommendations will be made available at cost upon request to the Stanford Journal of International Studies.

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¹ Text of Opening Statement by Maurice F. Strong to the First Plenary Meeting of the United Nations Conference on the Human Environment, United Nations Press Release HE/S/8 at 5 (June 5, 1972).

² Stockholm Conference Eco, June 16, 1972, at 1, col. 3.

over the priority of environmental conservation policies when such policies hamper rapid economic development. The section reports how the disagreement was resolved or compromised as the evolution of the Declaration is traced from the Conference's preparatory stage through the Conference itself, where an intergovernmental working group did most of the drafting, to the final Declaration on the Human Environment. Table I, at the end of this Note, summarizes in tabular form the evolution of the principles in the Declaration.

A. *The Preparatory Committee*

It is useful to begin with the Declaration's pre-Conference history. Conflicts about the proposed document developed at the initial meeting of the Preparatory Committee for the Stockholm Conference. One problem, involving the scope of the Declaration, was the exact degree to which the Declaration should spell out States' rights and responsibilities.³ This recurring problem, however, was not itself of critical importance; rather, it concealed more specific issues. Those who argued that a particular proposal was outside the scope of the Declaration generally were disguising their opposition to the substance of the proposal.

The more critical issue and the one that most polarized later deliberations was reconciling the different viewpoints of the rich and the poor nations. The first evidence of this appears in the report of the Preparatory Committee on its second session. The report suggested blandly that "it would be useful to make a particular reference in the Declaration to the protection of the interests of the developing countries."⁴

At the meeting of the Intergovernmental Working Group (IWG) set up by the Preparatory Committee, it became clear that such a general reference would not satisfy the developing nations. They wanted more emphasis on distinctive interests common to developing nations than they found in the first draft of the Declaration by the IWG. That draft had followed the Preparatory Committee's instructions with a statement to the effect that there is no fundamental conflict between economic development and environmental protection.⁵ Despite this statement, developing nations feared that other provisions in the Declaration would handicap their efforts at economic development. For example, they feared the implications of the principle calling for the protection of the environment "even at the earliest stages of development planning."⁶

³ Report of the Preparatory Committee for the UN Conference on the Human Environment, at 16, U.N. Doc. A/CONF. 48/PC/9 (1971).

⁴ *Id.* at 17.

⁵ Report of the Intergovernmental Working Group on the Declaration on the Human Environment, Annex I, at 2, U.N. Doc. A/CONF. 48/PC/12 (1971).

⁶ *Id.* at 4.

They suspected that this would result in the imposition of costly restrictions on the development of industry and the exploitation of natural resources. Similarly, Principle 2 of the first draft, which provided that "States shall carefully husband their natural resources and shall hold them in trust for present and future generations,"⁷ was perceived as being antithetical to the need immediately to employ resources for desperately needed economic development. Reflecting the developing nations' fears, Brazil argued that the draft "was 'anti-developmental' and merely conservationist in nature, and therefore unsatisfactory."⁸ The Preparatory Committee noted that "Some members felt that the whole document should be redrafted. . . . [I]t should contain an inspirational message that would mobilize the whole world towards a more equitable distribution of income and a better global environment for all peoples."⁹

In response to such criticisms, the IWG redrafted the document. In the new document—the Draft Declaration on the Human Environment—nine of the 23 principles directly alluded to the need for economic development or other specific interests of the developing nations. Principle 6 of this draft exemplified the change in emphasis. It affirmed that "Economic and social development is essential for ensuring a favourable living and working environment for man and for creating conditions on earth that are necessary for the improvement of the quality of life."¹⁰ In addition, the previously mentioned Principle 2 of the first draft, on husbanding natural resources, was changed to encourage the safeguarding of natural resources "through careful planning or management, as appropriate."¹¹ In short, the Draft Declaration established development as equal in priority with conservation. The draft was described tersely in the Preparatory Committee's report as "a realistic attempt to reconcile different groups and interests."¹²

The Draft Declaration, however, was not officially approved by the Committee. Some members expressed reservations about certain provisions such as Principle 21, which called for the end of the testing and use of weapons of mass destruction.¹³ To avoid further debate the Committee elected to simply forward the document to the Conference, indi-

⁷ *Id.* at 3.

⁸ Robinson, *Problems of Definition and Scope*, in *LAW, INSTITUTIONS, AND THE GLOBAL ENVIRONMENT* 82 (J. Hargrove ed. 1972).

⁹ Report of the Preparatory Committee on Its Third Session, at 39, U.N. Doc. A/CONF. 48/PC/13 (1971).

¹⁰ UN Conference on the Human Environment, *Draft Declaration on the Human Environment*, at 3, U.N. Doc. A/CONF. 48/4 (1972) [hereinafter cited as Conference Document DHE].

¹¹ *Id.* at 3, Principle 2.

¹² Report of the Preparatory Committee on Its Fourth Session, at 18, U.N. Doc. A/CONF. 48/PC/17 (1972).

¹³ *Id.*

cating only that "while the text was open to improvement, great care should be taken not to destroy the delicate balance on which it rested."¹⁴

B. *The Conference Working Group*

Once at the Conference, the compromise between developed and developing nations was threatened and later modified, but it did survive. On June 7, at the Fourth Plenary session, the People's Republic of China initiated a reassessment of that compromise. Tung Ke, the chief Chinese delegate, introduced a resolution calling for the establishment of an *ad hoc* committee (later to be called the Working Group) to discuss the Draft Declaration.¹⁵ The resolution asserted that all states, not just those who had participated in the Preparatory Committee, should participate on an equal basis in writing the Declaration. Only such participation could mobilize the support necessary for the success of the Declaration.¹⁶

The introduction of this resolution precipitated 24 hours of frantic negotiations aimed at blocking such a review of the Draft Declaration.¹⁷ The Western developed nations preferred the Declaration as drafted; they feared not only that their perspectives on environmental problems would be overlooked, but also that no agreement at all would be reached on a Declaration on the Human Environment. They instead hoped that the Conference would adopt the Draft Declaration with recorded reservations and interpretations of those unhappy with it.

Clearly an overwhelming majority of the delegates favored reconsideration of the Draft Declaration. Opposing countries avoided seriously dividing the Conference by abstaining on the official vote. As a consequence, on June 8, after incorporating Iran's suggestion that the committee be a "working group open to all States participating in the Conference,"¹⁸ the delegates unanimously approved the proposal.

The new Working Group began its meetings in secret the following day under the chairmanship of Mr. Taieb Slim of Tunisia. Immediately the Draft Declaration was challenged as unrepresentative of the needs of the developing nations. Many countries suggested that more was needed than just harmonizing the needs of development and preservation of the environment. Pakistan, for example, attacked the Draft Declaration for not dealing with the "pollution of poverty," calling for "massive financial and technical assistance" to the developing nations.¹⁹ The

¹⁴ *Id.*

¹⁵ United Nations Press Release HE/S/28 (June 7, 1972).

¹⁶ Conference Report at 86.

¹⁷ Hill, *UN Parley Backs China on Call to Review Draft*, N.Y. Times, June 9, 1972, at 3, col. 1.

¹⁸ Conference Report at 86.

¹⁹ Stockholm Conference Eco, June 10, 1972, at 2, col. 1.

emerging idea, openly articulated for the first time, was that developed nations should be obligated to remedy the problem of poverty.

In addition, the African nations and others wanted the Declaration to discuss directly the political prerequisites for an adequate environment. In particular, they proposed that systems of racial dominance such as *apartheid* be condemned.²⁰

With these and numerous other proposals, the great majority of which were kept from the public, the number of amendments reached 16 on June 13.²¹ This maze of amendments made ultimate agreement seem progressively less likely. *Stockholm Conference Eco* observed: "Tossing the Secretariat's draft Declaration on the Human Environment to the closed Working Group has been like dropping it into a school of piranha."²² That day China further complicated the task of the Working Group by proposing nine more controversial amendments, including one stating that, "Every country not only has the right to protect itself from the plunder and damages of imperialism, colonialism, and neo-colonialism," it has the right "to support victim countries against such plunder and impose sanctions against the saboteurs."²³

Agreement came, however, at 5:00 A.M. on the last day of the Conference (June 16). The Working Group agreed on a preamble and 25 principles. It was unable to agree on two principles which it instead sent to the Plenary session, where one was approved.²⁴

C. *Differences Between the Draft and Final Versions of the Declaration*

The Declaration on the Human Environment, as it finally emerged from the Conference, substantially retained the preamble and principles of the Draft Declaration. There were, however, three significant differences. First, the Final Declaration is more clearly political. For example, Principle 1, inserted primarily at the behest of the African nations, condemns racism and apartheid policies and affirms a fundamental right to freedom and equality;²⁵ it exemplifies the change in tone in many sections, causing the Final Declaration to sound harsher than the Draft.

A second important substantive difference in the Final Declaration is that Principle 20 of the Draft failed to gain approval either in the

²⁰ Hill, *UN Parley Ends by Adopting Guide to Pollution War*, N.Y. Times, June 17, 1972, at 2, col. 2.

²¹ Stockholm Conference Eco, June 13, 1972, at 1, col. 1.

²² *Id.*

²³ Stockholm Conference Eco, June 14, 1972, at 8, col. 1.

²⁴ Report of the Working Group on the Declaration on the Human Environment, at 1, U.N. Doc. A/CONF.48/CRP.26 (1972).

²⁵ Conference Report at 4.

Working Group or in the Plenary session. It was instead forwarded by the Plenary to the UN General Assembly. That principle required:

Relevant information must be supplied by States on activities or developments within their jurisdiction or under their control whenever they believe, or have reason to believe, that such information is needed to avoid the risk of significant adverse effects on the environment in areas beyond their national jurisdiction.²⁶

This idea prompted a harsh conflict between Brazil and Argentina. Argentina wanted to use this principle to deter Brazil from harming its water supply and wildlife by building more and larger dams on the upper Paraná river.²⁷ Brazil mustered more support in the Working Group and the principle was deleted from the Final Declaration. This confrontation was one of the few significant conflicts among the developing nations about the substance of the Declaration. It is important to observe that the solidarity among the developing nations did not prevent bitter conflicts when nations believed their national interests were at stake.²⁸

Finally, the most significant change in the draft is that the Final Declaration shifted its concern still closer to the interests of the developing countries in response to sentiments that surfaced in the Conference Working Group. Principle 6, for example, now calls for "the transfer of substantial quantities of financial and technological assistance."²⁹ A new Principle 10 refers to the need of developing nations for "stability of prices and adequate earnings for primary commodities and raw materials."³⁰ These and other principles suggest an obligation by the rich nations to facilitate economic development of the poor nations and represent a change from the Draft Declaration. Yet, the United States' official interpretation of Principle 12 (which encourages additional financial assistance to LDC's that they may incorporate environmental safeguards into their development planning) is that "[the USA] does not regard the text of this principle, or any other language contained in the Declaration, as requiring it to change its aid policies."³¹

²⁶ Conference Document DHE at 4.

²⁷ Stockholm Conference Eco, June 15, 1972, at 1, col. 1.

²⁸ This substantive change was unaffected by the General Assembly in its subsequent consideration of the Declaration. At the meeting of the Second Committee of the General Assembly in October and November of 1972, Brazil and Argentina compromised their differences and helped co-sponsor a resolution concerning this principle. Draft Resolution A/C.2/L. 1227. Report of the Second Committee on the UN Conference on the Human Environment, at 5, U.N. Doc. A/8901 (1972). The resolution, which both the Second Committee and the General Assembly unanimously passed, stated that the providing of information about potentially harmful activities will further the Declaration's aims of international responsibility and cooperation. It added that such an information exchange should not be construed to enable a nation to delay another's resource exploitation. *Id.* at 34. In short, the resolution added nothing of substance to the Declaration.

²⁹ Conference Report at 5.

³⁰ *Id.*

³¹ *Id.* at 118.

D. Conclusion

The Declaration's concern for the developing countries makes it less "conservationist" than earlier drafts. It states, for example, that global environmental standards "may be inappropriate and of unwarranted social cost for the developing countries."⁸² Still, it includes the principle of State responsibility for environmental damage to areas outside a country's borders, and this was the principle Maurice Strong termed "absolutely indispensable" to the Declaration.⁸³ It also cites the need for careful planning of resource development for the benefit of future as well as present generations. The essential point of the Declaration is not that pollution problems should be ignored by developing nations but rather that worldwide poverty itself is an environmental pollution problem that must be solved. This broad definition of pollution allowed a consensus to be reached that the environment must be preserved and enhanced.⁸⁴

The consensus, however, hides the fundamental disagreement between developed and developing nations. The developing nations favor immediate exploitation of their resources and resist the idea that they should develop their resources in an environmentally-concerned, more expensive manner. The developed nations, better able to divert moneys to resource planning and conservation, obviously have a different perspective. The attempt to resolve or compromise this contradiction was in essence what the attempt to draft the Declaration was all about. The evolution of the Declaration was to a great extent a reflection of the increasing influence of the developing nations as they better articulated their interests and took advantage of their numerical superiority. The final resolution of this conflict was to cloak it with ambiguities, although the Declaration does intimate a more profound solution to the problem. That solution would be for the rich nations to provide financial and technical resources to enable the poor nations to develop while minimizing harm to the physical environment. If such an increase in foreign aid is improbable, most developing nations in practice probably will continue to reject the importance of the conservation of the physical environment.

II. PLANNING AND MANAGEMENT OF HUMAN SETTLEMENTS*

In its consideration of the subject area on *Human Settlements*, the First Committee accepted the definition of the subject formulated by the Preparatory Committee. The topic concerned "those natural and man-made elements that constitute man's territorial habitat: where he lives,

⁸² *Id.* at 7, Principle 23.

⁸³ United Nations Press Release HE/S/1 at 4 (May, 1972).

⁸⁴ Conference Report at 3.

* David J. Hooker, B.A., Denison University, 1972; J.D. Candidate, Stanford Law School.

works, raises his family, and seeks his biological, social, spiritual and intellectual well-being."¹ This broad definition allowed a wide range of proposals, which treated the problem areas of housing, transportation, water and sewage, the mobilization of human and financial resources, and the improvement of transitional urban settlements.

Three aspects of the deliberations and recommendations of the First Committee are noted in this section. First, the Committee emphasized national action on national problems. Second, it had difficulty reaching accord on proposals which encompassed *specific* international action on national problems. Finally, conflicts arose in decisions concerning international responses to international problems, as evidenced by the decisions affecting the financing of the suggested programs.

A. *Emphasis on National Action in Response to National Problems*

Environmental problems arising from human settlements exist in all nations, since each must provide a "territorial habitat" for aggregations of its people. The specific solutions to these problems vary among nations, however, because of differing geographical, cultural, sociological, and economic factors. Consequently, the Preparatory Committee emphasized the importance of national action with respect to the application of the solutions involved in the human settlements area.²

The recommendations for national action (discussed by the First Committee but which do not appear in the Conference's final Action Plan because directed to individual nations only rather than toward action at the international level) recommended that all countries construct comprehensive plans for environmental development. These included specific suggestions in several areas for planning, research and encouragement of public participation.³ The recommendations which *do* appear in the Action Plan are those concerned with international action, but the Committee continued its emphasis on autonomous national implementation of programs even in several of the recommendations for international action. Typical are those calling for research and training at the international level for dealing with environmental problems at a local level, and the establishment of methods for financing local projects with

¹ UN Conference on the Human Environment, *Planning and Management of Human Settlements for Environmental Quality*, at 4, U.N. Doc. A/CONF. 48/6 (1971) [hereinafter cited as Conference Document I].

² Conference Document I, Recommendations 132-34, at 27-28.

³ Priority areas suggested for national action were comprehensive environmental development, legislative and institutional frameworks for that development, national population policies, water supply and sanitation, growth poles, mass media channels to promote and preserve rural settlements, policies of land use, improvement of city and intercity transportation, expansion of educational and recreational facilities, and mobilization of public support. *Id.*

international funds. In addition, Recommendation 2 requests Governments to designate individual environmental improvement areas, to monitor developments closely and to provide information from these projects to other countries with similar problems.⁴

Most recommendations discussed by the Committee met little opposition;⁵ countries were able to vote for general environmental improvement yet retain their right to proceed with solutions to their own problems according to their individual plans. The United States joined in the endorsement of these proposals, which required no specific commitments from any nation.

B. Difficulties with Specific International Action on National Problems

As the discussion passed from recommendations suggesting—but not requiring—action by individual nations and progressed to consideration of *specific* action involving nations at the international level, difficulties arose in reaching agreement. Two areas of such difficulty were apparent. For one, in the discussion of international research on national problems, individual nations attempted to impose their limited individual priorities upon the Conference. For another, in the consideration of the specific problem of population control, international goals conflicted with the national policies of some nations.

Several countries proposed amendments to the original proposal designating priority areas for international research (Recommendation 4) in order to include their particular national problems.⁶ Difficulties in balancing these interests were avoided, however, by substantially maintaining the Preparatory Committee's suggestions, which did not emphasize problems of specific countries but which did allude in general terms to nearly all of the areas included in the proposed amendments.

Recommendation 12, which provided for increased assistance to governments in the field of family planning and which encouraged research in the field of human reproduction, caused considerable debate at both the committee and plenary levels of the Conference. Neither the recommendation nor the reported debates at the Committee and Plenary sessions describe the types of aid to be rendered. The problem presented by

⁴ Conference Report, Recommendation 2 (137), at 9–10.

⁵ Recommendations 136 (1) [directed to development assistance agencies], 137 (2) [environmental improvement areas], 138 (3) [bilateral and regional consultations], 140–41 (4) [research], 144 (5) [information exchange], 146 (6) [training], and 148 (7) [special training for LDC's] were adopted (some as amended) by the Committee without objection. U.N. Doc. A/CONF. 48/CRP.13/Add.1 (1972).

⁶ Canada, for example, proposed that "arctic and subarctic" regions be included, U.N. Doc. A/CONF. 48/C.1/CRP.3; Japan desired a study of "psycho-social stresses" in urban areas, U.N. Doc. A/CONF. 48/C.1/CRP.12.

Recommendation 12 was that it specifically recognized the existence of a "population explosion" and suggested that countries be provided aid to alleviate the problem. The recommendation went beyond the scope of the original proposals, which were limited to action sufficiently general not to incur opposition. In so expanding those general proposals, the recommendation caused conflicts with policies of several of the countries represented in the debates. The proposal was nevertheless approved with the support of the United States.⁷

C. *Consideration of International Financing*

Another area of controversy in the Committee's proposals was Recommendation 17, which provided for the establishment of an international institution for financing national programs relating to environmental problems of human settlements. The Preparatory Committee's report had not discussed, perhaps intentionally, the issue of financing. The proposal was suggested in Committee by India and the Libyan Arab Republic.⁸ In the debate over this recommendation, the lines were clearly drawn between the developed nations, who would provide most of the capital, and the developing nations, who would derive most of the benefit. The issue was not decided at the committee level, but was referred to the Plenary session, where it was approved.⁹ The United States joined with other developed countries in opposition to the recommendation.¹⁰

During the consideration of the recommendations concerning human settlements by the Second Committee of the United Nations General As-

⁷ New Recommendation 155 (12) was approved 23-17-12 at the Committee, U.N. Doc. A/CONF. 48/CRP.13/Add.1, and 55-18-4 at the Plenary session, U.N. Doc. A/CONF. 48/CRP.11/Add.4. Note, however, that at the Plenary session a vote was taken on an amendment to delete the entire proposal; that amendment was defeated, 12-45-20. *Id.*

⁸ U.N. Doc. A/CONF. 48/C.1/CRP.29.

⁹ The vote was 58-15-13. Observe in the following vote tally the line between developed and developing nations. The voting was as follows: FOR: Afghanistan, Algeria, Bahrain, Botswana, Brazil, Burundi, Central African Republic, Ceylon, Chile, Dahomey, Ecuador, Egypt, Ethiopia, Fiji, Finland, Gabon, Ghana, Guyana, Iceland, India, Indonesia, Iran, Iraq, Israel, Jamaica, Kenya, Kuwait, Lebanon, Liberia, Libyan Arab Republic, Madagascar, Malaysia, Mauritius, Mexico, Morocco, Nigeria, Peru, Philippines, Republic of Vietnam, Romania, San Marino, Senegal, Singapore, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Arab Emirates, United Republic of Tanzania, Venezuela, Yugoslavia, Zaire, Zambia. AGAINST: Australia, Canada, Denmark, Federal Republic of Germany, France, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America. ABSTENTIONS: Argentina, Austria, Belgium, Dominican Republic, Greece, Holy See, Netherlands, New Zealand, Norway, Portugal, Republic of Korea, South Africa, Spain. A/CONF. 48/CRP.11/Add.4, Recommendation 159 (17), at 6 (1972).

¹⁰ The United States opposed the proposal because it was of the opinion "that more preparation was necessary and that there would be a risk of confusion with the establishment of the proposed Environment Fund." *Id.*

sembly in the fall of 1972, the split between industrial and developing nations continued. Two resolutions passed by the Committee dealt with the problem of financing, one directing research on the desirability of establishing the financing institution called for in Recommendation 17 of the Action Plan.¹¹ The United States joined the minority, consisting of developed nations, in opposition to the proposal.

D. Conclusion

The original agenda for the First Committee concerning *Human Settlements*, as outlined by the Preparatory Committee, was limited to relatively non-controversial issues.¹² The Preparatory Committee was concerned most with coordination of research and information exchange at the international level and the training of qualified personnel to aid in solving environmental problems of human settlements at the national, regional, and local levels.

The First Committee passed beyond those questions to proposals for specific action—population control and financing of environmental development. These issues proved divisive, as evidenced by closer votes within the Committee and at Plenary sessions, as well as the reported debate at the Plenary session.¹³

The Committee's success can be measured by the three types of recommendations suggested in this survey. The proposals for national action on national problems were expeditiously concluded early in the Conference. Agreement was reached with near unanimity, for the proposals were suggestions—not requirements—for national action. Recommendations suggesting international responses to national problems were more controversial in that the proposals attempted to suggest international priorities; conflicts arose between the proposed recommendations and national attitudes. Nevertheless, these recommendations did not obligate nations to any course of action; they merely provided the possibility for national compliance with suggested programs. Finally, international action on international problems, *i.e.* proposals *requiring* participation by Conference nations, caused controversy. This problem arose in the proposal to establish an international institution to finance environmental programs concerning human settlements.

The last category of recommendations was the most important for

¹¹ The recommendation concerning the establishment of the financing institution was passed by the Committee 82-6-27. U.N. Doc. A/8901 at 16-17. Countries voting against were Belgium, France, Ireland, Italy, United Kingdom of Great Britain and Northern Ireland, and the United States of America. The proposal was later approved by the General Assembly. G.A. Res. 2999, 27 U.N. GAOR—(1972).

¹² These included Recommendations 136, 137, 138, 140-41, 144, 146, 148, 149, 152(1-9), 154(11), and 150(18), Conference Document I at 29-33.

¹³ See U.N. Doc. A/CONF. 48/CRP. 11/Add. 4 at 1-3 and 5-7 (1972).

consideration by the Conference, since it dealt with problems which can be resolved only at the international level. Yet, because of the Preparatory Committee's emphasis on national responses to national problems, the First Committee's attention was not originally focused on international problems. The Committee did succeed in passing to those issues, in spite of the Preparatory Committee's earlier emphasis, and some proposals did result which represented efforts to emphasize issues of international importance.

In retrospect, it appears that the Conference would have been more effective in this area if it had tried to deal more fully with international standards to be applied to the environmental problems of human settlements. Hence, the Preparatory Committee's report should have emphasized international action rather than national action. Such emphasis was needed to direct the Committee toward the broader, more controversial problems of international cooperation, rather than mere discussion of human settlement problems common to many of them. Only when the international problems have been thoroughly examined at the international level will a well-coordinated international approach to the environmental problems of human settlements be possible.

III. ENVIRONMENTAL ASPECTS OF NATURAL RESOURCES MANAGEMENT*

In its recommendations on *Environmental Aspects of Natural Resources Management* the Second Committee was multiparous, questionably productive and almost non-controversial. The Committee produced a long series of broad, general recommendations on environmental considerations in such overlapping fields as agriculture and soils, forests, wildlife, parks, genetic resources, fisheries, water resources, mineral resources, and energy.

This section analyzes two aspects of the Committee's work. First, it discusses and attempts to explain the high degree of consensus with which the natural resources recommendations were formulated and passed. Second, it examines what areas of conflict between nations did appear during the recommendation process and how the Committee, the Plenary session, or other international bodies attempted to resolve them or lessen their force.

A. *Surprising Unanimity: Three Explanations*

Of the 59 recommendations contained in the original working document,¹ the Second Committee passed 42 on to the Plenary session—33 by

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¹ UN Conference on the Human Environment, *Environmental Aspects of Natural Re-*

consensus, two by unanimous vote, and only seven by a split vote (then by wide margins). Of the 17 recommendations that were not sent to the Plenary by the Committee, five were considered and passed by another, the First Committee, and the rest duplicated various of the 42 passed recommendations. In essence, therefore, all of the original recommendations were passed with either unanimous or near-unanimous approval.

Only nine votes on the recommendations were taken in the Plenary session; the majority of the recommendations were considered and approved together. Of the nine votes, five were unanimous; the other four recommendations passed by large margins.

How was such a high degree of unanimity possible? For one, the recommendations have little binding effect on the participant nations and approval entails few political or legal costs. Many commentators argue that the proposals are useful in formalizing goals and accompanying action and in applying needed pressure on countries and international bodies.² Several of the proposals attempt to do just that as they form the basis for the "Earthwatch" program—an expansion, reorganization, and integration of existing and planned international programs tracking the habitability of the earth.³ Without discounting entirely the value of this function, it seems that when the recommendations come into direct conflict with national interests they can be and have been expressly ignored by countries that helped pass them.⁴

Second, even if the proposals were binding, few would conflict with significant national interests. Dangers to national sovereignty are not as immediate here as in recommendations on control of specific pollutants or as in the attempted formation of a strong and aggressive environmental council or secretariat. Many of the recommendations can be read as both environmental *and* economic-growth measures (a clear anomaly to many people).⁵ Where interests were in danger of being sacrificed, the danger

sources Management, U.N. Doc. A/CONF. 48/7 (1972) [hereinafter cited as Conference Document II].

² This was essentially the view of Anthony Lewis; see *N.Y. Times*, June 17, 1972, at 29, col. 1.

³ The "Earthwatch" program would concern itself with many environmental factors, several lying outside the field of natural resource preservation. For a description of the program and the steps already taken toward instituting it see *N.Y. Times*, June 15, 1972, at 12, col. 6.

⁴ See the discussion of the International Whaling Commission's actions immediately following the Stockholm Conference's recommendation of a complete moratorium on whaling, text accompanying note 18, *infra*.

⁵ See, in particular, Recommendations 19(new), 20(46), 23(new), 28(new), and 60(201A). Conference Report. The conflict between environmental and economic-growth measures was prominent throughout the Conference. See *N.Y. Times*, June 6, 1972, at 4, col. 4 (Maurice Strong's keynote address, which took the viewpoint that the two goals must be and are compatible), and section VI, Development and Environment, *infra*.

was quickly circumvented through amendments.⁶ Moreover, in practice, affirmative action to conserve natural resources is required predominantly from a few rich countries; these nations use three-quarters of the earth's resources and their "exponential growth . . . threatens the fragile biosphere."⁷ However, many have already taken *voluntary* conservation steps of varying degrees—resource "diets" are strongly advocated by their publics.⁸

Finally, vocal interest groups and press in many countries have articulated a set of related propositions: resources are finite; we have come close to depletion of many already; most resources must be strictly conserved. To have refused at least to recognize this proposition—which is all that many proposals did—would have risked disapproval of this world public opinion.⁹

B. *Areas of Conflict: Economics and Sovereign Interests*

The majority of the *Natural Resources* recommendations went through both the Second Committee and the Plenary session unamended. Most of the amendments that were approved were either of a technical or forensic nature or expanded on and clarified the original proposal; almost all amendments passed were by unanimous consent. Three areas of contention, however, did appear.

First, several less developed countries (LDC's) viewed the recommendations as hitching-blocks for proposals and commentaries that many of the industrialized countries viewed as only peripherally concerned with natural resource environmental questions. For example, Recommendation 20 proposed that the Food and Agricultural Organization (FAO), in cooperation with other international agencies concerned, strengthen the machinery for international acquisition of knowledge and transfer of experience on soil capabilities, degradation and conservation. Algeria suggested as an amendment that a final paragraph be added to the recommendation emphasizing the contribution of economic and social factors to soil degradation, particularly:

the payment of inadequate prices for the developing countries' agricultural produce, which prevents farmers in those countries

⁶ See, e.g., Brazil's amendments to Recommendations 47(21), 98a(37), and 159(51). U.N. Doc. A/CONF. 48/C.2/CRP.13 (1972); U.N. Doc. A/CONF. 48/C.2/CRP.7/Add.1 (1972); U.N. Doc. A/CONF. 48/C.2/CRP.14 (1972).

⁷ N.Y. Times, June 17, 1972, at 29, col. 1.

⁸ Even Japan is now taking major steps to "maintain harmony between humanity and nature" by promoting more effective utilization of land and greater regional development." H. KAHN, *THE EMERGING JAPANESE SUPERSTATE: CHALLENGE AND RESPONSE* 132 (1970).

⁹ Indeed, political public relations was a factor in many countries' mere attendance at Stockholm as well as in their actions at the Conference.

For a detailed study of world public opinion as it relates to environmental action during the past fifty years, see M. NICHOLSON, *THE ENVIRONMENTAL REVOLUTION* 188-279 (1970).

from setting aside sufficient savings for necessary investments in soil regeneration and conservation. Consequently, urgent remedial action should be taken by the organizations concerned to give new value and stability to the prices of raw materials of the developing countries.¹⁰

Proposals from LDC's for the stabilization of agricultural raw material prices have been considered for many years in international economic organizations; several proposals have been tried with very disappointing results.¹¹ Price stabilization, however, as the United States pointed out, was "far afield from soil improvement";¹² and there was no indication or assurance before the Committee that price stabilization would lead to improved soil regeneration and conservation. Finally, it was questionable whether the FAO is the appropriate international organization for dealing with the question of prices for agricultural produce.¹³ While the United States voiced these reservations for both itself and several other developed countries, Recommendation 20 as amended by Algeria was approved unanimously in both the Committee and the Plenary session.

Second, a few countries saw various recommendations as economic threats and attempted to amend them so as to minimize their harmful economic effects. For example, Japan proposed to limit Recommendation 33—calling for "an international agreement, under the auspices of the International Whaling Commission (IWC) and involving all Governments concerned, for a 10 year moratorium on commercial whaling"¹⁴—to a moratorium on commercial whaling of only endangered or depleted whale stocks.

Japan viewed a total ban on whaling as an extreme and unnecessary measure, and appealed to the Committee not to discuss the problem from "the political and emotional point of view, but from a factual and

¹⁰ U.N. Doc. A/CONF. 48/C. 2/CRP. 17/Add. 1 (1972).

¹¹ "Vast amounts of thought, energy, and time have gone into international commodity agreements, but the record is an unbroken one of almost total failure." J. INGRAM, *INTERNATIONAL ECONOMIC PROBLEMS* 98 (1966).

¹² United States Information Service (US Embassy, Stockholm), Press Release HE 24 (June 16, 1972). Despite the wording of the amendment, soil improvement has never been suggested as a justification for commodity agreements; increased prices for agricultural goods arguably could lead to an over-use of the soil with a resulting degradation in quality.

¹³ The founders of the FAO did apparently foresee some commodity price support purpose for the UN organization. Article 1 of the FAO Constitution provides in part: "2. The Organization shall promote and, where appropriate, shall recommend national and international action with respect to . . . (d) the improvement of the . . . marketing . . . of food and agricultural products; (e) the adoption of policies for the provision of adequate agricultural credit, national and international; [and] (f) the adoption of international policies with respect to agricultural commodity arrangements." For a description of the activities and programs envisioned for the FAO by its founders see *Yearbook of the United Nations 1947-1948* at 831-42.

¹⁴ United Nations Press Release HE/S/51 (June 9, 1972).

practical one."¹⁵ However, the United States responded that a partial moratorium would present no significant change from the present situation since five species already are protected; "almost all of our whale stock is now depleted"¹⁶ and a moratorium would allow time for repletion of the whale stock and further scientific study.

After the Japanese amendment was turned down, several countries supporting the Japanese position voted in favor of the final recommendation and Japan itself merely abstained from the voting. With the amendment doomed to failure, nothing could be gained by voting against the moratorium except unfavorable world press. The recommendation was not binding; vehement opposition was best saved for the *executive* sessions of the International Whaling Commission. Despite the action at Stockholm, the moratorium was voted down by the IWC less than two weeks later. Several countries who had voted in favor of the moratorium *recommendation* at the Stockholm Conference voted against *enforcing* the concept at the IWC meeting;¹⁷ the biting economic effect that would have accompanied an actual moratorium was arguably the deciding factor.¹⁸

Finally, several LDC's—perhaps either fearing that a recommendation as strictly worded would adversely affect their economy or wary of any political interference from other countries or from international organizations—proposed a series of amendments emphasizing their sovereignty over local conditions.¹⁹ The amendments fell into three classes: first, amendments providing that international guidelines and standards

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Of the 14 member IWC, only four countries voted for the moratorium (the United States, Britain, Mexico, and Argentina); six voted against the moratorium (the USSR, Japan, Iceland, Norway, Panama, and South Africa); and four abstained (Canada, Australia, Denmark, and France). In the Second Committee, no country voted against the moratorium and only three (Japan, Brazil, and Spain) abstained; Norway, Denmark, and France actually *spoke in favor* of the United States position. See United Nations Press Release HE/S/51 (June 9, 1972) and N.Y. Times, June 30, 1972, at 5, col. 1.

¹⁸ Only Japan and the Soviet Union now conduct large-scale hunting for whales (they constitute approximately 80 percent of the seller's market); however, it was in the other countries' best interests to support the USSR and Japan in this fight in hope of reciprocal support for the smaller countries' positions on world fisheries issues.

Some environmentally favorable actions were taken. Whale quotas (which are set annually by the IWC) were reduced by 8–38 percent; more studies were agreed to; a larger budget and permanent secretariat were adopted in an attempt to strengthen the IWC; the member countries agreed to let international observers check excessive whale hunting; and the ban on the catch of humpback and blue whales was extended to bowhead, right, and gray whales. N.Y. Times, July 1, 1972, at 5, col. 4. However, it is quite possible that these steps would have been taken even if the more lenient Japanese whaling recommendation had been accepted at Stockholm.

¹⁹ The special interest of the LDC's in national sovereignty was not peculiar to this subject area, but pervaded the entire Conference. Anthony Lewis commented that Stockholm needed "a Thomas Jefferson—someone who could lift the delegates above their parochial concerns and rally them behind a contemporary equivalent of the call for life, liberty and the

should be developed with special reference to national and local conditions;²⁰ second, amendments protecting the exclusionary nature of national boundaries;²¹ and third, amendments emphasizing the voluntary nature of the proposed programs.²² Still, conflicts over proposed amendments did not prevent consensus on the completed recommendations.

C. Conclusions

In welcoming the participants to Stockholm, Sweden's Prime Minister Palme noted the great expectations that the preparations for the Conference had aroused but warned that the world's "people are no longer satisfied with only declarations."²³ At first glance, the Second Committee appears to have heeded this warning in its consideration of natural resources. More recommendations were passed than in any other subject area; each of the recommendations dealt directly with a separate, imminently important environmental problem; a few of the recommendations have already aided the international fight to save the environment.²⁴

Yet one should be wary of reading too much into proposals that most countries can pass with little disagreement. As noted, gains in the Second Committee were largely in formalizing programs to advance environmental goals that participant countries had already approved and pledged themselves to pursue. Attempts to bind a minority of objecting countries to the environmental objectives of a majority of the world's nations or of world opinion were shunned or unsuccessful. Where conflicts did arise the recommendations were normally amended, generally with success.

IV. IDENTIFICATION AND CONTROL OF POLLUTANTS OF BROAD INTERNATIONAL SIGNIFICANCE*

Three trends were most evident in the actions taken by the Third Committee in the subject area of *Identification and Control of Pollutants of Broad International Significance*. First, the Committee demonstrated a willingness to support and extend recommendations dealing with the

pursuit of happiness. . . . [Instead, they] spent their time on what seemed, in comparison, nationalistic trivialities. . . ." N.Y. Times, June 17, 1972, at 29, col. 1.

²⁰ See, e.g., Brazil's amendment to Recommendation 47(21). U.N. Doc. A/CONF. 48/C. 2/CRP. 13 (1972).

²¹ See, e.g., Brazil's amendment to Recommendation 98a(37). U.N. Doc. A/CONF. 48/C. 2/CRP. 7/Add. 1 (1972).

²² See, e.g., Brazil's amendment to Recommendation 159(51). U.N. Doc. A/CONF. 48/C. 2/CRP. 14 (1972).

²³ N.Y. Times, June 6, 1972, at 4, col. 5.

²⁴ E.g., the Earthwatch program, discussed at text accompanying note 3, *supra*.

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acquisition of knowledge of pollutants. Second, measures which might limit the freedom of action by governments were watered down or avoided. The third trend was an exception to the second insofar as it expanded controls over radioactive and marine pollutants. This section includes an overview of these three trends and a short analysis of their significance.

A. *Acquisition of Knowledge*

Acquisition of knowledge entails assessment, research, monitoring, and information exchange. Assessment pinches the political nerves of sovereign sentiments more painfully than the other three because it requires the determination and identification of the pollutants which require priority attention. Any assignment of priorities inherently implies a need for action of one type over another. Hence, a certain tension appeared in the Committee's actions on assessment proposals. While none of the major proposals to assess pollutants was deleted,¹ three assessment proposals were added,² one proposal was strengthened,³ and two other proposals were significantly watered down.⁴ A reading of these proposals and their modifications suggests that nations were anxious to know the dangers of various pollutants, but that they did not want the dangers spelled out so clearly as to cast any opprobrium on a nation that failed to abate the particular pollutant.

Illustrative of the attitude towards assessment is the modification of subparagraph 1 of what later came to be Recommendation 85. As originally drafted by the Conference Secretariat, this subparagraph called for the new pollution control agency to make the actual determination as to which pollution problems are of international significance.⁵ On the basis of a Canadian amendment⁶ the final draft of the recommendation limited the agency to development of internationally accepted *procedures*

¹ Conference Report, Recommendation 73(222), at 40; Recommendation 85(232), subparas. 1 and 2, at 44; Recommendation 89(236), subpara. 1, at 46; and Recommendation 88(235) at 46.

² Conference Report, Recommendation 74(223), subpara. 4, at 41, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.21 (1972); Conference Report, Recommendation 74(223), subpara. 5, at 41, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.17 (1972); Conference Report, Recommendation 78(226), (last line), at 42, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.5 (1972); and Conference Report, Recommendation 81(new), at 43.

³ Conference Report, Recommendation 88(235), subpara. 1, at 46.

⁴ Conference Report, Recommendation 85(232), subpara. 1, at 44, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.7 (1972); and Conference Report, Recommendation 88(235), subpara. 2, at 46.

⁵ UN Conference on the Human Environment, *Identification and Control of Pollutants of Broad International Significance*, U.N. Doc. A/CONF. 48/8 (1972), [hereinafter cited as Conference Document III], Recommendation 232(85), at 98.

⁶ U.N. Doc. A/CONF. 48/C.3/CRP.7 (1972).

to identify the pollutants.⁷ This limitation not only eliminated the power of the control agency to influence national policy-makers through its own determinations, but it also added another buffer between those national policy-makers and the data which are the input to the procedural mechanism. Thus, the strength of assessment findings is weakened by the bureaucratic structure through which it must pass.

The desire to acquire knowledge of various pollutants is most easily sensed in the responses to proposals for research, monitoring and information exchange. None of these proposals was voted down. In fact, many were accepted without change,⁸ while new sections were tacked on to a few⁹ and the scope of some was extended.¹⁰ Other occasional changes were irrelevant to the acquisition of knowledge.¹¹ The only significant changes were those occasioned by resistance to foreign scrutiny of domestic affairs. This last group of issues was reflected in amendments to require the permission of the host country before setting up monitoring stations¹² as well as in a close fight over the release of information regarding domestic production and use of potentially harmful chemicals.¹³ Thus, research, monitoring and information exchange were heartily supported as long as national sovereignty was not threatened.

B. *Preservation of National Sovereignty*

The concern with national sovereignty underlay the second trend. Generally, countries sought to leave as many avenues of action as possible

⁷ Conference Report, Recommendation 85(232), subpara. 1, at 45.

⁸ Conference Report, Recommendation 80(228), at 43; Recommendation 87(234), subpara. 1, at 46; and Recommendation 89(236), at 46-47.

⁹ Conference Report, Recommendation 74(223), subpara. 4, at 41, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.21 (1972); Conference Report, Recommendation 76(224), subpara. 2, at 42, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.4/Rev.1 (1972); and Conference Report, Recommendation 76(224), subpara. 3, at 42, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.4/Add.1 (1972).

¹⁰ Conference Report, Recommendation 76(224), subpara. 1, at 42, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.23 (1972); Conference Report, Recommendation 77(225), at 42; Recommendation 87(234), subpara. 2, at 46, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.12/Add.2 (1972); Conference Report, Recommendation 87(234), subpara. 3, at 46, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.12/Add.3 (1972); and Conference Report, Recommendation 90(237), at 47.

¹¹ Conference Report, Recommendation 78(226), at 42, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.5/Add.1 (1972); Conference Report, Recommendation 82(229) at 43-44, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.22 (1972); and Conference Report, Recommendation 84(231), at 44, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.24 (1972).

¹² Conference Report, Recommendation 79(227), subparas. 1 and 2, at 42-43.

¹³ Conference Report, Recommendation 74(223), subpara. 5 (last line), at 41, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.17 (1972). The vote on this proposal was 16 for, 13 against, and 16 abstentions.

open to themselves. This concern manifested itself most clearly in efforts to prevent, postpone or weaken the impact of the naming of *specific* pollutants and pollution problems to be handled. Exemplifying this trend was the protracted debate over the amount of emphasis to be placed on minimizing the release of organochlorine compounds.¹⁴ Developing nations who rely upon such compounds for pest control wanted to retain as much freedom as possible in their use. Similarly, the proposal which would have *set* the derived working limits was reduced to one which required the development of "procedures for setting derived working limits."¹⁵ Derived working limits are an especially sensitive issue because they require a weighing of the costs of the pollutant's harm against the benefits associated with the practice that releases the pollutant. Since the relative weight given to the costs and benefits varies with the social, cultural, political, ethical and economic climates of each country, no country wanted to be told how much of a pollutant it should tolerate.

C. *Extension of Controls*

Counter to the second trend were the successful efforts to pass proposals calling for more potent measures to control radioactive and marine pollutants. New proposals on radioactive pollutants included cooperation on general radioactive wastes,¹⁶ limitations on pollution from nuclear-powered ships,¹⁷ attention to heat discharge from power stations,¹⁸ and the cessation of nuclear weapons tests.¹⁹ The force of only one radioactivity proposal was diminished, and that was by a shift from calling for registration of nuclear discharges to studying the feasibility of such a registry.²⁰ The apparent purpose of all of these recommendations was to require responsible use of nuclear energy by those nations which have nuclear capabilities. In addition, the environmental risks entailed by nuclear weapons were brought within the scope of the Conference.

A number of measures to control marine pollution at the international level have already been taken.²¹ Thus, the proposal to accept and

¹⁴ Conference Report, Recommendation 71(219), at 40, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.3 (1972) and U.N. Doc. A/CONF. 48/C.3/Add.1 (1972).

¹⁵ Conference Report, Recommendation 83(230), at 44.

¹⁶ Conference Report, Recommendation 75(new), subpara. 2, at 41.

¹⁷ Conference Report, Recommendation 86(233), subpara. 5, at 45.

¹⁸ Conference Report, Recommendation 86(233), subpara. 6, at 45, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.1/Add.4 (1972).

¹⁹ Conference Report, Resolution on Nuclear Weapons Tests, at 66-67, based on proposals contained in U.N. Doc. A/CONF. 48/C.3/CRP.25 (1972), U.N. Doc. A/CONF. 48/C.3/CRP.27 (1972), U.N. Doc. A/CONF. 48/C.3/CRP.25/Rev. 1 (1972), and U.N. Doc. A/CONF. 48/C.3/CRP.30/Add.1 (1972).

²⁰ Conference Report, Recommendation 75(new), subpara. 1, at 41. This recommendation was formerly subpara. 2 of Recommendation 234 in Conference Document III at 99.

²¹ Conference Document III, para. 209, at 87-88.

implement these instruments was little more than an endorsement of what was already under way.²² However, additions were made to current efforts, including measures which potentially extended national jurisdiction over maritime sources of pollution,²³ statements which called attention to the problems of enclosed and semi-enclosed seas,²⁴ requests to deal with nuclear and thermal pollution,²⁵ controls which would eliminate deliberate oil pollution by ships,²⁶ and recommendations for governments and the United Nations to act quickly.²⁷

The number and scope of the additions can be explained as an outgrowth of the many measures taken since the 1950's to control marine pollution. Attention to the value of the seas as a source of food has increased since the early pollution control efforts. Yet, the international marine conventions of the 1950's and 1960's have failed to slow the spread of marine pollution which threatens the productive capacity of the seas. Knowledge of the oceans' importance, coupled with two decades of inadequate efforts to protect the oceans has raised awareness of the oceans' critical state to a level which has led policy-makers to the belief that the broader and more potent measures proposed at Stockholm must be implemented.

D. Conclusion

At first glance, these three trends seem widely disparate and almost contradictory. The first trend revealed that nations want to know more about pollution, but the second trend indicated that they do not want to be told what to do about it. Yet, the third trend demonstrated that they allow strong measures in the areas of radioactive and marine pollutants. However, one consistent vein can be discerned throughout these three trends: nations do not like to act where they are ignorant. The anxieties and traumas associated with nuclear weapons and radioactivity have festered since the Second World War. Modern attention to the seas and marine pollution has existed since the mid-1950's. By comparison, international concern with pollution of man's total environment is new. Governments have become aware that they might throw their environment into irreversible shock; but, the injury is presently slight and future complications are remote when compared with more pressing problems.

²² Conference Report, Recommendation 86(233), subpara. 1, at 45.

²³ Conference Report, Recommendation 86(233), subparas. 2 and 3, at 45, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.1/Add.2 (1972), (references to persons and ships in *areas* under their jurisdiction).

²⁴ Conference Report, Recommendation 86(233), subparas. 3 and 6, at 45, (references to enclosed and semi-enclosed seas).

²⁵ *Supra*, notes 16 and 17.

²⁶ Conference Report, Recommendation 86(233), subpara. 5, at 45, to which amendments were offered by U.N. Doc. A/CONF. 48/C.3/CRP.1/Add.1 (1972).

²⁷ Conference Report, Recommendation 92(239), subparas. 2 and 3, at 48.

Therefore, nations are preserving their options. They will expand their knowledge in order to evaluate accurately the priority of pollution control, but they still want the freedom to act as they choose.

If any lesson is to be learned from these trends, it is that resources should be devoted to an acceleration of the acquisition of knowledge so that awareness of both the nature and the seriousness of the pollution threat can lead governments to an early endorsement and adoption of strong and specific measures such as those now adopted for the decades-old problems of radioactive and marine pollution. The potential for irreparable damage to the environment does not allow the same luxury of time afforded those who attempted to cope with radioactive and marine pollutants twenty years ago.

V. EDUCATIONAL, INFORMATIONAL, SOCIAL AND CULTURAL ASPECTS OF ENVIRONMENTAL ISSUES*

In addition to Subject Area One, the First Committee also dealt with Subject Area Four, recommendations for international action on *Educational, Informational, Social and Cultural Aspects of Environmental Issues*.¹ "The decision to take into account the social and cultural aspects of the environment reflects the need for a very broad approach to development, including cultural and ethical choices."² This statement of purpose is vague; subsequent discussion by the Committee, however, resulted in a threefold interpretation. First, the use of an interdisciplinary approach to problem solving was urged, it being felt that each discipline would profit by exposure to others.³ Second, a joint national and international approach was felt necessary in order to represent all interests.⁴ Superimposed on this international approach was a third aspect, advocating consideration of the cultural and ethical choices which should be made in establishing program priorities. It was felt that any program for improving the environment which fails to take account of the social and cultural dimensions of the problem is bound to lead to miscalculations which can only create new problems. The major premise which underlay adoption of these three approaches to Subject Area Four was that the availability of more information will lead to properly balanced solutions.

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¹ UN Conference on the Human Environment, *Educational, Informational, Social and Cultural Aspects of Environmental Issues*, U.N. Doc. A/CONF. 48/9 (1971) [hereinafter cited as Conference Document IV].

² *Id.*, Introduction, para. 2, at 3.

³ *Id.*, para. 74, at 19.

⁴ *Id.*, paras. 99-107, at 24-26.

Different solutions may be required for similar problems in different countries. Individual countries will have different priorities as a consequence of variations in the emphasis placed upon goals such as the rapidity of growth and the conservation of resources with the common challenge being the reconciliation of rapid economic growth with the requirements of the "human environment." The actions taken by the First Committee in Subject Area Four offer a starting point for the reconciliation of such priority differences.

The remainder of this section sketches the substance of the Committee's recommendations and subsequent actions taken on them. The recommendations are grouped into (1) the preservation of cultural heritage and natural resources, and (2) the collection and dissemination of information. Most of the Committee's actions centered upon the latter set of recommendations. Accompanying the substance of the recommendations is a brief analysis of changes from original form made by the Committee.

A. Preservation of Cultural Heritage and Natural Resources

One of the highlights of the Committee's activity was the passage of recommendations calling for the early completion of conservation conventions including the World Heritage Trust and a convention restricting trade in endangered species of plants and animals.⁵ Essentially, these recommendations approved ongoing concerns; no previously un contemplated conventions were called for. In approving such conventions, however, the Committee pointed to the need for comprehensive planning which takes into account the side effects of man's activity.

B. The Collection and Dissemination of Knowledge

The Committee approved assessment measures in which periodic reports on sub-regional, regional, and international situations would be an integral component of a continuing diagnosis of the social and cultural impacts of environmental change. These reports would be based upon national reports on the state of the environment.⁶ To aid in assessment the UN would: (1) provide a basis for identifying the kinds of knowledge needed for the national reports by lending technical and financial sup-

⁵ UN Conference on the Human Environment, *Report of the First Committee, Annex B, Recommendations 124(98) and 125(99)* at 6-7, U.N. Doc. A/CONF. 48/CRP.13 (1972) [hereinafter cited as Committee Report]. The Committee replaced the original Recommendation 125 with a formulation containing a new recommendation concerning the conventions. U.N. Doc. A/CONF. 48/C.1/CRP.1 and Corr.1 (1972). As approved by the Plenary, this Recommendation corresponds to the final Recommendation 99 and incorporates para. 16 of A/CONF. 48/C.1/CRP.1.

⁶ Committee Report, Recommendation 111(95), at 4-5.

port;⁷ (2) help create new knowledge as guidance for national decision-makers by facilitating international cooperation among national social, cultural, and economic programs, and an exchange of information;⁸ and (3) help set up a uniform evaluation of the information by establishing a common methodology.⁹ With the implementation of these proposals data could be collected and possible trends predicted.

In order to further the exchange of information it was recommended that the UN furnish technicians, specialists, and other professional workers and that training programs be established to train and re-train professionals.¹⁰

The proposed creation of an International Referral Service was the culmination of the Committee's efforts in Subject Area Four. This organization would assist in implementing the recommendations made in Subject Area Four (and most of the recommendations envisioned in the four other substantive subject areas of the Conference).¹¹ An experts' meeting to accomplish preliminary planning for such a service was proposed.

There were two major areas where the Committee left a firm imprint on the original recommendations pertaining to the collection and dissemination of knowledge. First, the Committee was more than willing to have countries participate in the collection and distribution of information, provided that adequate financial aid was available. As originally proposed, what later became Recommendation 95 provided only for technical assistance.¹² As reported by the Committee, financial aid was included in the proposal.¹³ Recommendation 98 originally suggested that governments would be able to "obtain a contribution from the international community,"¹⁴ whereas the final version read more explicitly that governments should receive "the technical and financial assistance required."¹⁵ Before embarking on elaborate programs the countries wanted assurance that there would be adequate financing available, should they need it, from the United Nations.

The second major change made by the Committee also dealt with an aspect of the collection and dissemination problem: what was the focus of the dissemination program to be (*i.e.*, who was to receive the information)? While the original recommendation spoke in broad terms about

⁷ Conference Report, Recommendation 95(a)(111), at 50.

⁸ *Id.*, Recommendation 95(b), (c)(111), at 50.

⁹ *Id.*, Recommendation 95(d)(111), at 50.

¹⁰ *Id.*, Recommendation 96(1)(c) and (e)(2) and (3), (124-26), at 150-51.

¹¹ *Id.*, Recommendation 101(137), at 53.

¹² Conference Document IV, Recommendation 111(95), at 28.

¹³ Committee Report, Recommendation 95(111), at 4.

¹⁴ Conference Document IV, Recommendation 124(98), at 33.

¹⁵ Committee Report, Recommendation 98(124), at 6.

the dissemination of information to the public,¹⁶ the modified version spoke of directing actions towards “the general public, in particular the ordinary citizen living in rural and urban areas, youth and adult alike,”¹⁷ and among “the oppressed and underprivileged peoples of the earth.”¹⁸ While the change in language may have no practical significance, the final version indicates the attitude common among representatives of the less developed countries.

C. *Action on the Recommendations*

In addition to referring its recommendations to the Conference for adoption, the First Committee also referred the text of a draft resolution to the Plenary session proposing a world environment day.¹⁹ The Conference in Plenary action approved all of the Committee’s recommendations,²⁰ plus the resolution designating June 5 as “World Environment Day.”²¹ On the whole, the few recommendations in Subject Area Four were not subject to much opposition in Plenary; this only attests to their innocuous character.

At this date the UN General Assembly has taken action only on the environment day resolution—June 5 is now officially World Environment Day.²² In other areas, future action should not be expected until the experts’ report on the International Referral Service.

Subject Area Four was rather uncontroversial in its content; all countries approve of knowing more about the environment. Since virtually none of the proposals infringed on national sovereignty,²³ this potential source of friction was absent. At most, international cooperation was recommended.²⁴

¹⁶ Conference Document IV, Recommendations 114 (96, para. 1), 119 (97, para. 1), and 120 (97, para. 2), at 30-32.

¹⁷ Committee Report, Recommendation 114 (96, para. 1), at 5. For example, it was proposed that the preparatory documents and official documents of the Conference be translated into the widest possible range of languages. *Id.*, Recommendation 119 (97, para. 1), at 6.

¹⁸ *Id.*, Recommendation 120 (97, para. 2), at 6.

¹⁹ U.N. Doc. A/CONF. 48/CRP. 10 (1972), proposed by Japan and Senegal. For the text of the draft resolution see Conference Report, at 66.

²⁰ Conference Report at 96.

²¹ *Id.* at 97. The resolution is pursuant to Recommendation 97(119-120), which in part calls for the observance of a World Environment Day. The date was chosen because the Conference commenced on June 5.

²² G.A. Res. 2994, 27 U.N. GAOR—(1972). The resolution passed 112-0-10.

²³ The problem of national sovereignty did come up once in Committee proceedings concerning paragraph 1 of Recommendation 97(119) which calls for establishment of an information program by the UN Secretary-General. Greece proposed nonconsideration of this recommendation on the ground that public information and public participation should mainly be a concern of national governments. United Nations Press Release HE/S/26 (June 6, 1972).

²⁴ *E.g.*, Conference Report, Recommendation 96(1)(d)(114), at 51.

VI. DEVELOPMENT AND ENVIRONMENT*

The environmental concerns facing the less developed countries (LDC's) are significantly different from those confronting industrialized nations. To assess thoroughly the special nature of these problems in the LDC's, the Secretary-General of the Stockholm Conference convened a conference of experts at Founex, Switzerland, in 1971 to draft a report on development and environment (the "Founex Report"). The recommendations placed before the Stockholm Conference in the subject area of *Development and Environment* were conceived in light of the insights and recommendations that emerged from Founex.

The Founex Report identified two distinct types of domestic environmental problems encountered by developing nations. The first of these encompasses those basic environmental deficiencies associated with mass poverty—poor water, bad housing, poor sanitation, sickness, and similar problems.¹ The elimination of such conditions is a concomitant of development itself. Development, however, brings the problems of pollution, resource depletion, and social congestion already familiar to the developed countries; these form the second type of domestic environmental problem of concern to LDC's.²

In addition to being faced with these internal environmental problems, the developing countries are beset by certain fears engendered by world-wide preoccupation with environmental matters. One of these fears is that pressure exerted on LDC's by the industrialized nations of the world properly to consider future environmental consequences of development will discourage the rapid industrialization of the developing countries.³ The second major fear disturbing them is that environmental concerns will be invoked by developed countries as a pretext for discriminatory and protectionist trade policies that would adversely affect the LDC's.⁴

The recommendations on *Development and Environment* were addressed to these problems and fears expressed by the developing countries. In addition, the recommendations aimed at assisting developing countries to seize certain advantages accruing to them as a result of world environmental concern. This section will discuss the significance of these recommendations and the controversies surrounding their adoption at Stockholm within the framework of the five topic areas implicit in the

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¹ UN Conference on the Human Environment, *Report of a Panel of Experts Convened by the Secretary-General of the United Nations Conference on the Human Environment*, Annex I, at 3-4, U.N. Doc. A/CONF. 48/10 (1971) [hereinafter cited as Founex Report].

² *Id.* at 5-6.

³ Conference Report at 82.

⁴ Founex Report at 26-28.

discussion above: (a) environmental problems associated with underdevelopment; (b) environmental problems associated with development; (c) fears of curtailed development; (d) fears of trade restrictions; and (e) environment-related advantages for developing countries.

A. Environmental Problems Associated with Underdevelopment

Recognizing that development itself is the solution to those environmental problems associated with mass poverty, the Committee recommended assistance from the regional organizations to countries in reforming their development plans to take account of the need to improve basic living conditions.⁵ As noted by the Founex Report, developing countries have a tendency to construct their development strategies with the single goal of attaining maximum growth of gross national product.⁶ However, goals and objectives in the areas of health, sanitation, water supplies, and housing should also be included in development plans in order to improve social conditions as rapidly as possible.⁷ To construct and implement such development plans most effectively, more information on the nature of the basic environmental problems associated with underdevelopment and their possible solutions must be gathered and disseminated. Recommendation 102 called for research concerning these problems and for assistance to the LDC's in applying the knowledge thereby obtained to each country's specific needs.⁸

Conference participants were receptive to these uncontroversial provisions, embellishing them in a few particulars. Added at Stockholm were provisions stressing both the desirability of a regular exchange of information among organizations of developing countries⁹ and the importance of assisting the development of local expertise in solving the environmental problems of these countries.¹⁰ The participating developing countries indicated, through these amendments, the desire to take advantage of as much available knowledge as possible in order to fashion their own programs to improve the quality of life for their people.

B. Environmental Problems Associated with Development

As the developing countries grow and industrialize, they encounter the problems of pollution, natural resources depletion, and social congestion now becoming critical in many of the more developed nations

⁵ Conference Report, Recommendation 102(31), at 54-55.

⁶ Founex Report at 9.

⁷ *Id.*

⁸ Conference Report, Recommendation 102(31), at 54-55.

⁹ Compare UN Conference on the Human Environment, *Development and Environment*, Recommendation 31 at 11, U.N. Doc. A/CONF. 48/10 (1971) [hereinafter cited as Conference Document V] with Conference Report, Recommendation 102, at 54-55.

¹⁰ U.N. Doc. A/CONF. 48/CRP. 18 (1972).

of the world. The recommendations sought to help these countries avoid, in the course of their development, the concomitant adverse environmental effects. The key to successfully avoiding such problems, as noted by the Founex Report, is to consider all the social costs of any development project in determining the total cost of alternate plans for such a project.¹¹ One recommendation provided for assistance to LDC's in developing techniques to properly take account of social as well as direct economic costs in evaluating development plans.¹²

Implicit in evaluating development plans with a full accounting of all social costs is the planners' willingness to sacrifice some immediate economic benefits for a decrease in what will usually be more distant social costs. However, it is difficult for the present government in a developing country to forsake some increase in development during the next twenty years for the sake of avoiding a pollution crisis that may develop fifty years hence. The hope that means can be found to account for potential environmental disturbances in a way that does not hamper the development process was expressed by delegates to the Conference in an amendment to a recommendation. The change provided for special assistance in developing technologies that will enable countries to increase the exploitation and processing of their natural resources without causing adverse environmental effects.¹³ Until such technologies can be developed and widely distributed, ultimate decisions on how best to balance immediate economic gains against future social costs will be especially difficult ones for individual LDC's.

C. *Fears of Curtailed Development*

The reality that development policies fully providing for protection of the environment mean increased development costs has led developing countries to fear direct or indirect pressures from developed countries to slow their development where such a slow-down is suggested by environmental considerations.¹⁴ The recommendations prepared in advance of the Conference did not address these fears; Conference delegates amended them to provide protection for the development plans of the LDC's.

¹¹ Founex Report at 19-20. For example, the cost to society of increased water pollution should be considered in designing a steel plant in order to determine whether the benefits of the plant will outweigh its total cost and in determining which of various project plans will minimize these true costs. Social costs, such as an increase in water pollution, are often difficult to measure but must be estimated and quantified.

¹² Conference Report, Recommendation 102(b)(31), at 54-55.

¹³ U.N. Doc. A/CONF. 48/CRP. 15 (1972). Compare Conference Document V, Recommendation 31, at 11, with Conference Report, Recommendation 102, at 54-55.

¹⁴ Conference Report at 82.

One recommendation proposed to the Conference sought to assist in the distribution of non-pollutive technologies to developing countries.¹⁵ An amendment at Stockholm expressed the caveat that such distribution should be encouraged only where the adoption of such technologies does not constitute an unacceptable burden to developing countries.¹⁶ An amendment to another recommendation provided that where such non-pollutive technologies are adopted, the flow of aid to developing countries should be increased in order to meet additional production costs incurred by these technologies,¹⁷ and more generally that the preoccupation of developed countries with their own environmental problems should not affect the flow of economic and technical assistance to the LDC's. Some industrialized countries opposed this last amendment on the grounds that it was "too broad."¹⁸ The United States rested its opposition on the opinion that aid flow policies had been dealt with by Subject Area Six of the Conference.¹⁹

D. Fears of Trade Restrictions

The Founex Report noted growing fears among LDC's that current environmental concern among the industrialized countries will adversely affect the trade position of developing countries.²⁰ Some environmental concerns will cause changes in the demand among industrialized countries for the products of LDC's. For example, the recycling of raw materials may lessen demand for some primary products produced by developing nations. A more disturbing possibility is that developed nations might invoke environmental concerns as a pretext for discriminatory or protectionist trade policies.²¹

The recommendations sided heavily with the developing nations of the world in stating policies on these problems of international trade.

¹⁵ Conference Report, Recommendation 108(39), at 57.

¹⁶ Compare Conference Document V, Recommendation 39, at 14, with Conference Report, Recommendation 108, at 57.

¹⁷ Compare Conference Document V, Recommendation 40, at 14, with Conference Report, Recommendation 109, at 57-58.

¹⁸ Conference Report at 105.

¹⁹ *Id.* Despite this opposition, the UN General Assembly later passed a resolution in response to these sentiments. The resolution specifically recommended respect for the principle that world resources for environmental programs of LDC's be increased in order to carry out in full the development objectives of the International Development Strategy. G.A. Res. 3002, 27 U.N. GAOR—(1972).

²⁰ Founex Report at 26-28.

²¹ A scenario might run as follows: An industrialized country's trade may be hampered by rising export prices of some of its goods where production costs have increased because of the enforcement of domestic environmental standards. There may be a political response within the country advocating discriminatory taxing or banning of competing imports from developing countries whose products have been manufactured under less strict environmental standards.

One encouraged an agreement among nations not to engage in discriminatory or protectionist trade policies.²² Another recommendation asked the General Agreement on Tariffs and Trade (GATT) to monitor and regularly report the emergence of any trade barriers resulting from environmental policies,²³ and another provision recommended that individual countries inform their trading partners, whenever possible, about likely future restrictive actions.²⁴

The most controversial provision of any recommendation in this subject area, however, was one which provided for the development of measures for compensating a country whose export position is weakened by trade restrictions imposed by another country for environmental reasons. Compensation would not be asked where one country's domestic environmental policies have resulted in a natural decrease in its demand for a certain product. Instead, compensation would be requested when a country has adopted trade policies or has instituted stricter environmental standards for its imports which have led to a decrease in its imports of some product.²⁵ Several developed countries objected to this compensation provision, but an amendment to delete it was rejected.²⁶ The United States based its opposition on the theory that ". . . many forces affect export earnings and to single out any of these, such as environmental actions, for compensatory treatment would be wrong in principle and a disincentive to environmental responsibility."²⁷

E. Environment-related Advantages for Developing Countries

Other recommendations, reflecting extensively the opinions of the LDC's, embodied provisions intended to help the developing countries take advantage of world environmental concern. Because developed countries suffer greater industrial pollution than do developing countries, industries which may be regarded as unacceptably pollutive in some advanced countries may not be so regarded in the LDC's.²⁸ Where this is the case, the developing countries may be able to engage in these industries more profitably than developed nations faced with expenses incurred from reducing their pollutive effects.

Recommendation 106 called for consideration by the Secretary-General of the UN and the LDC's of the new opportunities offered them to establish or expand industries in which they may have comparative ad-

²² Conference Report, Recommendation 103(a)(32), at 55.

²³ Conference Report, Recommendation 105(34), at 56.

²⁴ Conference Report, Recommendation 103(d)(32), at 55.

²⁵ Conference Report, Recommendation 103(b)(32), at 55.

²⁶ Compare U.N. Doc. A/CONF. 48/C.2/CRP.2 (1972) with Conference Report, Recommendation 103(b)(32) at 55.

²⁷ United States Information Service (US Embassy, Stockholm), Press Release HE 24 (June 16, 1972).

²⁸ Founex Report at 32.

vantages resulting from different environmental considerations.²⁹ Added at the Conference was a provision to examine specifically how much a decrease in the production of synthetics and an increase in the production of natural substitutes would ameliorate the international pollution problem.³⁰ If the resulting reduction in pollution were substantial, the promotion of natural products (produced mainly by developing countries) at the expense of synthetics (produced mainly by developed countries) would be a boon to the LDC's. Several developed nations objected to these ideas.³¹ The United States, for example, said such studies would be "unfeasible and of little practical value for policy guidance."³²

F. *Conclusions*

That a large majority of the participants in the Stockholm Conference were developing nations is reflected in the recommendations passed in the subject area of *Development and Environment*. Amendments added at the Conference stressed the primary importance of the need for rapid development despite environmental concerns. This attitude of the developing nations was noted by an observer:

Among the unexpected developments was the bluntness with which the newer nations taxed the advanced countries with prime responsibility for global environmental deterioration, and with an obligation accordingly to make reparations to the "third world" in various forms, from technical assistance in pollution control to special consideration in world trade.³³

The provisions concerning world trade were molded by the developing nations to reduce their disruptive effects as much as possible and to compensate for those disruptive effects that cannot be avoided. As for domestic environmental problems, the LDC's let it be known that positive measures to safeguard their environments are practical from their point of view only if additional funding for such purposes is available. That control of pollution is not as urgent an objective in the LDC's as it is in the developed nations is well evidenced in the final recommendations passed by the Conference.

The trade area is where the greatest environmental tensions between the developing and the advanced nations of the world are most likely to be felt in the near future. However, the most serious threats to vigorous

²⁹ Conference Report, Recommendation 106(36), at 57.

³⁰ U.N. Doc. A/CONF. 48/C.2/CRP.5/Add.1 (1972). Compare Conference Document V, Recommendation 36, at 13-14, with Conference Report, Recommendation 106(a) at 57.

³¹ Conference Report at 105.

³² *Id.*

³³ Hill, *Sense of Accomplishment Buys Delegates Leaving Ecology Talks*, N.Y. Times, June 18, 1972, at 14, col. 1.

world environmental concerns stem from the internal environmental policies of individual nations. Whether the developing countries, whose primary concern must be development itself, do provide for the potential pollution problems to be encountered in their continuing development apparently will depend largely upon obtaining adequate funds to meet the additional financial burdens. Whether the assistance will be forthcoming remains to be seen.

VII. INTERNATIONAL ORGANIZATIONAL IMPLICATIONS OF ACTION PROPOSALS*

An apparent recognition that the effectiveness of international cooperation in the field of the human environment depends largely upon the existence of effective institutional arrangements resulted in the inclusion of an item concerning organizational matters on the Conference's agenda. This subject was dealt with by the Third Committee, which approved a single recommendation consisting of several components¹ for a new organizational structure within the United Nations system. This recommendation, with a few amendments, was subsequently passed by the Conference's Plenary session² and by the United Nations General Assembly.³

The Third Committee's work was guided by the Conference Secretary-General's report, which consisted of background material and a discussion of basic organizational alternatives,⁴ and by a consolidated document prepared by the Administrative Committee on Co-ordination,⁵ which described the current and planned activities of the existing organizations within the United Nations system. The Secretary-General's report emphasized that "form should follow function" in establishing organizational arrangements. It noted that the interdisciplinary character of environmental issues makes coordination both particularly essential and particularly difficult to achieve. The report also emphasized both the potentially significant contributions which could be made by intergovernmental and nongovernmental bodies outside the United Na-

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¹ U.N. Doc. A/CONF. 48/CRP. 14/Add. 1 (1972).

² Conference Report at 61-65.

³ G.A. Res. 2997, 27 U.N. GAOR—(1972).

⁴ UN Conference on the Human Environment, *International Organizational Implications of Action Proposals*, U.N. Doc. A/CONF. 48/11 (1972) [hereinafter cited as Conference Document VI].

⁵ UN Conference on the Human Environment, *The United Nations system and the human environment: consolidated document submitted by the Administrative Committee on Co-ordination*, U.N. Doc. A/CONF. 48/12 (1972).

tions system, and the importance of regional cooperation in dealing with environmental problems.

The balance of this section outlines the major components of the recommended organizational structure. Table II presents in tabular form the evolution of this structure as the original conception was amended at the Conference and the General Assembly.

A. Institutional and Financial Arrangements

1. Governing Council

The recommendation as it emerged from the Committee and was approved in the Plenary session of the Conference (and later the United Nations General Assembly) provided for the establishment of a Governing Council for Environmental Programs as a subsidiary organ of the General Assembly, reporting to the Assembly through the Economic and Social Council (ECOSOC). This arrangement, which is in accordance with Article 22 of the Charter, follows the approach of, *inter alia*, the United Nations Conference on Trade and Development (UNCTAD)⁶ and the United Nations Development Programme (UNDP).⁷ It enables the General Assembly to deal with the interrelated problems of development and the environment, while also providing for review of the Governing Council's activities by ECOSOC. This double-review arrangement probably will result in a greater degree of control over, or moderation of, the Council's recommendations. It further assures effective coordination with, and protection of, other issues dealt with by ECOSOC, *e.g.*, development and science and technology. Two important considerations seem to have governed the choice of such an arrangement: (1) achieving the basic institutional goal of efficiency through effective coordination, and (2) assuring developing countries that environmental programs will be considered in light of the sometimes conflicting goals of development programs.

The size of the Governing Council was a major topic of discussion at the Conference, both in Committee and at the Plenary session. The Third Committee agreed to a 48 member Council as a compromise between the 27 member Council favored by the United States and the 54 member Council favored by several other delegations. At the Plenary session, an amendment proposed by Australia⁸ was passed which increased the Council's size from 48 to 54. The larger number was opposed by the United States, the United Kingdom, Brazil, Sudan and Sweden, who contended

⁶ G.A. Res. 1995, 19 U.N. GAOR Supp. 15, at 1, U.N. Doc. A/5815 (1964).

⁷ G.A. Res. 2029, 20 U.N. GAOR Supp. 14, at 20, U.N. Doc. A/6014 (1965).

⁸ U.N. Doc. A/CONF. 48/CRP. 25 (1972).

that 48 had been accepted by the Committee in a spirit of compromise and good faith;⁹ it was supported largely by the developing nations, whose representation was to be increased by the larger membership.

The composition of the Governing Council again became a debated issue when the Second Committee of the General Assembly considered the Conference's recommendation in the autumn of 1972 in New York. Thailand, on behalf of 24 Afro-Asian nations, introduced an amendment¹⁰ providing for a Governing Council composed of 58 members, with membership distributed as follows: 16 seats for African states, 13 seats for Asian states, 10 seats for Latin American states, 13 seats for Western European and other states, and 6 seats for East European states. The amendment was adopted by 72 votes in favor, 36 against, and 21 abstentions, the dissenting votes coming largely from the developed countries. The Second Committee's recommendation as amended was subsequently adopted by the General Assembly, in December 1972.¹¹

2. Secretariat

The Conference's recommendation also provided for a small secretariat headed by an Executive Director who is to be elected by the General Assembly on the nomination of the United Nations Secretary-General. This provision is similar to those adopted for UNCTAD¹² and the United Nations Industrial Development Organization (UNIDO),¹³ under Article 101 of the Charter. The secretariat is to serve as a focal point for action and coordination, under the guidance of the Governing Council.

The Conference left the location of the secretariat for consideration by the General Assembly. Five months after the Conference, the General Assembly's Economic Committee, over-riding the strenuous objections of many Western countries, voted to locate the secretariat in Nairobi, Kenya.¹⁴ The final vote on the resolution was 93 to 0, with 31 abstentions; China was the only major power voting for the measure. The developing nations favored location in a developing country and regarded such location as essentially a "political" decision; the Western countries favored Geneva, on the grounds that the location should be determined primarily by factors of efficiency, effectiveness, and cost.¹⁵

The General Assembly confirmed the decision to locate the secretariat

⁹ U.N. Doc. A/CONF. 48/CRP. 11/Add. 9 (1972).

¹⁰ U.N. Doc. A/C. 2/L. 1243 (1972).

¹¹ G.A. Res. 2997, 27 U.N. GAOR—(1972), adopted 116 in favor, none against, 10 abstentions.

¹² G.A. Res. 1995, 19 U.N. GAOR Supp. 15, at 1, U.N. Doc. A/5815 (1964).

¹³ G.A. Res. 2152, 21 U.N. GAOR Supp. 16, at 24, U.N. Doc. A/6316 (1966).

¹⁴ N.Y. Times, Nov. 11, 1972, at 4, col. 3.

¹⁵ According to the Secretary-General's staff, the first-year cost of the secretariat in Geneva would have been \$1.4 million, whereas the figure for Nairobi is \$2.3 million. *Id.*

in Nairobi,¹⁶ noting in its resolution that the headquarters of the United Nations and its specialized agencies are all located in developed countries in North America and Europe, and that the equitable geographic distribution of United Nations bodies is relevant to the United Nations' goal of promoting the social and economic advancement of all peoples.

3. *Environmental Coordinating Board*

To ensure maximum efficient coordination of programs, the Conference's recommendation called for the establishment of an Environmental Coordinating Board, chaired by the Executive Director, within the framework of the Administrative Committee on Co-ordination. The Board is to report annually to the Governing Council regarding the activities of all bodies concerned with environmental programs, and will serve as a valuable link between the Governing Council and the other United Nations agencies at the initial planning stage of proposed environment projects. The United Nations General Assembly adopted this provision as recommended by the Conference.¹⁷

4. *Financial Arrangements*

In addition to institutional arrangements, the Conference's recommendation called for the establishment of a voluntary fund for financing optional program costs, program support and administrative costs of the fund. The administrative costs of the Governing Council and the secretariat are to be borne by the regular budget of the United Nations.

The delegates hoped that separate central funding would have strong appeal to both developed and developing countries. Developed countries would be assured that their contributions are being used specifically for environmental purposes, while the developing countries can be reassured that the costs of environmental activities are being met by additional resources rather than by the diversion of existing resources away from development programs. This recommended funding arrangement was adopted by the General Assembly without amendment.¹⁸

B. *A Second Conference on the Human Environment*

In addition to the Resolution on Institutional and Financial Arrangements, the Conference Plenary session adopted a proposal by Egypt and nine other delegations for a second United Nations Conference on the Human Environment.¹⁹ According to the resolution, the Conference's date was to be determined by the General Assembly and its preparation was entrusted to the recommended environmental institutional machine-

¹⁶ G.A. Res. 3004, 27 U.N. GAOR—(1972), adopted 128 in favor, none against, no abstentions.

¹⁷ G.A. Res. 2997, 27 U.N. GAOR—(1972).

¹⁸ *Id.*

¹⁹ U.N. Doc. A/CONF. 48/CRP. 20 (1972).

ry. On November 2, 1972, the Second Committee of the General Assembly adopted a draft resolution²⁰ requesting the Governing Council to study the need for a second Conference, taking into account the status of implementation of the Action Plan and future developments in the field of the human environment, and to report its views and recommendations to the General Assembly. The General Assembly is charged with making a decision on all aspects of the matter not later than at its twenty-ninth session. This recommendation was subsequently adopted by the General Assembly.²¹

C. Conclusion

Effectively dealing with environmental problems necessitates the formation of an institutional system which allows consideration and coordination at a policy-making level of a broad range of interrelated issues and problems, many of which were previously confronted individually. The institutional structure created may be viewed in terms of input levels—the initial levels concerned with coordinating the environment-related activities of existing national and international institutions, and the ultimate levels concerned with coordinating environmental programs with the other programs and goals of the United Nations system.

It is in providing mechanisms such as this (through which countries can receive mutual benefits by coordinating their activities and sharing information and resources to achieve a common, essentially non-political goal) that the United Nations serves one of its most useful purposes. The creation of any institutional arrangement, however, necessarily involves choices which touch political sensitivities. Thus, the membership of the Governing Council and the location of the secretariat became controversial issues and produced disagreement, essentially between the developed and the developing nations. The decisions finally taken on these issues reflect the increasing power of the developing nations in the United Nations, resulting from their voting strength under the United Nations' one-nation, one-vote formula. Lower efficiency was the cost of a political victory for the developing nations, particularly in the decision to locate the environmental secretariat in Nairobi.

While it would be naïve to exaggerate the extent to which such victories reflect a changing allocation of power in the international political context, they do nevertheless evidence the aggressive role being taken by the developing nations to protect their interests and assert their identity in the international community.

²⁰ U.N. Doc. A/C.2/L.1229/Rev.1 (1972), adopted 103 in favor, none against, 12 abstentions.

²¹ G.A. Res. 2994, 27 U.N. GAOR—(1972), adopted 112 in favor, none against, 10 abstentions.

TABLE I: EVOLUTION OF THE ENVIRONMENT DECLARATION

FINAL CONFERENCE FORMULATION*

Preambular Paragraphs

1. Man is a creature and moulder of his environment. Man requires both the natural and man-made aspects of his environment to enjoy basic rights.
2. The condition of the environment is a vital issue for all people.
3. Technology can either help or hurt the environment.
4. Most of the environmental problems of the underdeveloped countries stem from lack of development.
5. Population growth threatens some areas but is necessary to others.
6. Natural resources must be used with a prudent concern for the environment.
7. Environmental protection will come mostly from local and national efforts, with a growing role for international organizations.

[*Preambular paragraphs not accepted.*]

Principles

1. There is a fundamental right to a safe environment, freedom, and equality. Racism and *apartheid* must be condemned.
2. Natural resources must be safeguarded.

* The numbers of the Preambular paragraphs and Principles paraphrased in this column are from the final draft of the Declaration on the Human Environment as it emerged from the Stockholm Conference. It is contained in *Report of the United Nations Conference on the Human Environment held at Stockholm, 5-16 June 1972* at 2-7, U.N. Doc. A/CONF. 48/14 (1972).

ORIGINS AND EARLIER FORMULATIONS†

Same as *Preambular paragraph 1 of SDD*. Earlier formulations: Man is the nucleus of all environmental action. (*Preambular paragraph 1 of FDD*)
 Man affects the environment which in turn affects man. (*Preambular paragraph 2 of FDD*)
 Man requires a healthy environment to enjoy his basic rights. (*Preambular paragraph 3 of FDD*)
Proposed and adopted in the Working Group.

Same as *Preambular paragraph 2 of SDD*. Earlier formulation: Uncontrolled technology and increased urbanization impair the environment. (*Preambular paragraph 3 of FDD*)
Proposed and adopted in the Working Group.

Same as *Preambular paragraph 3 of SDD*. Earlier formulation: Population growth could threaten the environment. (*Preambular paragraph 5 of FDD*)
 Same as *Preambular paragraph 5 of SDD*. Earlier formulation: Scarce resources require rational planning. (*Preambular paragraph 6 of FDD*)

Same as *Preambular paragraph 6 of SDD*. Earlier formulations: Environmental protection requires international cooperation. (*Preambular paragraph 11 of FDD*)
 Environmental protection requires an important role for international organizations. (*Preambular paragraph 12 of FDD*)

Armaments and armed conflicts cause waste and harm to the environment. (*Preambular paragraph 4 of SDD*)
 The environment is endangered by the plunder of imperialists, colonialists, and neo-colonialists. (*Proposed in the Working Group by China.*)

There is a fundamental right to a safe environment. (*Principle 1 of both FDD and SDD*).

There is a right to freedom and equality, and thus racism and *apartheid* must be condemned. (*Proposed in the Working Group by African nations.*)

Same as *Principle 2 of SDD*. Earlier formulation: States shall husband their resources for present and future generations. (*Principle 3 of FDD*.)

† The abbreviations *FDD* and *SDD* used in this column refer respectively to the Preparatory Committee's Intergovernmental Working Group's first draft (i.e., First Declaration Draft, or *FDD*) and the Group's draft submitted to the Conference session in June 1972 (i.e., the Second Declaration Draft, or *SDD*). The *FDD* is contained in *Report of the Intergovernmental Working Group on the Declaration on the Human Environment*, U.N. Doc. A/CONF. 48/PC/12 (1971) and the *SDD* in *The Draft Declaration on the Human Environment*, U.N. Doc. A/CONF. 48/4 (1972).

FINAL CONFERENCE FORMULATION

3. Renewable resources must be renewed and restored.
4. Nature and wildlife must be conserved.
5. The exhaustion of non-renewable resources must be prevented.
6. The spread of toxic substances must be controlled. The just struggle of peoples against pollution should be supported.
7. The pollution of the seas must be prevented.
8. Economic and social development is essential in order for man to enjoy his rights.
9. Development, which requires substantial amounts of foreign aid, is necessary to remedy the environmental problems of developing nations.
10. The developing countries need price stability for their exports.
 11. A nation's environmental policies should not hurt the interests of the developing nations.
 12. Resources should be made available which take into account the needs of the developing nations.
13. Countries must integrate environmental policies and growth plans.
14. Rational planning is a tool to integrate environmental protection and growth.
15. Human settlements and urbanization should be planned. Racist and colonialist projects must be abandoned.
16. Population planning should be used where needed.
17. Countries should designate institutions to help environmental planning.

ORIGINS AND EARLIER FORMULATIONS

- Same as Principle 3 of SDD.
Proposed by India in Plenary and Adopted by the Working Group.
Same as Principle 4 of SDD.
- The spread of toxic substances must be controlled. (Principle 5 of SDD.)
The just struggle of peoples against pollution should be supported. (Proposed in the Working Group by China.)
Proposed by India in Plenary and adopted by the Working Group.
Same as Principle 6 of SDD.
- Development is necessary to remedy the environmental problems of developing nations. (Principle 7 of SDD.)
Development requires substantial amounts of foreign aid. (Proposed in the Working Group.)
Proposed in and Adopted by the Working Group.
- Same as Principle 8 of SDD.
- Same as Principle 9 of the SDD. *Earlier formulations and amendments:* Foreign aid should be made with the added costs of environmental protection in mind, or, New financial resources should be made available to developing nations for environmental protection. (Principle 16 of FDD.)
Industrial nations as the causes of pollution should pay the developing nations' costs of environmental protection. (Proposed in the Working Group by China.)
Same as Principle 10 of SDD. *Earlier formulation:* Environmental and development policies must be reconciled. (Principle 15 of FDD.)
Same as Principle 11 of SDD.
- Modern technology should be used for planning resource use and human settlements. (Principle 4 of FDD.)
Human settlements and urbanization should be planned. (Principle 12 of SDD.)
Racist and colonialist projects should be abandoned. (Proposed by African Nations in the Working Group.)
Same as Principle 13 of SDD.
Same as Principle 14 of SDD. *Earlier formulation:* Environmental institutions should be established and strengthened. (Principle 5 of FDD.)

18. Modern technology should be used for environmental planning.

19. Environmental education is important, and the mass media must aid this effort.

20. The free exchange of scientific and environmental information must be promoted. Environmental technology must be made available to developing nations.

21. States have the sovereign right to exploit their own resources and the responsibility not to harm areas outside their territory.

22. The international laws of compensation should be developed further.

23. The relative values of all countries must be considered in setting up pollution standards.

24. International agreements are necessary and must consider all nations' interests.

25. International organizations should play a dynamic role in environmental protection.

26. Nations should strive to eliminate weapons of mass destruction. [*The Working Group could not agree on this Principle; it was forwarded to the Plenary session for "fuller discussion," whereupon it was approved by acclamation.*]

[*Principle upon which no agreement could be reached; formulation similar to Principle 20 of SDD forwarded to the UN General Assembly.*]

Same as Principle 15 of SDD. Earlier formulation: Modern technology should be used for planning resource use and human settlements. (Principle 4 of FDD.)

Environmental education is important. (Principle 16 of SDD.)

The mass media must aid the effort. (Proposed in the Working Group.)

The free exchange of scientific and environmental information must be promoted. (Principle 11 of FDD and Principle 17 of SDD.)

It must be promoted with regard to the problems of developing nations. (Principle 17 of SDD.)

Environmental technology must be made available to developing nations. (Proposed in the Working Group.)

Same as Principle 18 of SDD. Earlier formulation: Nations have the responsibility not to harm the environments outside their territory. (Principle 6 of FDD.)

Same as Principle 19 of SDD. Earlier formulation and amendment: States should examine the possibility of agreeing on compensation for environmental damage, or, States must compensate others for environmental damage to them. (Principle 9 of FDD.)

States have the right to protect themselves and others from imperialist damages. (Proposed in the Working Group by China.)

The possibility of global environmental standards should be examined. (Principle 12 of FDD.)

The relative values of all countries must be considered in setting up pollution standards. (Proposed in the Working Group.)

Same as Principle 22 of SDD. Earlier formulation: States shall act together and independently to aid the environment. (Principle 10 of FDD.)

Same as Principle 23 of SDD. Earlier formulation: Countries should work through international organizations. (Principle 7 of FDD.)

Same as Principle 21 of SDD. There should not be any further testing or use of weapons of mass destruction.

All nuclear testing should be banned. (Proposed in Plenary by Japan, New Zealand, and Peru.)

Ban and destroy all nuclear, biological, and chemical weapons, except those for self-defense. (Proposed in the Working Group by China.)

Work for world security to prevent the use of weapons of mass destruction. (Proposed in the Working Group by U.S.)

States have a duty to consult other nations before acting in a way that could harm another's environment. (Principle 7 of FDD.)

States fearing environmental harm from actions of others may request consultations. (Principle 8 of FDD.)

States should supply relevant information upon request when their actions threaten another's environment. (Principle 20 of SDD.)

States should supply relevant information upon request when their actions threaten another's environment. (Proposed in Plenary by Argentina.)

TABLE II: ORGANIZATIONAL ARRANGEMENTS AND PROPOSED MODIFICATIONS

OPERATIVE PARAGRAPHS*

Governing Council

1. Establishment of a Governing Council composed of members elected for three-year terms on the basis of equitable geographic distribution.

2. Functions and responsibilities of the Governing Council: (a) recommend policies and promote cooperation; (b) provide general policy guidance for direction and coordination of UN environment programs; (c) review reports of Executive Director on program implementation; (d) review the world environmental situation; (e) promote contribution of scientific and other professional communities; (f) ensure that environmental programs are compatible with the development plans and priorities of developing countries; (g) review and approve annually the uses of the Fund.

3. Governing Council to report annually to the G.A. through ECOSOC; ECOSOC to comment on the relationship of environment policies to overall economic and social policies.

Environment Secretariat

4. Establishment of small secretariat to serve as focal point for action and coordination.^o

^o The organizational arrangements for implementing action proposals in the UN system were considered and approved by the Third Committee and Plenary in a single resolution containing 20 operative paragraphs, the texts of which are paraphrased in this column. The resolution appears in the *Report of the United Nations Conference on the Human Environment held at Stockholm, 5-16 June 1972* at 61-65, U.N. Doc. A/CONF. 48/14 (1972).

^a Sweden acted as chairman of a Working Group of delegations which met to consider numerous amendments before the Committee. The Working Group reported to the Committee, which then voted on amendments proposed either by the Working Group or individual delegations.

^b The number of members of the Governing Council was changed again when this operative paragraph reached the United Nations in autumn, 1972. The G.A.'s Second

PROPOSED AMENDMENTS†

(Working Group^a) Council to be composed of 48 members. *Passed.*
(Luxembourg) base membership on contributions to the Fund and demonstrated interest in implementation of the Action Plan. C.3/CRP.29/Add.3/Rev.1. *Rejected.*
(Australia) Council to consist of 54 members. (Proposed in Plenary.) CRP.25. *Passed.*^b

To section (b):

(Belgium) to stimulate and coordinate existing and new programs, while avoiding duplication. C.3/CRP.29/Add.1. *Rejected.*

(Peru) to lay down general guidelines for UN programs, making full use of existing specialized agencies. C.3/CRP.29/Add.4. *Rejected.*

(India) to provide general policy guidance for coordination of programs. C.3/CRP.29/Add.11. *Rejected.*

(Spain) new operative paragraph: G.A. to determine site of headquarters in light of feasibility study prepared by Secretary-General. C.3/CRP.29/Add.8. *Rejected.*

(Working Group) delete reference to location of headquarters. *Passed.*

† This column of the table contains summaries of the proposed amendments to the operative paragraphs; unless otherwise noted, the amendments were proposed in Committee. The amendments are cited to conference room papers (where available); the citations are in an abbreviated form, omitting the normal prefix "U.N. Doc. A/CONF. 48/" Finally, the disposition of each proposed amendment is indicated.

Committee amended to 58 members, A/C.2/L.1245. (Thailand). G.A. accepted this change, G.A. Res. 2291, 116-0-10. The U.S. opposed efforts to enlarge membership.

^a The location of the Secretariat was determined at the United Nations in autumn, 1972. The G.A.'s Second Committee recommended Nairobi, Kenya by a 90-0-31 vote. The G.A. accepted this recommendation, G.A. Res. 3004. The U.S. favored Geneva as the location.

5. G.A. to elect Executive Director with the following responsibilities: (a) to provide substantive support to the Governing Council; (b) under guidance of Governing Council, to coordinate, review and assess environment programs; (c) to advise UN bodies on formulation and implementation of environment programs; (d) to secure cooperation from scientific and other professional communities; (e) to provide requested advisory services to promote cooperation; (f) to submit to the Governing Council proposals planning UN environment programs; (g) to bring any matter to the attention of the Governing Council; (h) to administer the Fund, under authority and guidance of the Governing Council; (i) to report on environmental matters to the Governing Council; (j) to perform other functions entrusted to him by the Governing Council.

Environment Fund

6. Establishment of a voluntary fund for additional financing of environmental programs.

7. In order to enable the Governing Council to fulfill its policy guidance role, the Fund shall finance the costs of new environment initiatives.

8. The Fund shall be used for financing such programs of general interest as regional and global monitoring systems, environmental quality management, research, information exchange, public education and training, promoting research for industrial and other technologies, and such other programs as the Governing Council may decide upon, taking due account of the needs of the developing countries.

9. Secretariat and Governing Council to be financed by regular UN budget; operational programs to be financed by Fund.

To section (b):
(Belgium) to "promote coordination of..." C.3/CRP.29/Add.1. *Rejected.*
(Belgium) to consult and advise UN bodies. C.3/CRP.29/Add.1. *Rejected.*

To section (f):
(Peru) to submit proposals at the request of the Governing Council or any member state. C.3/CRP.29/Add.4. *Rejected.*

(Working Group) the Fund shall finance "wholly or partly" the new initiatives. *Passed.*

(Belgium) delete "policy guidance." C.3/CRP.30/Add.2. *Rejected.*

(Peru) financed initiatives will include those programs presently implemented by the UN specialized agencies as may be approved by the Governing Council. C.3/CRP.29/Add.4. *Rejected.*

(India) the Fund will finance new "and appropriate" initiatives. C.3/CRP.29/Add.11. *Rejected.*

(Belgium) amend "training" to read "training of experts." C.3/CRP.29/Add.1. *Rejected.*

(France) The Fund should be used to encourage new environment activities, in particular, monitoring and data collection systems, a referral system and environmental research, taking due account of the special needs of the developing countries. C.3/CRP.29/Add.5. *Rejected.*

(Sudan) the Fund should be used for programs of national, regional and global interest. C.3/CRP.29/Add.6. *Rejected.*

(India) the Fund should be used to finance the promotion of studies, "as far as possible in the countries concerned unless desired otherwise by them" for the development of industrial technologies. C.3/CRP.29/Add.11. *Rejected.*

This paragraph proposed in Committee.

(India) the purely administrative expenses borne by the Fund should not

OPERATIVE PARAGRAPHS*

10. To ensure that the development priorities of developing countries are not adversely affected, additional financial resources should be provided on terms compatible with the economic situation of the recipient country; Executive Director to keep problem under continuing review.
11. Funds to be directed to the need for coordinating programs.
12. Organizations outside the UN system to be utilized.

13. Governing Council to develop procedures to govern operations of the Fund.

Coordination

14. Establishment of Environmental Coordinating Board, chaired by Executive Director, under the framework of the Administrative Committee on Co-ordination.
15. Coordinating Board to have periodic meetings and annual reports to the Governing Council.
16. Adoption of measures required to coordinate programs within the UN system.
17. Contributions of regional bodies; regional cooperation.
18. Support of nongovernmental organizations and intergovernmental organizations having environmental concerns.
19. Use of national institutions in coordination of national and international action.
20. Idea of a world environmental institute to be pursued, drawing upon the scientific community and other relevant disciplines to act as a global research resource. [*This paragraph was rejected by the Committee, deleted on motion of India, C.3/CRP.29/Add.11.*]
21. G.A. to review at its 31st session institutional arrangements decided upon [*became para. 20*].

PROPOSED AMENDMENTS†

- exceed 10% of the total amount available during a fiscal year. C.3/CRP.29/Add.11. *Rejected.*
- (Pakistan) to provide additional financial resources on an automatic basis parallel with, or as an alternative to, voluntary contributions; Executive Director to submit a progress report to G.A. 27th session. C.3/CRP.29/Add.9. *Rejected.*
- (Working Group) utilizing particularly those organizations in the countries concerned. *Passed.*
- (Germany) such organizations are invited to support the UN programs by complementary initiatives and contributions. C.3/CRP.29/Add.2. *Passed.*
- (India) to the maximum extent possible, such organizations must belong to the country or region concerned. C.3/CRP.29/Add.11. *Rejected.*
- (Japan) delete "under the framework of the ACC." C.3/CRP.29/Add.10. *Rejected.*
- (Belgium) replace paragraphs 14 and 15 with recommendation to maintain machinery to provide coordination. C.3/CRP.29/Add.1. *Rejected.*
- (U.S.) that the concept be pursued to provide to the UN and interested nations advice and analysis relevant to environmental problems. C.3/CRP.29/Add.11. *Rejected.*