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**United Nations Conference
on Environment and Development
(UNCED)**

Third Session of the Preparatory Committee

GENEVA

12 August to 4 September 1991

FINAL REPORTS

Vol II

**United Nations Conference
on Environment and Development
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Form 6/3 G/91
PROVEDA **Plasdex** PERCISS
MONTIPIA TORRETO

LEGAL ISSUES

SUMMARY

Most comments focused on amending the Secretariat's paper on "Survey of Existing Agreements and Instruments, and Criteria for Evaluation" to broaden its scope: delegates suggested including references, for example, to development agreements and arms control/disarmament treaties. Other key issues raised were the role of environmental agreements in promoting sustainable development, dispute prevention and settlement and environment and war. The general view seemed to be that UNCED could usefully highlight outstanding legal issues, but that, with the possible exception of dispute prevention and settlement, attention should be focused on agreement on the principles to be included in the Earth Charter.

Documentation

A/CONF.151/PC/77 - Survey of Existing Agreements and Instruments, and
Criteria for Evaluation
A/CONF.151/PC/77/Rev.1

PREPCOM DISCUSSION

The primary Canadian objectives were the following:

- In the legal area, Canada's priority was to table its principles for the Earth Charter and persuade delegates to use our text as a basis for negotiations. With respect to the Survey, Canada suggested that it should include key declarations, such as the Stockholm Declaration, which contain principles of international law; bilateral agreements, such as the Canada-US Acid Rain Accord, which covers almost an entire continent; and framework agreements, such as the UN Law of the Sea Convention (UNCLOS). Finally, Canada proposed that Working Group III should examine those dealing with environment and with trade, with a view to determining how to reconcile such differences and avoid potential inconsistencies in future agreements.

Most interventions focused on PC/77 with several delegations making proposals to change the proposed criteria for the survey of legal instruments. Key issues raised included the role of environmental agreements in promoting sustainable development, dispute prevention and settlement (principles and mechanisms), and environment and war.

International Environmental Agreements and Sustainable Development

Several developing countries, such as China, India, Indonesia, Nigeria, and Zimbabwe, emphasized that the Survey of Existing Agreements (hereinafter called "the Survey") should, in examining legal instruments in the environmental field, aim at an appropriate balance of environmental and developmental concerns and demonstrate how such agreements promote sustainable development. China informed the Group about the results of the Beijing Symposium on developing countries and international environmental law, which examined the needs and capacities of developing countries in participating in the development and implementation of environmental agreements. The delegate further noted that different legal instruments have different requirements and that, in addition to identifying signatories of environmental agreements, analysis should be made of the role of "large" countries in the successful implementation of such instruments. Developing countries also stated that the Survey should examine whether (and which) financial, technical, and scientific factors influenced their participation in such agreements and whether (and which) of the above criteria influenced the implementation of such instruments.

On the question of legal compliance, Indonesia sought clarification of PC/77, commenting that rather than developing new measures for ensuring compliance, countries should agree on strengthening existing measures or programmes.

Canada proposed that the Survey should include key documents, such as the Stockholm Declaration, which contain principles of international law and added that bilateral agreements, such as the Canada-US Acid Rain Accord and the Great Lakes Water Quality Agreement should also be included in the Survey because they involve entire continents. As well, the Secretariat should perhaps include such framework agreements as the UN Law of the Sea Convention with a view to assisting delegations on ways in which such agreements, including key section on marine pollution and living resources, could be better defined and implemented. Finally, we proposed that WG III could usefully look at conflicts among agreements, particularly in the areas of trade and the environment.

A number of countries, including Chile and Canada, noted that there were a lot of environmental agreements in existence and that the Secretariat, in carrying out the survey, should avoid duplication with other fora (such as the International Law Commission) and listing every single agreement with environmental implications. Zimbabwe commented that WG III should agree on which instruments were directly relevant to the issues being discussed at UNCED and avoid simply listing "development agreements" in addition to environmental agreements. This proposal, however, enjoyed only modest support, as the Working Group had already agreed to examine only environmental instruments, rather than environmental and developmental ones.

Peru noted the recent meeting in The Hague on International Environment Law, and pointed

in particular to the section on non-governmental organization (NGO) participation in the development and implementation of environmental agreements. Noting that The Hague meeting had incorporated the views of NGOs on the effectiveness of international agreements with respect to domestic legislation, he commented that the Survey should take into account information on the (operation of the) agreement to Governments, parliaments, press, NGOs, industries and the general public and the role of such groups in participating in and implementing such agreements.

Dispute Prevention and Settlement

Poland briefly raised the proposal by the Pentagone (now called "Hexagone") countries on guidelines for developing principles and mechanisms for the prevention and settlement of disputes arising from differences over shared resources and ecosystems. He suggested that the Survey could reveal lacunae in existing agreements which could be harmonized and strengthened by developing a common system for dealing with such disputes. Mexico emphasized that the International Court of Justice, through a Special Chamber for environmental matters, could undertake to resolve disputes.

India commented that it opposed such an analysis, arguing that the Survey should not imply the need to establish such a mechanism, but rather that such disputes should be resolved bilaterally or regionally, on a case-by-case basis.

Environment and War

Peru stated it was pleased to see the inclusion of some nuclear agreements (such as the Treaty of Tlatelolco, which bans nuclear weapons in South America) in PC/77 and stated that the list should be as comprehensive as possible, thereby illustrating the need to examine in international law the impact of nuclear war on the environment.

The International Committee of the Red Cross (ICRC) proposed that countries should ratify the 1977 Protocols additional to the Geneva Conventions because they are an important contribution to the strengthening of the international rules intended to protect the environment in times of armed conflict. The representative drew on various legal instruments and customary law to make his point, adding that the ICRC will make specific suggestions on this issue at the November, 1991 international Red Cross/Crescent conference in Budapest. The representative also hoped that UNCED would give due consideration to specific problems for the environment caused by armed conflict.

In a short statement, Germany said that transboundary environmental damage should be considered in law as a criminal breach, an issue which is currently being examined in the International Law Commission.

Other Issues

Some delegations, including the US and the Netherlands (EC) raised concerns as to the ambitiousness of the Survey, noting that it required a lot of research, as well as information and cooperation from states parties to the agreements.

Chile raised concerns about the fact that countries not party to certain environmental agreements contained in the Survey would be in a position to comment on their suitability to promote sustainable development and all the criteria agreed to by the Working Group. The delegate wondered if such countries were competent to comment on bilateral/regional agreements if they were not familiar with the political/economic/social conditions in such States.

Four Directions, an NGO representing North American indigenous peoples, suggested that the Survey should examine how environmental agreements relate to individual and group rights to a safe and healthy environment.

The representative referred to the International Labour Organization Conventions 107 and 169, which address rights of indigenous peoples to manage natural resources and to be protected from environmental damage. Stating that "State reports and UN resolutions were not enough," he stressed the need to develop national mechanisms to address the concerns of individuals and groups, in particular, their rights vis-a-vis their own States and other States, including public and private institutions originating from those third States (i.e. transnational corporations and enterprises).

The Baha'i International Community called on UNCED to develop "A single code of international law" which would, through a world federal system and international legislature, regulate the planet's resources and peoples without depriving States and individuals of their liberty. The representative noted that the Earth Charter could play a pivotal role in "articulating a unifying vision for the future and boldly asserting the values upon which it must rest."

OUTCOMES AND ASSESSMENT

Drawing on comments by delegations, the Secretariat prepared a revision of PC/77 and presented it for consideration in an informal meeting. Although most of the participants in the meeting were knowledgeable in international law, the informal degenerated into a petty drafting exercise.

The US suggested that the Survey could be made more objective if its analysis stayed away from relating the environmental agreements to the promotion of sustainable development -- a concept the delegation considered vague and subjective.

This brought vigorous protests from several delegations, including Canada, which pointed out that there were a number of adequate definitions of "sustainable development" and that

understanding the relationship of environmental law to sustainable development was a fundamental issue for the 1992 Conference. The US withdrew its proposal.

Other proposals included addressing the reasons why countries have placed reservations on the agreements and the reasons for the delay between signature and ratification of the agreements. This last proposal, though initially well received, was considered problematic by the UNCED Secretariat representative because he would then have to examine government reports and parliamentary transcripts to determine why each Party took so long to ratify a given agreement.

The most difficult discussion concerned a proposal to rearrange some of the agreements contained in PC/77 into a new section called "environment and [international security][armed conflict]." The US stated that it had two problems with the proposal: 1) some of the agreements listed in PC/77 were nuclear agreements, and unless they had specific sections or protocols dealing with environmental protection, they should be deleted from the list; and 2) the US could not accept in principle a separate section on environment and war because this essentially was a political/security matter, not an environmental matter and thus had no place in the Survey.

The EC, however, was adamant that such a section should be included in the Survey, thus opening a debate which is not yet concluded. The surprising aspect of this discussion was the silence of EC Member States, France and UK -- both Permanent Members of the Security Council -- who seemed to favour such an analysis of "war and peace" instruments. The US insisted the EC was being inconsistent with positions taken by the Security Council and the G-7 London Summit and the delegate stated he would take this up with capitals.

The Secretariat has been requested to revise its paper, leaving in some square brackets, such as the reference to environment and war. It will be attached to a Chairman's summary of the deliberations in Working Group III. Although the summary is not negotiable, the revised Survey is and thus is likely to be changed some more before the PrepCom is concluded.



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PREPARATORY COMMITTEE FOR THE UNITED NATIONS
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Third session
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Working Group III
Item 3 of the provisional agenda

SURVEY OF EXISTING AGREEMENTS AND INSTRUMENTS, AND CRITERIA FOR EVALUATION

Note by the Secretariat

1. According to the terms of reference adopted by the Preparatory Committee for the United Nations Conference on Environment and Development at its second session (A/46/48, Part I, decision 2/3), Working Group III is expected to prepare an annotated list of existing international agreements and international legal instruments in the environmental field, describing their purpose and scope, evaluating their effectiveness, and examining possible areas for the further development of international environmental law, in the light of the need to integrate environment and development, especially taking into account the special needs and concerns of the developing countries.
2. In order to facilitate discussion in the Working Group, the present note contains a draft list of existing international agreements and international legal instruments to be evaluated for this purpose, together with draft criteria for their evaluation in view of the further development of environmental law.

3. The following documents already submitted or currently being circulated to the Preparatory Committee include information relevant to the evaluation of international agreements and instruments in specific sectors:

- | | |
|---|---|
| A/CONF.151/PC/59
(Working Group I) | Protection of the atmosphere:
transboundary air pollution |
| A/CONF.151/PC/58
(Working Group I) | Protection of the atmosphere:
Ozone layer |
| A/CONF.151/PC/31
(Working Group II) | Global aspects of marine pollution:
Convention on the Prevention of Marine
Pollution by Dumping of Wastes and Other
Matter |
| A/CONF.151/PC/7
(Working Group II) | Evaluation of the Montreal Guidelines
for the Protection of the Marine
Environment Against Pollution from
Land-based Sources |
| A/CONF.151/PC/69
(Working Group II) | Protection of the oceans and all
kinds of seas, including enclosed and
semi-enclosed seas, and coastal areas and
the protection, rational use and
development of their living resources:
international institutions and legal
instruments |
| A/CONF.151/PC/79
(Working Group III) | Progress report on the development of
legal instruments for transboundary waters |

I. DRAFT LIST OF AGREEMENTS AND INSTRUMENTS

4. The range of existing international agreements and instruments in the environmental field includes formal multilateral treaties at the global and regional level; international technical rules and regulations in sectors having a bearing on environmental protection; and a number of instruments that are not legally binding (* marked by an asterisk in the draft list which follows) but because of their adoption at an intergovernmental level may be considered as initial steps in the development of international environmental law.

5. The present draft list is essentially concerned with environmental protection against man-made risks, and therefore does not include agreements or instruments that are primarily aimed at natural risks or diseases (such as international sanitary, veterinary or phytosanitary rules); nor does it cover the multitude of existing arrangements dealing with bilateral environmental cooperation or with shared geographically limited resources (such as specific watercourses), or the internal environmental enactments of regional economic integration organizations. While any selection or categorization will to some

extent be arbitrary, the principal consideration should be the relevance of an agreement or instrument to the further development of international environmental law.

A. <u>General environmental concerns</u>	<u>Parties</u>
(1) Nordic Convention on the Protection of the Environment (Stockholm, 19 February 1974)	regional: 4
(2)* Principles Concerning Transfrontier Pollution, and related recommendations on Equal Rights of Access and Non-Discrimination (1974 to 1977)	regional (OECD)
(3) Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (Geneva, 18 May 1977)	global: 54
(4) Protocols I and II to the 1949 Convention Relating to the Protection of Victims of International Armed Conflicts (Geneva, 8 June 1977)	global: 99/89
(5)* Principles of Conduct in the Field of the Environment for the Guidance of States in the Conservation and Harmonious Utilization of Natural Resources Shared by Two or More States (Nairobi, 19 May 1978)	global (UNEP)
(6) European Outline Convention on Transfrontier Co-operation Between Territorial Communities or Authorities (Madrid, 21 May 1980)	regional: 16
(7) Convention on Prohibition or Restriction on the Use of Certain Conventional Weapons which may be deemed to be excessively injurious or to have indiscriminate effects, and related protocols (Geneva, 10 October 1980)	global: 32
(8)* Goals and Principles of Environmental Impact Assessment (Nairobi, 17 June 1987)	global (UNEP)
(9) Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 25 February 1991)	regional (ECE) -not in force-

B. Nature conservation and terrestrial living resources

- (10) Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (Washington, 12 October 1940) as amended regional: 19
- (11) International Convention for the Protection of Birds (Paris, 18 October 1950), and related regional instruments (1972-1979) global: 10
- (12) Antarctic Treaty (Washington, 1 December 1959) and related agreements and protocols (1964-1991) global: 39
- (13) African Convention on the Conservation of Nature and Natural Resources (Algiers, 15 September 1968) regional: 29
- (14) Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar, 2 February 1971) as amended global: 62
- (15) Convention Concerning the Protection of the World Cultural and Natural Heritage (Paris, 12 November 1972) global (UNESCO): 116
- (16) Convention on International Trade in Endangered Species of Wild Fauna and Flora (Washington, 3 March 1973) as amended global (UNEP): 110
- (17) Agreement on Conservation of Polar Bears (Oslo, 15 November 1973) regional: 5
- (18) Convention on Conservation of Nature in the South Pacific (Apia, 12 June 1976) regional: 5
- (19) Treaty for Amazonian Co-operation (Brasilia, 3 July 1978) regional: 8
- (20) Convention on the Conservation of Migratory Species of Wild Animals (Bonn, 23 June 1979) global (UNEP): 34
- (21) Convention on the Conservation of European Wildlife and Natural Habitats (Berne, 19 September 1979) regional: 25

- (22) Convention for the Conservation and Management of the Vicuña (Lima, 20 December 1979) regional: 4
- (23) International Tropical Timber Agreement (Geneva, 18 November 1983) global (UNCTAD): 50
- (24)* International Undertaking on Plant Genetic Resources (Rome, 23 November 1983) as supplemented global (FAO): 102
- (25) ASEAN Agreement on the Conservation of Nature and Natural Resources (Kuala Lumpur, 9 July 1985) regional: 6

C. Atmosphere

- (26) Regulations concerning gaseous pollutant emissions from motor vehicles, pursuant to the Agreement Concerning the Adoption of Uniform Conditions of Approval and Reciprocal Recognition of Approval for Motor Vehicle Equipment and Parts (Geneva, 20 March 1958), as amended and supplemented (1970-1991) regional (ECE): 21
- (27) Convention on Long-range Transboundary Air Pollution (Geneva, 13 November 1979), and related protocols (1984-1988) regional (ECE): 32
- (28)* Provisions for Co-operation Between States on Weather Modification (Nairobi, 29 April 1980) global (UNEP)
- (29) Annex 16 (II) on aircraft engine emissions, to the 1944 Chicago Convention on International Civil Aviation (Montreal, 30 June 1981, as amended in 1988) global (ICAO)
- (30) Vienna Convention for the Protection of the Ozone Layer (Vienna, 22 March 1985) and Montreal Protocol, 1987 as amended global (UNEP): 77

D. Marine environment

- (31) Convention for the International Council for the Exploration of the Sea (Copenhagen, 12 September 1964) as amended global: 17

- (32) International Convention on Civil Liability for Oil Pollution Damage (Brussels, 29 November 1969) and related 1976 protocol, as amended global (IMO): 69
- (33) International Convention Relating to Intervention on the High Seas in Case of Oil Pollution Casualties (Brussels, 29 November 1969) and related 1973 protocol global (IMO): 57
- (34) Nordic Agreement concerning Co-operation in Measures to Deal with Pollution of the Sea by Oil (Copenhagen, 16 September 1971) regional: 4
- (35) International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Brussels, 18 December 1971) and related protocols (1976-1984) global (IMO): 45
- (36) Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft (Oslo, 15 February 1972) as amended regional: 13
- (37) Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London, 29 December 1972) as amended global: 63
- (38) International Convention for the Prevention of Pollution from Ships (London, 2 November 1973) and 1978 Protocol, as amended global (IMO): 66
- (39) Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki, 22 March 1974) as amended regional: 6
- (40) Convention on the Prevention of Marine Pollution from Land-based Sources (Paris, 4 June 1974) as amended regional: 13
- (41) Convention for the Protection of the Mediterranean Sea against Pollution (Barcelona, 16 February 1976) and related protocols (1976-1982) regional (UNEP): 19

- (42) Convention on Civil Liability for Oil Pollution Damage Resulting from Exploration for and Exploitation of Seabed Mineral Resources (London, 1 May 1977) regional:
-not in force-
- (43) Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution (Kuwait, 23 April 1978), and related protocols (1978-1989) regional (UNEP): 8
- (44) Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region, and related protocol (Abidjan, 23 March 1981) regional (UNEP): 10
- (45) Convention for the Protection of the Marine Environment and Coastal Area of the Southeast Pacific (Lima, 12 November 1981), and related protocols (1983-1989) regional (UNEP): 5
- (46)* Memorandum of Understanding on Port State Control in Implementing Agreements on Maritime Safety and Protection of the Marine Environment (Paris, 26 January 1982) regional: 14
- (47) Regional Convention for the Conservation of the Red Sea and Gulf of Aden Environment, and related protocol (Jeddah, 14 February 1982) regional (UNEP): 7
- (48)* Guidelines Concerning the Environment Related to Offshore Mining and Drilling within the Limits of National Jurisdiction (Nairobi, 31 May 1982) global (UNEP)
- (49) United Nations Convention on the Law of the Sea (Montego Bay, 10 December 1982) global: (47)
-not in force-
- (50) Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena, 24 March 1983), and related protocols (1983-1990) regional (UNEP): 17

- (51) Agreement for Co-operation in Dealing with Pollution of the North Sea by Oil and Other Harmful Substances (Bonn, 13 September 1983) regional: 10
- (52)* Montreal Guidelines for the Protection of the Marine Environment against Pollution from Land-based Sources (Nairobi, 24 May 1985) global (UNEP)
- (53) Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region, and related protocols (Nairobi, 21 June 1985) regional (UNEP): (5)
-not in force-
- (54) Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, and related protocols (Noumea, 24 November 1986) regional (UNEP): 10
- (55) International Convention on Salvage (London, 28 April 1989) global (IMO): (2)
-not in force-
- (56) Agreement on Co-operation for Combating Pollution in the Northeast Atlantic (Lisbon, 17 October 1990) regional: (5)
-not in force-
- (57) International Convention on Oil Pollution Preparedness, Response and Co-operation (London, 29 November 1990) global (IMO)
-not in force-
- E. Marine Living Resources
- (58) International Convention for the Regulation of Whaling (Washington, 2 December 1946) as amended global: 40
- (59) Agreement for the Establishment of the Indo-Pacific Fishery Commission (Baguio, 26 February 1948) as amended global (FAO): 19
- (60) Convention for the Establishment of an Inter-American Tropical Tuna Commission (Washington, 31 May 1949) and related agreement (1983) regional: 5
- (61) Agreement for the Establishment of the General Fisheries Council for the Mediterranean (Rome, 6 December 1949) as amended global (FAO): 19

- (62) Agreement concerning Measures for Protection of the Stocks of Deep-Sea Prawns, European Lobsters, Norway Lobsters and Crabs (Oslo, 7 March 1952) regional: 3
- (63) International Convention for the High Seas Fisheries of the North Pacific Ocean (Tokyo, 9 May 1952) regional: 3
- (64) Convention on the Organization of the Permanent Commission on the Exploitation and Conservation of the Maritime Resources of the South Pacific (Santiago, 18 August 1952) and related agreements (1954-1979) regional: 4
- (65) Interim Convention on North Pacific Fur Seals (Washington, 2 February 1957) as amended regional: 4
- (66) International Convention for the Conservation of Atlantic Tunas (Rio de Janeiro, 14 May 1966) as amended global (FAO): 24
- (67) Convention on the Conservation of the Living Resources of the Southeast Atlantic (Rome, 23 October 1969) global (FAO): 16
- (68) Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and Belts (Gdansk, 13 September 1973) as amended regional: 5
- (69) Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (Ottawa, 24 October 1978) global: 13
- (70) South Pacific Forum Fisheries Convention (Honiara, 10 July 1979) and related agreements (1982-1989) regional: 15
- (71) Convention on Future Multilateral Co-operation in the Northeast Atlantic Fisheries (London, 18 November 1980) global: 11
- (72) Convention for the Conservation of Salmon in the North Atlantic Ocean (Reykjavik, 2 March 1982) regional: 9

- (73) Agreement on the Network of Aquaculture Centres in Asia and the Pacific (Bangkok, 8 January 1988) regional: 9
- F. Hazardous substances
- (74)* Recommendations on the Transport of Dangerous Goods (Geneva, 26 April 1957, 7th revision 1990) global (ECOSOC)
- (75) European Agreement Concerning the International Carriage of Dangerous Goods by Road (Geneva, 30 September 1957) as amended regional (ECE): 20
- (76) European Agreement on the Restriction of the Use of Certain Detergents in Washing and Cleaning Products (Strasbourg, 16 September 1968) regional: 10
- (77) Convention for the Mutual Recognition of Inspections in Respect of the Manufacture of Pharmaceutical Products (Geneva, 8 October 1970) global: 15
- (78) Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons, and on their Destruction (London, Moscow, Washington, 10 April 1972) global: 106
- (79)* Decisions and recommendations on Mutual Acceptance of Data in the Assessment of Chemicals and Good Laboratory Practices (1981-1989) regional (OECD)
- (80)* International Code of Conduct on the Distribution and Use of Pesticides (Rome, 19 November 1985) as amended global (FAO)
- (81)* London Guidelines for the Exchange of Information on Chemicals in International Trade (Nairobi, 17 June 1987) as amended global (UNEP)
- (82) Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel, 22 March 1989) global (UNEP): (10)
-not in force-

- (83) Convention on Civil Liability for Damage Caused During Carriage of Dangerous Goods by Road, Rail and Inland Navigation Vessels (Geneva, 10 October 1989) regional (ECE)
-not in force-
- (84) Convention on the Ban of the Import into Africa and the Control of Transboundary Movements and Management of Hazardous Wastes within Africa (Bamako, 30 January 1991) regional (OAU)
-not in force-
- G. Nuclear safety
- (85)* Resolution 913 (X) establishing the Scientific Committee on the Effects of Atomic Radiation (New York, 3 December 1955) global (UNGA)
- (86) Convention on Third Party Liability in the Field of Nuclear Energy (Paris, 29 July 1960) as amended and supplemented regional (OECD): 14
- (87) Convention on the Liability of Operators of Nuclear Ships (Brussels, 25 May 1962) global (IAEA)
-not in force-
- (88) Convention on Civil Liability for Nuclear Damage (Vienna, 21 May 1963) and related protocols (1963-1988) global (IAEA): 10
- (89) Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (Moscow, 5 August 1963) global: 118
- (90) Treaty for the Prohibition of Nuclear Weapons in Latin America (Tlatelolco, 14 February 1967) regional: 31
- (91) Convention Relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material (Brussels, 17 December 1971) global (IMO): 12
- (92) South Pacific Nuclear-Free Zone Treaty (Raratonga, 8 August 1985) regional: 13
- (93) Conventions on Early Notification of a Nuclear Accident, and on Assistance in the Case of a Nuclear Accident or Radiological Emergency (Vienna, 26 September 1986) global (IAEA): 57/53

H. Working environment

- | | | |
|-------|--|---------------------------------|
| (94) | Convention Concerning the Protection of Workers Against Ionizing Radiations (Geneva, 22 June 1960) | global (ILO): 39 |
| (95) | Convention Concerning Protection Against Hazards of Poisoning from Benzene (Geneva, 23 June 1971) | global (ILO): 27 |
| (96) | Convention Concerning Prevention and Control of Occupational Hazards Caused by Carcinogenic Substances and Agents (Geneva, 26 June 1974) | global (ILO): 24 |
| (97) | Convention Concerning Protection of Workers Against Occupational Hazards in the Working Environment Due to Air Pollution, Noise and Vibration (Geneva, 20 June 1977) | global (ILO): 25 |
| (98) | Convention Concerning Occupational Safety and Health and the Working Environment (Geneva, 22 June 1981) | global (ILO): 13 |
| (99) | Convention Concerning Safety in the Use of Asbestos (Geneva, 24 June 1986) | global (ILO): 11 |
| (100) | Convention on Safety in the Use of Chemicals at Work (Geneva, 24 June 1990) | global (ILO):
-not in force- |

II. DRAFT CRITERIA FOR EVALUATION

6. In carrying out an evaluation of the effectiveness of existing agreements and instruments, the Working Group may wish to focus on a number of common criteria, which could also provide guidance in the identification of gaps and possible areas for the further development of international environmental law. (Some of the draft criteria listed may not be applicable to declaratory/non-binding instruments).

A. Participation

- (1) What is the current range of membership in existing environmental agreements and instruments, especially as regards developing countries?
- (2) What is the record of actual participation by member States in programme activities and meetings organized under these agreements and instruments?
- (3) Which incentives (e.g., financial, trade, technology benefits) are available to encourage participation, especially by developing countries?

- (4) Which have been the major obstacles (if any) preventing wider participation, especially by developing countries?
- (5) In the case of regional agreements and instruments, what is their actual and potential bearing on global environmental protection?

NOTE: Current information on the membership (signature, ratification, accession) status for most of the agreements and instruments listed in section I above is provided, on an annual basis, in the UNEP Register of International Treaties and Other Agreements in the Field of the Environment (Nairobi, UNEP/GC.16/Inf.4, 1991, available in all official languages), and in the United Nations publication Multilateral Treaties Deposited with the Secretary-General (New York, 1991, available in English and French).

B. Monitoring and reporting

- (6) To what extent have the basic objectives (environmental/economic) of these international agreements and instruments been met, and how is goal achievement measured?
- (7) How is compliance by parties with their obligations under these agreements and instruments monitored?
- (8) How do parties report on their performance in implementing agreements and instruments, and to what extent have they complied with reporting duties?
- (9) Which are the specific requirements (if any) of data supply and data disclosure, and to what extent have they been met by the parties?
- (10) Which have been the main obstacles (if any) to reporting, data supply and data disclosure?
- (11) Which possibilities exist to follow up on non-compliance, and to what extent have they been used?
- (12) Which mechanisms, including fact-finding procedures, are available to deal with disputes over implementation and to what extent have they been used?

NOTE: A number of international environmental agreements and instruments contain provisions for compliance control and/or an obligation for parties to submit, through the secretariat, regular performance reports for public review. Periodic progress reports on the implementation of specific instruments (such as the UNEP Guidelines on Shared Natural Resources) are also submitted to the General Assembly through the UNEP Governing Council, based on performance reports solicited from Governments and organizations. A major part of compliance control for many environmental agreements and instruments consists of the collection and analysis of data to substantiate and verify implementation by the parties.

C. Information

- (13) In which form and in which languages are the texts of existing agreements and instruments published and disseminated?
- (14) How is current information on the operation and implementation of international agreements and instruments made available to Governments, to the industries concerned and to the general public?
- (15) What additional materials are available to provide guidance for the implementation of international agreements and instruments at the national level?
- (16) To what extent is the above information used in international and national training and education programmes?

NOTE: Further to official publication of treaty texts in the United Nations Treaty Series (which, however, suffers from a general printing backlog of more than 10 years) several unofficial collections of international environmental agreements and instruments exist, including the UNEP Reference Series of Selected Multilateral Treaties in the Field of the Environment (available in English and French) and the UNEP Environmental Law Guidelines and Principles (available in all official languages). In addition, secretariats in charge of administering some of these agreements and instruments have issued public information material or regular information bulletins concerning these instruments. The United Nations Institute for Training and Research (UNITAR) has undertaken a number of programmes which include the promotion of international legal instruments for environment and development. Several non-governmental institutions and associations play an important role in this field.

D. Operation and adjustment

- (17) Which are the institutional arrangements for international administration of existing agreements and instruments?
- (18) What are the annual (1990) costs of international administration (secretariat, meetings, programmes) of agreements and instruments, and how are they financed?
- (19) Which are the main cost elements of national participation in existing agreements and instruments and which possibilities exist to reduce participation costs for developing countries?
- (20) To what extent has technical cooperation been provided to developing countries for implementing international agreements and legal instruments in the field of environment?
- (21) Which mechanisms are available to ensure that scientific knowledge and advice is taken into account in policy-making decisions under these agreements and instruments?

- (22) How do these arrangements and mechanisms ensure the effective participation of (a) national authorities, especially from developing countries; and (b) non-governmental participants, including the industries concerned and the scientific community?
- (23) Which mechanisms are available to ensure periodic review and timely adjustment of international agreements and instruments, and to what extent have they been used?

NOTE: The process by which international law-making treaties are formulated and brought into force was extensively examined by the General Assembly in the United Nations Review of the Multilateral Treaty-Making Process (ST/LEG/SER.B/21, 1981). Information on the actual operation of treaty regimes will have to be compiled from a cross-section of reports to the governing bodies concerned, together with available external analyses. Technical assistance to Governments for the necessary implementing measures and institutions has been provided ad hoc by UNEP and by several specialized agencies within their areas of competence, and could play an important role in promoting wider participation. In view of the need for rapid and frequent adjustment of environmental agreements and instruments to changing circumstances and to scientific and technological progress, flexible amendment procedures have proved essential. In addition, several existing agreements provide for periodic review conferences to assess implementation and policy adaptation.

E. Codification programming

- (24) Which new drafts or draft revisions of existing agreements and instruments in the environmental field are currently under preparation?
- (25) To what extent is drafting coordinated with related work regarding other agreements and instruments?
- (26) Which are the remaining gaps that need to be covered by legal provisions?
- (27) To what extent are mechanisms other than formal agreements or instruments contributing to the development of international law in the field of the environment?

NOTE: An "in-depth review" of international environmental law, summarizing the activities of competent intergovernmental and non-governmental organizations, was carried out by UNEP, (UNEP Report No. 2, 1981, in English only), as part of preparations for the long-term "Programme for the Development and Periodic Review of Environmental Law" adopted in 1982 by Governing Council decision 10/21 (endorsed by the General Assembly in its resolution 37/217); an update is planned for 1991. Summaries of "legislative" activities within the United Nations system are published in the United Nations Juridical Yearbook (up to 1984, in English, French and Spanish). Environmental law activities are included in the "system-wide medium-term environment programme" (SWMTEP 1990-1995, UNEP/GCSS.I/7/Add.1), and regular inter-agency consultations are held in sectors such as water resources and ocean affairs. Furthermore, some of the regional bodies in charge of administering environmental conventions have initiated direct

consultations to avoid potential conflicts or overlaps. There also is a considerable amount of standard-setting ongoing that is not based on specific environmental agreements and instruments but on the constitutional functions of existing international bodies. An overview of current and planned drafting work in this field could assist in harmonizing global and regional codification programmes.

III. GUIDANCE FOR FURTHER LEGAL WORK

7. The Working Group is expected to examine possible areas for the further development of international environmental law, in the light of the need to integrate environment and development, especially taking into account the needs and concerns of developing countries. Areas to be examined in this context are, in particular:

- (a) priorities for future law-making at the global, regional and national level;
- (b) measures to promote and support the effective participation of developing countries in existing and future international agreements or instruments;
- (c) international compliance control, regular scientific assessment and timely adjustment of agreements or instruments;
- (d) coordination and streamlining of (global and regional) institutions and procedures for the administration of international agreements and instruments;
- (e) resolution and prevention of conflicts, including potential conflicts between environmental and economic/trade agreements or instruments.

NOTE: Relevant materials include, in particular, the draft instruments being prepared by the United Nations International Law Commission, especially in connection with its work on state responsibility; on a draft code of crimes against the peace and security of mankind; on the law of the non-navigational uses of international watercourses; and on international liability for injurious consequences arising out of acts not prohibited by international law (see the report of the International Law Commission on the work of its forty-second session, Official Records of the General Assembly, Forty-fifth session, Supplement No. 10, A/45/10, 1990; and the comments by Governments on recent work by the International Law Commission in these areas, summarized in document A/CN.4/L.456, 1991).

By resolution 44/23, the General Assembly declared the period 1990-1999 as the United Nations Decade of International Law, the main purposes of which include, inter alia, "to promote acceptance of and respect for the principles of international law" and "to encourage the progressive development of international law and codification". In this context, protection of the global environment was addressed in comments from States and organizations, summarized in the 1990 report of the Secretary General (United Nations Decade of International Law, A/45/430 and Addenda 1-3), including a project proposed by China on "developing countries and international legislation on environment" (A/45/430/Add.2), and a document submitted by Italy on the

conclusions of the 1990 Siena Forum on International Law of the Environment (A/45/666). A comprehensive report on this subject will be prepared by the United Nations Office of Legal Affairs, for submission to the 46th session of the General Assembly in 1991. The World Bank, in the context of its 1992 World Development Report, will undertake an assessment of the effectiveness of multilateral agreements in the field of the environment. The United Nations University has initiated a project on "international law and global change", with the aim of producing a major cooperative study and teaching materials in this field, expected to be completed in time for the 1992 United Nations Conference on Environment and Development.

INSTITUTIONS

SUMMARY

Following on the discussions at PrepCom II, delegates continued to present ideas for reforming/revitalizing the UN to promote sustainable development objectives, but it remains to be seen if Working Group III can make some fundamental decisions on institutions. Virtually all delegations stressed the need to examine existing bodies, rather than adding major new institutions to the UN system. Several countries suggested stronger coordinating roles for the UN General Assembly (UNGA) and ECOSOC; as well, they called for improved inter-agency coordination. African countries called for UNEP to broaden its mandate to cover both environment and development; this view was countered by representatives from other regions, who advocated a narrower focus for UNEP. Developing countries spoke against utilizing the Global Environmental Facility (GEF) as a main funding mechanism for sustainable development. Other issues raised included the role of regional organizations and non-governmental organizations (NGO's) in implementing UNCED's outcomes and dispute prevention and settlement (also raised under Legal Issues).

Documentation

- | | | |
|------------------------|---|---|
| A/CONF.151/PC/80 | - | Report by the Secretary General on Institutions |
| A/CONF.151/PC/94 | - | Report of Working Group III |
| A/CONF.151/WG.III/L.10 | - | Chairman's Summary on Institutional Issues |

PREPCOM DISCUSSION

The Canadian objectives were to introduce ideas to the third PrepCom on the following issues:

- promotion of a high-level informal vehicle to maintain the political momentum generated at UNCED;
- encouraging the General Assembly and the Secretary General to take committed and authoritative roles in ensuring the coordination of environmental efforts throughout the UN system and promoting the integration of environment and development into its programmes and activities;
- setting into place interim arrangements for coordinating environment and development programming and performance review across the UN system;

- ensuring that allocation of work undertaken by UN agencies is based on a realistic assessment of their specific comparative advantage (e.g. the strengthening of UNEP in environmental monitoring, information exchange, technical cooperation and elaboration of legal instruments; and UNDP in environmentally sound development);
- establishing appropriate means for environmental capacity-building (institutions, human resources, and environmental infrastructure and technology) at the regional and national level, using existing mechanisms to the degree possible;
- promoting innovative approaches to institutional arrangements which combine the strengths of intergovernmental, NGO, and business approaches;
- supporting the involvement of various NGO sectors in UNCED itself with a view to having UNCED agree on mechanisms for ongoing and substantive cooperation between UN organizations and NGOs;
- promotion of a limited number of small-scale initiative which have a high likelihood of adoption, as UNCED "deliverables."

Working Group III lags behind Working Groups I and II because of general consensus that in institutional issues form must follow function, and that decisions on institutions must await the achievement of substantive consensus on Agenda 21 issues taken up in WG I and II. Nevertheless many delegations took the opportunity in the general discussion to disclose or repeat elements of national positions on broad UN reform issues as well as UNCED specific questions. This debate revealed both points of convergence and areas of very wide disparity. Virtually all speakers noted that their remarks were preliminary, and it is clear that UNCED WG III has been used as a sounding board for UNGA Second Committee.

While the sequencing difficulty posed by reform of the UN vis-a-vis major new initiatives arising from UNCED was universally acknowledged, a number of delegations (US, EC) urged that action on both fronts should be undertaken in parallel. Other delegations (Canada, Sweden, Guyana, Singapore, Australia, New Zealand) indicated that the role of this PrepCom was to clarify issues and narrow options, and referred to criteria, guidelines or agreed guiding principles for decisions to be taken later. Algeria and others noted that the key to these changes would be political will, and that UNCED should be regarded as the beginning, rather than the end, of the process.

The deliberations of WG III did not come to grips, even at the conceptual level, with the Working Group's functions in relation to the plethora of relatively small, totally uncoordinated institutional initiatives currently under discussion in the convention negotiations and in WGs I and II (Agenda 21).

Major issues:

New and additional institutions: Whether emphasizing reform, restructuring, strengthening, or streamlining, all speakers stressed the need to start with the existing system rather than adding major new institutions. Japan urged others to be patient with existing institutions as they evolved toward integration of environment and development.

Strengthening of UNEP: Kenya, speaking for African states, proposed that UNEP become the central agency of the UN for environment and development. Most others (US, EC, Sweden, New Zealand, China) stressed need to strengthen UNEP capacity to carry out current mandate with emphasis on environmental law, information, and policy advice. Brazil, Malaysia and others pointed out that UNEP was equipped and focused on the "environment" of "environment and development", and should not undertake a major program of operational activities for development.

Intergovernmental policy and monitoring of Agenda 21: The need for a central body with political profile and credibility was widely noted. A number of references were made to the General Assembly itself, and to ECOSOC, as well as to the establishment of a commission or committee to report to ECOSOC. The US proposed the merger of functions of the Committees on Natural Resources, New and Renewable Sources of Energy, and Science and Technology for Development into a Sustainable Development Committee. India, Malaysia and others stated clearly that such a body should be intergovernmental, democratically constituted (i.e. not the Security Council). Malaysia specifically stated that responsibility for monitoring, and assessment should not repose in a non-governmental body, and that discussion of a Sustainable Development Council was premature. China noted that either ECOSOC itself or a new Commission could serve the purpose.

Inter-agency coordination: All speakers noted the importance of integration of environmental concerns to all activities of the UN, and of inter-agency coordination to this end. Many called for coordination mechanisms to be given "teeth" (Mexico); however, only the Philippines and Bangladesh mentioned the possible role of the Director General/Development and International Economic Cooperation in this area. Various suggestions were made for dedicated sessions of the Administrative Committee on Coordination, reinstatement of the Environment (and Development) Coordinating Board, under joint UNDP/UNEP chairmanship (US, Japan) or back to UNEP (Kenya). Mexico suggested a joint governments/agency body.

Funding, Global Environmental Facility (GEF): While all G-77 statements made reference to the need for resources, the only classic call for new and additional funding, rejecting the use of traditional aid funds for environment, was from India. Along with WEOG, other G-77 delegations seemed to focus more on integration of environment in order to assure real (i.e. sustainable) development. No G-77 statement made positive reference to the Global Environmental Facility (GEF). India, Chile and others expressed strong reservations about its utility as an umbrella fund for other conventions, and criticized its governance. EC, Sweden, and Finland spoke favourably of GEF as a useful, though experimental, pilot project.

Role of non-state actors: The importance of including the perspective of NGOs, scientific and business communities was stressed by a surprisingly large number of delegations (e.g. Peru, Tanzania, Philippines), as essential to achieve sustainable development. Tanzania went so far as to say that NGOs should participate at both deliberative and operational level, while Peru proposed an UNCED follow-up process which would explicitly include transnational corporations in environmental decision-making. WEOG delegations emphasized the need to link UN activities with multilateral development bank activities.

Role of regional organizations: A number of speakers noted the need to undertake capacity building through support to regional institutions. Bangladesh proposed that the regional commissions play a major role in the implementation of Agenda 21.

Prevention and Settlement of Disputes:

Austria, speaking on behalf of the Hexagonale (formerly Pentagonale) countries (Austria, Czechoslovakia, Hungary, Italy, Poland, and Yugoslavia) reiterated its PrepCom II proposal on establishing mechanisms for dispute prevention and settlement. The delegate stated they intended to present a decision to the PrepCom, recommending that the UNCED Secretariat do further work on this issue for PrepCom IV.

The US stated its strong support for the development of dispute settlement mechanisms, but signalled a concern regarding the establishment of free-standing and compulsory procedures under a single institution and questioned their utility outside of specific treaties. Several countries, such as Colombia, Finland, and Pakistan commented positively on the desirability of dispute resolution mechanisms and recognized the need for more work in this area. India reiterated that the examination of dispute resolution was somewhat premature, given diverse opinions and scientific uncertainties about what constitutes "an environmental breach," but noted that efforts should be made to ensure that dispute settlement is an intrinsic part of international agreements.

OUTCOMES AND ASSESSMENT

It remains to be seen when the first moves, if any, will be made by delegations to negotiate concrete steps to enhancing the UN's (and other international organizations') abilities to promote sustainable development. The issue is complicated by the fact that the UN is engaged in a process of reform and revitalization, including in its economic and social sectors; that developing countries see institutional change solely in terms of linkages to new arrangements for financing and technology transfer; and that any final decision on institutions may necessarily have to be made at the Summit level in Rio de Janeiro. Thus, the Chairman of Working Group III issued a summary (L.10) and the Working Group decided the following:

- Request the Secretary General of the UNCED to prepare an updated compilation of institutional proposals made during the third session of the PrepCom, including those made in Working Groups I and II and the plenary as well as relevant observations that may be contained in national reports, and originating from regional preparatory conferences with a focus on options for action.

In the meantime, delegations may wish to discuss "areas of convergence" before the next PrepCom, as the Chairman is expected to spend the bulk of his time dealing with the Earth Charter. As well, it should be borne in mind that the institutional discussion may necessarily take place at a high level, particularly if countries concluded that new institutions are required for follow-up to the 1992 Conference.

**INTERVENTION BY THE CANADIAN DELEGATION ON
PROGRESS OF WORK IN WORKING GROUP III**

SUBMITTED TO THE 3RD PREPARATORY COMMITTEE MEETING

AUGUST 19, 1991

INTERVENTION BY THE CANADIAN DELEGATION ON
PROGRESS OF WORK IN WORKING GROUP III

Mr. Chairman:

Canada's intervention today will be short. We direct ourselves to what might be usefully accomplished on the matter of institutional arrangements during the Sessions of Working Group III in this 3rd Preparatory Committee meeting. The Agenda adopted at the last session of Working Group III seems to be well conceived. It provides the opportunity for a few opening comments of a general nature today, followed by presentation and discussion of the survey of legal instruments, which in our opinion can be a fairly straight-forward matter. The next item, on principles on general rights and obligations, appears to us to provide the opportunity for substantive discussion and progress, and we would hope that delegates see fit to propose and debate initial text on a Charter or other form of declaration. A number of documents provide the basis for such discussion, including PC/78, prepared by the Secretariat, PC/83 submitted by Peru, texts prepared by Canada and the USSR, as well as documents prepared by non-government organizations. Given this opportunity for substantive discussion and progress on principles on general rights and obligations, we would encourage delegates to limit debate today to matters pertaining to what Working Group III might accomplish during this Preparatory Committee Meeting.

Some informal work has taken place on institutional arrangements, and the Secretariat has produced two papers. PC/36 which raises a number of major issues for consideration; and, PC/80 which identifies a number of institutional options which have been raised by other parties.

A number of delegations have identified issues and institutional options which are worthy of further discussion. Canada has produced a non-paper on "Ideas of Some Delegations on Institutional Arrangements for Consideration by the UNCED Preparatory Committee". This paper is based on informal discussions we have had with a number of delegations. Copies of the paper are available at the back of the room. In addition, Mexico has produced a non-paper on institutions, and the ASPEN Institute in the United States recently held a small international workshop to address institutional and other issues.

It is recognized by most delegations that the work of Working Group III is necessarily in its early stages. Several delegates have mentioned that it is important to have a better understanding of the likely outcomes on the technical issues under discussion in Working Groups I and II before defining institutional remedies. Notwithstanding the desirability of awaiting such outcomes, many delegates also recognize that discussions need to begin on possible institutional arrangements for implementing UNCED results, taking into account the emerging results from the other Working Groups.

To assist this Working Group in considering institutional matters raised in the other working groups, we have prepared a simple table of institutional proposals raised in the Agenda 21 documents on sectoral action plans - PC/42.Add.1 to PC/42/Add.10. We will not read the contents of this table now, but we are submitting a copy to the Chairman, and copies are available at the back of the room, attached to this intervention. Our main intent here, Mr. Chairman, is to provide a summary of sectoral institutional arrangements as an analytical tool to facilitate the work of Working Group III. The table could also serve as an approach by which Working Groups I and II, or the Plenary, could refer issues to Working Group III for consideration.

We would like to request the Secretariat to prepare a more detailed version of this analysis, taking into account the discussions which are taking place now in Working Groups I and II, in order to identify the range of institutional proposals which are under consideration in the discussions on sectoral issues. Such an analysis would permit Working Group III to identify common elements in institutional approaches which would lead to appropriate implementation mechanisms for specific sectors and for meeting broader institutional requirements. We request that this analysis be available later this week, prior to the session of Working Group III on "Issues referred by other Working Groups and Plenary".

Canada is considering to propose a similar approach for cross-sectoral issues which are to be discussed in Plenary such as financial arrangements, technological cooperation and transfer, and poverty and development.

The Canadian delegation believes that there is a good opportunity for Working Group III to begin substantive debate on institutional arrangements, without foreclosing options, and with substantive input from all delegations. We would recommend, however, Mr. Chairman, that such debate begin later this week, following the discussions on legal instruments and on rights and obligations. We believe that it may be possible later this week and next week for Working Group III to achieve a scoping of institutional issues - identifying what matters are most important to consider - and to begin to identify some options to pursue in future negotiations.

Mr. Chairman,

The Canadian Delegation plans to make detailed comments on the proposals contained in PC/80 later this week, and to outline those institutional issues which we consider most important for consideration by the Working Group.

19 August, 1991
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Third UNCED Prepcom
Working Group III
August 22, 1991

CANADIAN INTERVENTION ON INSTITUTIONS

STATEMENT BY MARTHA TER KUILE
CANADIAN DELEGATE

Mr. Chairman,

My delegation welcomes this opportunity to reflect on the institutional questions posed by global environment and development needs, and we appreciate the guide to reflection offered by the secretariat papers PC 36 and 80. We find the papers make explicit a number of important issues which lie embedded in other discussions of this PrepCom.

The Canadian delegation agrees with others that we need to have a new look at institutions in the light our commitment to sustainable development. If we are to achieve our objectives in environment and development, institutional capacity at national, regional, and international level requires reinforcement. You will be familiar with the perspective of my delegation from the Canadian non paper distributed Monday.

On institutional questions we are confronted by a dilemma. On the one hand, we need to approach sustainable development in an integrated and holistic way, and to keep track of linkages among subjects like climate change, forestry and biodiversity. For the institutions and mechanisms we agree on to be most effective and relevant, we must be prepared to reach out and capture the expertise, energy, and experience available within and particularly outside the existing UN system. It is essential to refrain from taking a narrowly sectoral view, and to knit together the various elements of our work into a coherent strategy. On the other hand, however, a number of very specific institutional measures appear to be in the works in current convention negotiations, while institutional proposals have also emerged in discussion of Agenda 21 and under the rubric of UN reform.

We have a functioning multilateral system, which includes the multilateral development banks as well as the UN agencies. This system may need to be both streamlined and strengthened, but it probably has the capacity to deliver much of what we seek to achieve.

At the same time, from experience we know that it is always easier simply to add functions, responsibilities, and personnel, than it is to rationalize and optimize current operations. As individual nations, and as a world community we do not have the

human or financial resources to approach sustainable development in this way. Thus one of the challenges facing us is to take the institutions we already have, to refine and clarify their mandates, to structure their relationships with each other, and with us, their governors, in such a way that we create synergy among the various players.

There is a growing body of experience in such institutional innovation, as the agencies of the multilateral system work together in the Consultative Group for International Agricultural Research (CGIAR), Tropical Forestry Action Program (TFAP), Global Environmental Facility (GEF) and the Water Supply and Sanitation Collaborative Council (WSSCC).

Based on these observations, my delegation will make use of a number of criteria to scrutinize institutional proposals as they are developed. First, we will ask, does this proposal add activities which cannot be undertaken effectively by existing institutions, are we assured that it is non-duplicative? Second, has the proposal been developed in the broad context of global activities for environment and development, taking into account the full range of the multilateral system, as well as national and regional programs, and is it appropriately cross referenced to other sectors? Third, does the proposal increase our reach, does it allow us to gain access to the talents of the scientific community, the NGOs, the business community? Fourth, is the proposed form of governance fair and transparent, giving the appropriate voice to each stakeholder?

With those criteria in mind, my delegation would like to propose that a number of steps to taken between now and the 4th Prep Com to focus and refine our discussions.

- * Drawing on the work of WGs I and II, the secretariat should prepare a comprehensive picture of the state of play on institutions by completing the matrix proposed by my delegation on Monday, and by exploring in more detail the range of options available for the strengthening of UNEP, UNDP, and other key institutions. One useful input in this exercise would be the views of the agencies themselves.
- * Concrete proposals for the monitoring of Agenda 21, and of the integration of environment and development in the work of the UN has been made by a number of colleagues this morning. This and other options should be fleshed out for review in March.

- * Both the Secretary-General of the Conference and Ambassador Mateos of Mexico have suggested possibilities for a new approach to regional and national capacity building. These should be explored and elaborated for consideration at Prep Com IV.
- * Finally, a number of delegations have expressed an interest in directing environment and development finance through a single mechanism, be it the GEF, an Earth Fund, or the Green Fund. Work should be undertaken to examine the institutional ramifications of such a mechanism, both in organisational form and in governance.

Mr. Chairman, the distinguished representative of Austria has introduced the Hexagonale proposals on dispute prevention and settlement, which encompass not only legal principles but institutional mechanisms as well. My delegation has thoughts on this matter which we will make available presently to this Working Group.

IDEAS OF SOME DELEGATIONS ON INSTITUTIONAL ARRANGEMENTS

FOR CONSIDERATION BY THE UNCED PREPARATORY COMMITTEE

PREPARED BY THE CANADIAN DELEGATION
BASED ON INFORMAL DISCUSSIONS WITH OTHER DELEGATIONS

AUGUST, 1991

IDEAS OF SOME DELEGATIONS ON INSTITUTIONAL ARRANGEMENTS
FOR CONSIDERATION BY THE UNCED PREPARATORY COMMITTEE

Introduction

It is recognized by most delegations that the work of Working Group III on Legal, Institutional and Related Matters is necessarily in its early stages. Several delegates have mentioned that it is important to have a better understanding of the likely outcomes on the technical issues under discussion in Working Groups I and II before defining institutional remedies. Notwithstanding the desirability of awaiting such outcomes, many delegates recognize that discussions need to begin on possible institutional arrangements for implementing UNCED results, taking into account the emerging results from the other Working Groups.

With this in mind, Canada has been exchanging views on an informal basis with a number of delegates from industrialized and developing nations, and with representatives of international organizations, on institutional issues arising out of the second preparatory committee meeting of UNCED. These discussions have identified a number of topics which delegates consider important and worthy of further discussion and analysis. These are:

- a) the need for high-level coordination within the UN system
- b) mechanisms for integration of environment into the development activities of relevant UN bodies and expert and specialized agencies
- c) the role of organizations outside the UN system, in particular expert international NGOs and the business community
- d) the role of regional- and national-level institutional mechanisms to implement UNCED outcomes and the need for capacity building, particularly in developing countries.

This paper elaborates a number of these issues and begins to explore options which may warrant consideration by delegations at the third preparatory committee meeting. Institutional arrangements which evolve during UNCED may represent initial efforts to solve complex problems. Flexibility will be important, and commitments to final outcomes may not be achieved, except for the most straightforward institutional questions. On complex institutional issues, interim arrangements may be appropriate.

1. Institutional Objectives for UNCED

Institutions serve the needs of countries and individuals. In the context of UNCED, these needs can be divided into those which promote environmentally sustainable development nationally and regionally; and those which are intended to protect shared global environmental resources.

Institutional arrangements are needed to:

- a) Put in place the necessary multilateral arrangements, both within and outside the UN system, to sustain the political momentum and implement the decisions taken at UNCED
- b) Implement international agreements on global environmental issues
- c) Provide the means for strengthening capacity of local, national and regional institutions, both governmental and outside government, to plan and implement policies, programmes and activities that are environmentally sustainable.

2. Characteristics of Appropriate Institutional Arrangements

It is obvious that a range of institutional arrangements are needed to meet different objectives and to carry out different functions. While there is a general preference among countries to not create new institutions, there is a need for the preparatory committee to define new roles for existing institutions where appropriate, and to propose innovative institutional arrangements where existing structures are inadequate to meet the challenges of UNCED. A combination of revitalization, renewal and reform of institutional arrangements is clearly called for. What is needed is an evolution, not a revolution in institutions. These changes will depend on strong leadership at the international and national levels.

The following observations on the characteristics of innovative institutional arrangements are drawn from recent experience and deliberations:

- o political commitment must be sustained
- o arrangements involving hybrid groupings of international organizations, governments, eminent persons and private interests, or involving broad-based groups of experts, are often more creative and progressive than formal structures in finding solutions to complex problems

- o consensus is stronger than a majority and should be the basis for decision making wherever possible
- o decisions should be driven by objective scientific facts, as much as possible
- o organizational forms should be flexible; interim arrangements may be necessary and appropriate.

3. Coordination and Integration in the UN System

The UN system will need to play an important role in implementing the results of UNCED. In recent years, there has been growing concern about the efficacy of coordination efforts within the UN in the economic and social sectors. A number of countries have suggested that, although coordination is important, the UN should also strive to ensure that environmental policies are integrated into its development programmes. Centrifugal tendencies in the UN are strong. However, the critical importance and high political profile of global and national environmental issues today provides UNCED with a unique opportunity to set in place the mechanisms for all elements of the UN system to work in concert to meet sustainable development objectives.

The Role of the General Assembly and the Secretary General

Coordination must start at the top. Inter-governmental coordination must occur through a strong interest and commitment among nations in the UN General Assembly to coordinate policies to achieve commonly agreed environment and development objectives. Inter-agency coordination likewise must start at the top, with a strong commitment and interest by the Secretary-General to implement sustainable development objectives throughout the UN system. In achieving these goals, the Secretary-General would be guided by the decisions of governing bodies, as well as drawing on advice from the Administrative Committee on Coordination and the Director General.

Certain proposals, such as broadening the mandate of the Security Council to address critical environmental problems, establishing an Environmental Security Council, or creating a new Committee of the UN General Assembly, are not likely to be workable in the context of UNCED alone and must await other processes related to UN reform. However, UNCED can give impetus to such broader UN reforms, and needs to give consideration to other coordination mechanisms.

Streamlining the GA Second Committee and ECOSOC

One possibility would be to streamline the work of the UNGA Second Committee and the Economic and Social Council (ECOSOC) to generate substantive resolutions and decisions focusing on sustainable development -- where the UN arguably has some policy influence. Delegations could ensure that resolutions dealing with programme issues and operational activities on science and technology for development, and women in development, for example, contain language addressing ways in which the UN system will follow-up the outcomes of the 1992 Conference.

In addition, should countries decide not to phase out some of the UN's/ECOSOC's subsidiary bodies, they could agree to ensuring that their programmes focus on sustainable development objectives. For example, the Committee on the Development and Utilization of New and Renewable Sources of Energy could consider the sustainable management of energy resources.

Rationalizing the work programme of the Second Committee and ECOSOC (and their subsidiary bodies) is a difficult task, subject to interpretation and negotiations about competing national priorities. However, given the ongoing efforts to promote reform of the UN's economic and social sectors, it may be possible within the next two years to negotiate a more rational work plan, respecting at the same time legitimate concerns by all countries about fundamental development problems.

Adjusting and Strengthening the Mandate of the Director General

Another possible means for improving coordination is to adjust the mandate of the Office of the UN Director General for Development and International Economic Cooperation to become a Director General for Sustainable Development. New tasks could include system-wide coordination and integration of environmental programmes into the UN'S development activities, drawing on the decisions by governing bodies of UNDP, UNEP, FAO, WHO, UNIDO, etc. The decision to amend the Director General's mandate to meet new demands would have to come from the UNGA Second Committee.

Such an initiative would require a commitment by the Secretary-General to implement UNCED's outcomes; and by the Director General to work with the various UN agencies to produce cogent results. An effective Director General may be more successful than any single agency head in ensuring broad sustainable development objectives are integrated into UN programmes.

Mechanisms for Integration

Perhaps as important as system-wide coordination, and perhaps more likely to succeed, are efforts to integrate environmental sustainability considerations into development planning and implementation by the UN specialized and expert agencies. Of most obvious interest in this regard are UNEP, UNDP, FAO, WHO, UNIDO and WMO, but many others have a role to play.

UNEP

Although the recent UNEP Governing Council agreed that UNEP reform should not be discussed until after the UNCED, many countries agree that UNEP's operations should be strengthened, particularly in such areas as environmental monitoring and assessment, exchange of information, and the elaboration of legal instruments. As well, UNEP is the key agency providing technical advice to senior UN officials charged with ensuring environmental priorities are integrated into developmental policies and programmes.

UNDP

UNDP has undertaken to implement environmental protection and enhancement in its development assistance programmes, drawing on and complementing UNEP's expertise, rather than duplicating or replacing it. At the same time, there is a need to coordinate its programmes with those of the other UN agencies as well as the World Bank, regional development banks, bilateral development cooperation agencies and private development agencies.

It should be noted, however, that UNDP's mandate is essentially focused on development assistance, whereas any integration mechanism would have to take account of policies for environmentally sustainable development in all countries, including industrialized nations.

4. Role of Organizations Outside the UN System

Integration of environmental concerns into the activities of the United Nations agencies, and the coordination of their efforts, will be crucial in implementing the results of UNCED. However, even if successful, these actions will not be sufficient to guarantee a satisfactory outcome. Institutional efforts involving other intergovernmental, non-governmental, and hybrid government/non-government/business arrangements will play an important role.

The multilateral system includes a number of players in addition to the institutions of the United Nations. The Bretton Woods

institutions - the multilateral development banks, IMF, and GATT - as well as the regional development banks, have become central participants in world economic and development policy matters, and are increasingly involving themselves in environment and development matters.

The scientific community, the NGO community, and the business community also effectively carry out international functions outside the aegis of the UN system, and often provide the scientific and intellectual basis for multilateral action, as has been the case with the current negotiations on biodiversity. These interests are implicated in global environment and development questions and should be considered as major "stakeholders" in the outcome of UNCED. One of UNCED's key achievements may be to harness the energy, expertise and vision of these diverse groups for global environment and development needs.

Informal Multilateral Fora

Networks of institutions, expert meetings, and periodic high-level meetings could provide non-institutionalized vehicles for furthering the momentum generated by UNCED. Representatives have considerable freedom to express their experienced, expert views through such fora and are able to carry the "consensus of judgments" to their own institutions for consideration and individual action. The key challenge of such approaches is to maintain links with UN and other multilateral agencies in order to be relevant in decision making and ensure commitment to follow-up action, while at the same time maintaining sufficient independence to prevent the mechanism from becoming mired in bureaucracy.

The Inter-Governmental Panel on Climate Change (IPCC) is an example of a non-permanent arrangement, involving experts. The work of this group has been instrumental in raising the world's understanding of the scientific basis for climate change and its policy implications to a high enough level that political action began nationally and internationally.

A regional approach to institutional cooperation has been suggested by the Secretary General of UNCED, to provide for fund raising and priority setting in meeting regional and national environment and development needs. This collaborative group or network may involve the regional development banks, UN regional economic commissions, regional UNDP and UNEP representatives, regional economic cooperation organizations, and others.

Hybrid Arrangements

There is a growing body of experience in bringing together various constituencies to work productively toward common goals. Many governments have taken measures to structure their relationships with universities, NGOs, and business in a way that optimizes constructive interactions on issues of importance, including the environment.

In Canada, for example, national- and provincial-level Round Tables on Environment and Economy have been formed, comprising government ministers, heads of corporations, and representatives of diverse public interests including labour unions and the environmental movement. These fora have several distinguishing features. They are multi-stakeholder in membership. They have a definite mandate to address policy and programming linkages between environment and development. They reach out to various communities and interests to obtain input and to expose them to innovative ideas. They seek to achieve consensus. And their members serve as ambassadors to their respective constituencies. Such approaches may be applicable at the international as well as the national level.

In the field of international cooperation, there are a number of successful institutional models which are substantially different from the standard intergovernmental model of the UN system. Possibly the best known of these hybrid multilateral institutions is the Consultative Group for International Agricultural Research (CGIAR) in which a mix of donor nations, developing country research agencies, NGOs, parastatal organizations, multilateral development banks and agricultural scientists in their personal capacity oversee a \$250,000,000 per year research system. The CGIAR system is highly decentralized, and operates without having any formal or legal entity. Group decisions are non binding, but are reinforced by strong commitment to the general goals of the system, and underpinned by the World Bank's willingness to support research centre budgets as a donor of last resort.

Negotiations among funding and recipient institutions are mitigated through a technical advisory group, in which attention to technical validity overrides political expediency. Thus both funders and recipients are spared the necessity of reaching agreement on details of text. All decision making is by a process of iterative consensus building. The CGIAR is still evolving, and may have a structural weakness in not sufficiently incorporating the views of developing country research institutions. However it is a prototype for non-confrontational multilateral negotiation which has been operating successfully and on a growing scale of operation for twenty years.

IUCN - The World Conservation Union represents another innovative hybrid institutional arrangement. Its more than 600 members worldwide include governments, state agencies and non-governmental organizations, all having equal standing and balanced voting power. The governments represent the political interests of states, the state agencies bring scientific expertise, and the NGOs bring expertise and represent a broad range of sustainable development interests. The organization's council has balanced north-south representation, with councillors from Africa, Asia, Latin America, the Pacific, North America and Europe. A large and strong network of scientific and legal experts in both industrialized and developing countries provides a valuable resource for IUCN members and for the IUCN's own programmes. Its professional secretariat provides intellectual leadership in conservation science.

These informal and hybrid approaches share a common characteristic. Their success lies in the moral onus and non-binding financial commitments on the part of the parties present to act on the decisions reached by consensus. Each party then acts within its own area of responsibility and competence to meet the commonly held objectives.

The Role of NGOs

There have been valuable lessons learned from the preparatory process to date on working relationships between non-government organizations (NGOs) and the UNCED multilateral forum; and NGOs and national delegations. The experience of some delegations in consulting with national interest groups in developing their positions in their capitals, or with including NGO and business representatives on their delegations, is proving to be a positive one. These representatives bring the expertise and positions of various interest groups to the consideration of delegations. They also serve as envoys of the delegations for testing ideas. The decision to include non-government representatives on national delegations is a sovereign matter.

NGOs, business groups and other interested parties outside government are involved in many countries in preparing for UNCED. Their direct involvement in the preparatory process has been sanctioned through the accreditation of relevant and competent NGOs. A number of delegations favour their continuing involvement at the UNCED itself, while other delegations are reserving judgment at this stage. Given the important role that non-government sectors are expected to play in implementing Agenda 21, constructive participation of non-government groups at the Earth Summit will be important and valuable. It would be desirable for the results from such parallel processes as the World Industry Conference on Environmental Management (WICEM II), the work of the Business Council on Sustainable Development

(BCSD), and the Paris meeting of environment and development NGOs to be entered directly into the record and discussions at UNCED.

The modalities of their involvement in the Summit will need to be worked out both by the preparatory committee and by the non-government groups themselves. Important questions include the numbers of such groups which can speak at UNCED, the representativeness of those that do have a formal role, and how to allow for their substantive input while respecting the need for governments to undertake final negotiations among themselves.

Hopefully, the UNCED experience will lead multilateral organizations including UN organizations to draw increasingly on the expertise of groups outside governments. It would be useful for the Preparatory Committee to consider at a later stage more routine ways for cooperation with NGOs including mechanisms for effective cooperation between the UN system, other multilateral organizations and NGOs on matters related to environment and development. Possible approaches include encouragement to other negotiating fora and to UN specialized agencies to develop consultative processes and regularized mechanisms for non-governmental input; the broadening of CONGO membership and changes in criteria for membership; use of hybrid government/non-government fora, as discussed above; and the use of permanent or ad hoc advisory bodies of eminent environmental scientists.

5. The Role of Regional- and National-Level Institutions

National Approaches

International initiatives to implement UNCED results will need to be mirrored at the regional and national levels. The 1972 Stockholm Conference resulted not only in the creation of international institutions, such as UNEP. It also gave impetus to the creation of environmental coordinating ministries and environmental protection boards in many countries.

Many of the problems which are under discussion at UNCED, such as deforestation, soil loss, freshwater protection, and land-based sources of marine pollution are national or regional in scope rather than global. Many of these environmental concerns are central development concerns which need to be treated at the national and sub-national levels. Global environmental problems such as biodiversity loss and climate change require action to be taken mainly at the national level.

In both industrialized and developing countries, innovative institutional arrangements will be needed to integrate economic and social decision making with environmental policy goals.

Hopeful signs are emerging in many countries, where cabinet-level committees are addressing environmental issues, either in the context of UNCED, or in response to domestic environmental imperatives. Finance departments are working with environment departments, and forestry departments with foreign affairs departments, to better understand the implications of and formulate desirable outcomes to the complex issues before UNCED. The experience gained in these ad-hoc processes at the national level can hopefully be translated into permanent arrangements for integrating environment into economic decision making.

Capacity Building

In order for countries, in particular developing countries, to assess and contribute to the resolution of both global and local environmental problems while meeting their own development priorities, a major effort in regional- and national- level capacity building will be needed.

Human resource and technological capacity building will require a concerted effort among multilateral institutions and national governments. Such efforts may perhaps be best undertaken on a regional basis, building on existing institutional arrangements.

6. Conclusions

The ideas presented in this paper are intended to promote substantive debate on institutional issues in Working Group III during the Third Preparatory Committee Meeting. It is hoped that such discussion may encourage delegations to determine which issues need to be pursued in more detail, and to identify options to pursue in negotiations on institutional arrangements.

1 August, 1991

Delegation of Canada to the UNCED Preparatory Committee

Partial Table of Sector Institutional Proposals

(Source: UNCED Institutional Proposals in PC/42 and PC/42/Add.1 - PC/42/Add.10)

ISSUE	UN SYSTEM	OTHER MULTI LATERAL OR REGIONAL	GOVERNMENT	NGO/NGI	PRIVATE SECTOR	HYBRID
atmosphere -climate change	new UN energy coordination unit; new UN energy agency				new international conference on energy and transportation	new collaborating centres on energy (UN-gov't-non-gov't)
-ozone depletion	-					
-trans boundary air pollution	-					
land resources	FAO; international conference on PGR; high-level task force on rural energy	regional network	planning bodies	voluntary organizations in communities		
forests	FAO, UNESCO	ITTO; cooperation between UN family and INC, IPCC	existing forest management and research institutions			

ISSUE	UN SYSTEM	OTHER MULTI LATERAL OR REGIONAL	GOVERNMENT	NGO/NGI	PRIVATE SECTOR	HYBRID
biological diversity	harmonize UNEP/GEMS, UNESCO biosphere reserve and FAO early warning system for PGR; FAO commission on PGR	GATT		World Conservation Monitoring Centre; ICSU		government NGO/NGI collaboration
biotechnology		network of regional and national contacts				Biotechnology Consortium or Corporation

ISSUE	UN SYSTEM	OTHER MULTI LATERAL OR REGIONAL	GOVERN MENT	NGO/NGI	PRIVATE SECTOR	HYBRID
<p>oceans: - marine pollution control and - living marine resources</p>	<p>OALOS; new high- level global forum on oceans; expanded annual UNGA considera tion of oceans; formalize OALOS / UNEP consulta tions; adhoc joint ad visory expert groups; new Conference on Ocean Affairs; dispute settle ment mech anism</p>	<p>regional environ ment or fishery manage ment bodies; regional high- level inter govern mental fora; new regional environ mental informa tion and monitor ing centres</p>	<p>national inter- minister mechan ism</p>			

ISSUE	UN SYSTEM	OTHER MULTI LATERAL OR REGIONAL	GOVERNMENT	NGO/NGI	PRIVATE SECTOR	HYBRID
ISSUE	UN SYSTEM	OTHER MULTI LATERAL OR REGIONAL	GOVERNMENT	NGO/NGI	PRIVATE SECTOR	HYBRID
freshwater	UNEP/GEMS; FAO regional inland fisheries bodies;		local water, sewage authority or utilities			
toxic chemicals	strengthen UNEP, ILO, WHO		inter minister coordinating mechanism			government, NGO industry academic collaboration
hazardous wastes	Basel and Bamako Convention	international organizations			industry based institutions for wastes	
solid wastes and sewage	UNEP/GEMS WHO, UNCHS					
PC/42 Agenda 21 (follow up)	locate UNCED secretariat functions in existing UN system after UNCED					

17 August, 1991/h:/document/instmatx
Canadian Delegation



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PREPARATORY COMMITTEE FOR THE UNITED NATIONS
CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

Third session

Geneva, 12 August-4 September 1991

Working Group III

Agenda item 5

OTHER LEGAL, INSTITUTIONAL AND RELATED MATTERS, AS WELL AS LEGAL AND
INSTITUTIONAL ASPECTS OF CROSS-SECTORAL ISSUES, INCLUDING THOSE
REFERRED TO WORKING GROUP III BY WORKING GROUPS I AND II AND THE
PLENARY OF THE PREPARATORY COMMITTEE

Chairman's summary

1. Under this agenda item, Working Group III considered other legal, institutional and related matters, as well as legal and institutional aspects of cross-sectoral issues, including those referred to Working Group III by Working Group I, Working Group II and the plenary of the Preparatory Committee. The Working Group had before it the progress reports on institutions by the Secretary-General (A/CONF.151/PC/36, A/CONF.151/PC/80 and Corr. 1) as well as several documents submitted by delegations (A/CONF.151/PC/81, A/CONF.151/PC/L.29, A/CONF.151/PC/WG.III/L.1 and A/CONF.151/PC/WG.III/L.4). Furthermore, in response to a request by Working Group II at the second session of the Preparatory Committee (decision 2/20, subparagraph 2 (p)), the Working Group had before it for consideration a progress report by the Secretariat on the development of legal instruments for transboundary waters (A/CONF.151/PC/79).

2. In the course of the discussion, most speakers stated that their comments were of necessity preliminary at this stage. Although the Working Group did not attempt to reach any conclusions, there was broad agreement on the following points which could serve as guidance for the future work of the Working Group at the fourth session of the Preparatory Committee:

(a) Some reform of United Nations institutions in the field of environment and development is needed, taking into account general efforts for restructuring and revitalization of the United Nations in the context of General Assembly resolution 45/264.

(b) Working Group III must take into account decisions with institutional implications originating from Working Groups I and II and the Plenary.

(c) Proliferation of institutions at the global level must be avoided.

(d) There is a need to work out mechanisms to promote coordination, both at the intergovernmental level and at the level of the Secretariat and United Nations specialized agencies and programmes involved with environment or development.

(e) Existing international institutions at the global and regional levels in the field of environment and development, including UNEP and UNDP, should be adapted to changed circumstances in order to support sustainable development. There was consensus that UNEP must be strengthened.

(f) Among the goals of institutional reform at the global and regional levels should be enhancement of the capacity of institutions at the national level, especially in developing countries, to ensure the full integration of environment and development.

(g) Institutions and organizations outside the United Nations system, including the non-governmental sector, have an important role in this process.

(h) The Working Group, at the fourth session of the Preparatory Committee, will have to consider the need for institutional arrangements, both at the intergovernmental and secretariat levels for the implementation and continuous review of Agenda 21.

3. In order to facilitate discussion at the fourth session of the Preparatory Committee, the necessary documentation should be prepared by the Secretariat. Specifically, an updated compilation of institutional proposals made by delegations during the third session of the Preparatory Committee, including those made in Working Groups I and II and the plenary, with a focus on options for action, is required. In this context, the matrix developed by the delegation of Canada should be used, as well as the relevant information contained in national reports. In addition, it is expected that the Working Group will have before it, in response to General Assembly resolution 44/229, a report by the Secretary-General on the structure and responsiveness of the United Nations in dealing with major environmental issues.



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CONFERENCE ON ENVIRONMENT AND DEVELOPMENT
Third session
Geneva, 12 August-4 September 1991
Agenda item 5

ADOPTION OF THE REPORT OF THE PREPARATORY COMMITTEE

Report of Working Group III

Rapporteur: Mr. John SLOAN (Canada)

I. ORGANIZATIONAL MATTERS

A. Organization of the session

1. Working Group III held 11 meetings (6th to 16th) from 19 to 30 August 1991.

B. Officers of the Working Group

2. The officers, who were elected by the Working Group at its first session, remained:

Chairman: Bedrich Moldan (Czechoslovakia)

Vice-Chairmen: Oswaldo de Rivero (Peru)
Reynaldo Arcilla (Philippines)
Albert Muchanga (Zambia)

Rapporteur: John Sloan (Canada).

C. Adoption of the agenda and other organizational matters

At the 6th meeting, on 19 August, the Secretary-General of the Conference made an introductory statement on the work of the Working Group.

3. At its 6th meeting, on 19 August, the Working Group approved its agenda as contained in Section IV of document A/CONF.151/PC/39 and Corr.1. The agenda was as follows:

1. Adoption of the agenda and other organizational matters
2. Continuation and conclusion of the discussion on all matters pertaining to the terms of reference of Working Group III, as adopted, in accordance with General Assembly resolution 44/228
3. Survey of existing agreements and instruments, and criteria for evaluation
4. Principles on general rights and obligations
5. Other legal, institutional and related matters, as well as legal and institutional aspects of cross-sectoral issues, including those referred to Working Group III by Working Groups I and II and the plenary of the Preparatory Committee
6. Provisional agenda for the third session of Working Group III
7. Adoption of the report of Working Group III.

D. Documentation

4. The Working Group had before it the following documents:

(a) Progress report of the Secretary-General of the Conference on institutions (A/CONF.151/PC/36);

(b) Note by the secretariat on a survey of existing agreements and instruments, and criteria for evaluation (A/CONF.151/PC/77);

(c) Note by the secretariat on an annotated check-list of principles on general rights and obligations (A/CONF.151/PC/78);

(d) Progress report by the secretariat on the development of legal instruments for transboundary waters (A/CONF.151/PC/79);

(e) Progress report of the Secretary-General of the Conference on institutions (A/CONF.151/PC/80);

(f) Letter dated 27 June 1991 from the Permanent Representative of Peru to the United Nations Office at Geneva addressed to the Secretary-General of the United Nations Conference on Environment and Development (A/CONF.151/PC/81);

(g) Letter dated 17 July 1991 from the Permanent Representative of Peru to the United Nations Office at Geneva addressed to the Secretary-General of the United Nations Conference on Environment and Development (A/CONF.151/PC/83);

(h) Letter dated 19 March 1991 from the head of the delegation of Austria to the Preparatory Committee for the United Nations Conference on Environment and Development at its second session addressed to the Deputy Secretary-General of the United Nations Conference on Environment and Development (A/CONF.151/PC/L.29);

(i) Letter dated 26 March 1991 from the head of the delegation of Austria to the Preparatory Committee for the United Nations Conference on Environment and Development at its second session addressed to the Secretary-General of the United Nations Conference on Environment and Development (A/CONF.151/PC/WG.III/L.1);

(j) United States proposal for improving United Nations institutional involvement in environmental affairs: enhancing central coordination and the role of UNEP (A/CONF.151/PC/WG.III/L.4);

(k) Letter dated 15 August 1991 from the Head of the delegation of Canada to the Preparatory Committee for the United Nations Conference on Environment and Development at its third session addressed to the Secretary-General of the United Nations Conference on Environment and Development (A/CONF.151/PC/WG.III/L.5);

(l) Draft proposal submitted by Ghana on behalf of the States Members of the United Nations that are members of the Group of 77 (A/CONF.151/PC/WG.III/L.6);

(m) Draft report of Working Group III (A/CONF.151/PC/WG.III.L.7 and Add.1);

(n) Chairman's consolidated draft (A/CONF.151/PC/WG.III/L.8 and Corr.1 and Add.1);

(o) Chairman's summary, submitted under item 3 (A/CONF.151/PC/WG.III/L.9 and Corr.1);

(p) Chairman's summary, submitted under item 5 (A/CONF.151/PC/WG.III/L.10);

(q) Draft decision submitted by Sweden (A/CONF.151/PC/WG.III/L.11);

(r) Draft decision submitted by Austria, Czechoslovakia, Hungary, Italy, Kenya, Poland, Switzerland and Yugoslavia (A/CONF.151/PC/WG.III/L.12);

(s) Chairman's summary, submitted under item 4 (A/CONF/151/PC/WG.III/L.13);

(t) Provisional agenda for the third session of Working Group III (A/CONF.151/PC/WG.III/L.14);

(u) Draft decisions submitted by the Chairman (A/CONF.151/PC/WG.III/L.15);

(v) Letter dated 23 August 1991 from the Permanent Representative of the Holy See to the Preparatory Committee for the United Nations Conference on Environment and Development at its third session addressed to the Secretary-General of the United Nations Conference on Environment and Development (A/CONF.151/PC/WG.III/L.16*);

(w) Letter dated 29 August 1991 from the Head of the delegation of Colombia to the Preparatory Committee for the United Nations Conference on Environment and Development at its third session addressed to the Secretary-General of the United Nations Conference on Environment and Development (A/CONF.151/PC/WG.III/L.17*);

(x) Draft decision proposed by the Chairman on the basis of informal consultations (A/CONF.151/PC/WG.III/L.18);

(y) Proposal submitted by the Union of Soviet Socialist Republics (A/CONF.151/PC/CRP.8).

5. A complete list of documents is contained in annex I to the report of the Preparatory Committee.

II. CONTINUATION AND CONCLUSION OF THE DISCUSSION ON ALL MATTERS PERTAINING TO THE TERMS OF REFERENCE OF WORKING GROUP III, AS ADOPTED, IN ACCORDANCE WITH GENERAL ASSEMBLY RESOLUTION 44/228

6. The Working Group considered the question of the continuation and conclusion of the discussion on all matters pertaining to the terms of reference of Working Group III, as adopted, in accordance with General Assembly resolution 44/228 (agenda item 2) at its 6th meeting, on 19 August.

7. At the 6th meeting, on 19 August, the representative of the secretariat of the United Nations Conference on Environment and Development made an introductory statement. Statements were made by the representatives of Mali and Canada. The Chairman made a concluding statement.

III. SURVEY OF EXISTING AGREEMENTS AND INSTRUMENTS, AND CRITERIA FOR EVALUATION

8. The Working Group considered the question of the survey of existing agreements and instruments, and criteria for evaluation (agenda item 3) at its 6th, 7th, 14th and 15th meetings, on 19, 27 and 29 August.

* To be issued.

9. At the 6th meeting, on 19 August, the representative of the secretariat of the United Nations Conference on Environment and Development made an introductory statement. Statements were made by the representatives of Sweden, United Republic of Tanzania, Peru, Mali, New Zealand, the United States of America, Brazil, Mexico, Tunisia, Austria, Malaysia, Burkina Faso, Kenya, Viet Nam and the Netherlands (on behalf of the European Community and its member States). Statements were also made by the representatives of the International Union for the Conservation of Nature and Natural Resources and Baha'i International Community, non-governmental organizations accredited to the Preparatory Committee in accordance with its decision 2/2.

10. At the 7th meeting, on 19 August, statements were made by the representatives of Italy, Kiribati, Egypt, Romania, Australia, Singapore, the Philippines, China, Chile, Indonesia, Nigeria, Poland, Germany, India, Kuwait, the Union of Soviet Socialist Republics, Zimbabwe, Canada, the Sudan, Peru, the United States of America and Mexico. The representative of the International Committee of the Red Cross made a statement. Statements were also made by the representatives of Greenpeace International, Four Directions Council and Consortium for Action to Protect the Earth (CAPE '92), non-governmental organizations accredited to the Preparatory Committee in accordance with its decision 2/2. The representative of the United Nations Centre on Transnational Corporations also made a statement.

11. The Chairman's summary of the discussion was subsequently issued in document A/CONF.151/PC/WG.III/L.9 and Corr.1.

12. At the 15th meeting, on 29 August, the Chairman introduced a draft decision, contained in document A/CONF.151/PC/WG.III/L.15, entitled "Survey of existing agreements and instruments, and criteria for evaluation", which he had submitted on the basis of informal consultations, and orally revised it as follows:

(a) In paragraph (b), the words "Agrees on" were replaced by the word "Welcomes";

(b) In paragraph (c), the words "agreed criteria" were replaced by the words "proposed criteria" and the phrase "and in cooperation with the international secretariats or depositaries concerned, as applicable" was added at the end of the paragraph.

13. At the same meeting, the Working Group approved the draft decision, as orally revised, and recommended it to the Preparatory Committee for adoption (see para. 44 below, draft decision I).

IV. PRINCIPLES ON GENERAL RIGHTS AND OBLIGATIONS

14. The Working Group considered the question of principles on general rights and obligations (agenda item 4) at its 8th to 10th, 14th and 16th meetings, on 20, 21, 27 and 30 August.

15. At the 8th meeting, on 20 August, the representative of the secretariat of the United Nations Conference on Environment and Development made an introductory statement. Statements were made by the representatives of Canada, Peru, Egypt, the United States of America, the Union of Soviet Socialist Republics, China, Colombia, Romania, the United Republic of Tanzania, Singapore, Malta, Nigeria, Mali, Fiji, Mexico, New Zealand, Burkina Faso, Austria and Malaysia. The representative of the World Meteorological Organization also made a statement.

16. At the 9th meeting, on 20 August, statements were made by the representatives of the Netherlands (on behalf of the European Community and its member States), Gambia, Sweden, the Holy See, Germany, Niger, Chile, Pakistan, India, Brazil, Kenya, Kiribati, Algeria, Australia, the Philippines and Indonesia. The representative of the Food and Agriculture Organization of the United Nations also made a statement. Statements were made by the representatives of the International Confederation of Free Trade Unions, the Women's International League for Peace and Freedom, the Poverty and Affluence Working Group, Sahabat Alam Malaysia, Four Directions Council, Green Forum Philippines, the World Council of Churches and Brahma Kumaris World Spiritual University, non-governmental organizations accredited to the Preparatory Committee in accordance with its decisions 2/2 and ___.

17. At the 10th meeting, on 21 August, statements were made by the representatives of Côte d'Ivoire, the Republic of Korea, Norway, Japan, Zimbabwe, Cameroon, Bolivia, Venezuela, Trinidad and Tobago, the Sudan, Nepal, Tonga, Tunisia, Ghana (on behalf of the States Members of the United Nations that are members of the Group of 77), Malawi, Jamaica, Mauritius, Finland, Brazil, Italy and Saint Lucia. The Special Rapporteur on Human Rights and the Environment made a statement. The representative of the South Pacific Regional Environment Programme also made a statement. Statements were made by the representatives of the Natural Heritage Institute, Consortium for Action to Protect the Earth (CAPE '92), the United States Citizens' Network on UNCED, the International Indigenous Commission, Centre International de Droit Comparé de l'Environnement and the Public Campaign on Environment and Development, non-governmental organizations accredited to the Preparatory Committee in accordance with its decisions 2/2 and ___.

18. The Chairman's summary of the discussion was subsequently issued in document A/CONF.151/PC/WG.III/L.13.

19. At the 14th meeting, on 27 August, the representative of Ghana, on behalf of the States Members of the United Nations that are members of the Group of 77, introduced a draft decision (A/CONF.151/PC/WG.III/L.6) entitled "Rio de Janeiro Charter/Declaration on Environment and Development" and corrected subparagraph 2 (L) by replacing the word "natural" by the word "national".

20. At the same meeting, the representative of Australia made a statement.

21. At the 16th meeting, on 30 August, the Chairman introduced a draft decision (A/CONF.151/PC/WG.III/L.18), entitled "Principles on general rights and obligations", which he had submitted on the basis of informal consultations.

22. Statements were made by the representatives of the Netherlands (on behalf of the European Community and its member States), Ghana (on behalf of the States Members of the United Nations that are members of the Group of 77), Chile, the United States of America, Singapore, the United Republic of Tanzania, Romania, Tunisia, Mauritius, Nepal, Mauritania, Malta and the Union of Soviet Socialist Republics. The Secretary and the representative of the secretariat of the United Nations Conference on Environment and Development responded to questions raised.

23. At the same meeting, the Chairman orally revised the draft decision as follows:

(a) In paragraph (a), "A/CONF.151/PC/78 and" was inserted before the word "documents";

(b) Paragraph (b), which read:

"Decides to take action on A/CONF.151/PC/WG.III/L.6 at its fourth session;"

was replaced by the following text:

"Decides to consider and take appropriate action on A/CONF.151/PC/WG.III/L.6 at its fourth session;"

(c) In paragraph (c), the words "contained in these documents" were replaced by the words "contained in the above-mentioned documents" and the phrase "after the third session of the Preparatory Committee", were added at the end of the paragraph.

24. At the same meeting, the Working Group approved the draft decision, as orally revised, and recommended it to the Preparatory Committee for adoption (see para. 44 below, draft decision II).

V. OTHER LEGAL, INSTITUTIONAL AND RELATED MATTERS, AS WELL AS LEGAL AND INSTITUTIONAL ASPECTS OF CROSS-SECTORAL ISSUES, INCLUDING THOSE REFERRED TO WORKING GROUP III BY WORKING GROUPS I and II AND THE PLENARY OF THE PREPARATORY COMMITTEE

25. The working group considered the question of other legal, institutional and related matters, as well as legal and institutional aspects of cross-sectoral issues, including those referred to Working Group III by Working Groups I and II and the plenary of the Preparatory Committee (agenda item 5) at its 11th to 15th meetings, on 22, 23, 27 and 29 August 1991.

26. At the 11th meeting, on 22 August, the representative of the secretariat of the United Nations Conference on Environment and Development introduced the progress report of the Secretary-General of the Conference on institutions, (A/CONF.151/PC/80). Statements were made by the representatives of Peru, Singapore, Austria, the Netherlands (on behalf of the European Community and its member States), Chile, Brazil, Sweden, Canada, Switzerland, Mali, the United Republic of Tanzania, Malaysia, Mexico, China, Fiji and Cuba.

27. At the 12th meeting, on 22 August, statements were made by the representatives of Kuwait, Colombia, Romania, the United States of America, Finland, Algeria, Norway, Indonesia, Kenya, Australia, India, the Philippines, New Zealand, Czechoslovakia, Bangladesh, Germany, Zimbabwe and the Central African Republic. The representative of the Economic Commission for Latin America and the Caribbean made a statement on behalf of the regional commissions. Statements were also made by the Netherlands National Committee for IUCN, the Citizen's Alliance for Saving the Atmosphere and the Earth and the International Union for the Conservation of Nature and Natural Resources, non-governmental organizations accredited to the Preparatory Committee in accordance with its decisions 2/2 and ____.

28. At the 13th meeting, on 23 August, statements were made by the representatives of Pakistan, Zambia, Guyana, Barbados, Mauritius, Gambia, Malawi, Japan, Saint Lucia, the United States of America, Guinea, Egypt and Uganda. Statements were also made by the representatives of Consortium for Action to Protect the Earth (CAPE '92), Greenpeace International, World Association for World Federation, Centre of Development of International Law and Four Directions Council, non-governmental organizations accredited to the Preparatory Committee in accordance with its decisions 2/2 and ____.

29. The Chairman's summary of the discussion was subsequently issued in document A/CONF.151/PC/WG.III/L.10.

30. At the 14th meeting, on 27 August, the representative of Sweden introduced a draft decision entitled "Legal instruments for transboundary waters" (A/CONF.151/PC/WG.III/L.11).

31. At the same meeting, statements were made by the representatives of India and the Netherlands (on behalf of the European Community and its member States).

The Chairman made a statement.

32. At the 15th meeting, on 29 August, the Working Group was informed that, as a result of informal consultations on A/CONF.151/PC/WG.III/L.11, it had been agreed to replace the words in the operative paragraph "under the agenda item on other legal, institutional and related matters" by the words "under agenda item 2 of Working Group III at the fourth session of the Preparatory Committee."

33. At the same meeting, the Working Group approved the draft decision, as orally revised, and recommended it to the plenary of the Preparatory Committee for adoption (see para. 44 below, draft decision III).

34. At the 14th meeting, on 27 August, the representative of Austria, on behalf of Austria, Czechoslovakia, Hungary, Italy, Kenya, Poland, Switzerland and Yugoslavia, introduced a draft decision entitled "Environmental disputes: prevention and settlement" (A/CONF.151/PC/WG.III/L.12).

35. At the same meeting, statements were made by the representatives of the United States of America, India, Brazil, Argentina, the Netherlands (on behalf of the European Community and its member States), Mexico, Chile, Senegal and Peru.

36. At the 15th meeting, on 29 August, the Vice-Chairman, Mr. Muchanga (Zambia), informed the Working Group of the following changes to the draft decision which had been agreed to during informal consultations:

Operative paragraphs 1 and 2, which read:

"1. Decides to include in the provisional agenda for its fourth session, as a separate item, 'Dispute prevention and dispute settlement concerning the environment';

"2. Requests the secretariat, in the evaluation of international agreements in preparation for the fourth session of the Preparatory Committee, to give special attention to existing international mechanisms for the prevention and settlement of disputes concerning the environment, to analyse critically these existing mechanisms and to identify gaps therein."

were replaced by the following text:

"1. Decides to devote one or two sessions of Working Group III under agenda item 2 at the fourth session of the Preparatory Committee to subparagraph 15 (w) of General Assembly resolution 44/228; and

"2. Requests the secretariat, in the evaluation of international agreements in preparation for the fourth session of the Preparatory Committee, to give special attention to the mandate of paragraph 15 (w) of General Assembly resolution 44/228."

37. At the same meeting, the Working Group approved the draft decision, as orally revised, and recommended it to the plenary of the Preparatory Committee for adoption (see para. 44 below, draft decision IV).

38. Before the draft decision was approved, statements were made by the representatives of Nepal and the United Republic of Tanzania, as well as by the Chairman.

39. At the 15th meeting, on 29 August, the Chairman introduced a draft decision, also contained in document A/CONF.151/PC/WG.III/L.15, entitled "Other legal, institutional and related matters, as well as legal and institutional aspects of cross-sectoral issues, including those referred to Working Group III by Working Groups I and II and the plenary of the Committee", which he had submitted on the basis of informal consultations, and orally revised it as follows:

(a) The title of the draft decision was revised to read "Institutions";

(b) In subparagraph (a), the words "and the comments thereon, and" were added at the end of the paragraph;

(c) In paragraph (b), the words "and others" were inserted after the words "proposals made by delegations" and the words "as well as those contained in national reports, with a focus on options for action" were replaced by the words "as well as relevant observations that may be contained in national reports and originating from regional preparatory conferences, with a focus on options for action".

40. At the same meeting, the Working Group approved the draft decision, as orally revised, and recommended it to the Preparatory Committee for adoption (see para. 44 below, draft decision V).

VI. PROVISIONAL AGENDA FOR THE THIRD SESSION OF THE WORKING GROUP

41. At its 15th meeting, on 29 August, the Working Group approved the draft provisional agenda for its third session (A/CONF.151/PC/WG.III/L.14), as orally amended, and recommended it to the Preparatory Committee for adoption (see para. 44 below, draft decision VI).

42. Before the provisional agenda was approved, statements were made by the representatives of the Netherlands (on behalf of the European Community and its member States), the Union of Soviet Socialist Republics, Argentina, the Philippines, Australia and India. The representative of the secretariat of the United Nations Conference on Environment and Development also made a statement.

VII. ADOPTION OF THE REPORT OF WORKING GROUP III

43. At its 15th meeting, on 29 August, the Working Group adopted its draft report as contained in documents A/CONF.151/PC/WG.III/L.7 and Add.1, as amended during the discussion.

RECOMMENDATIONS OF WORKING GROUP III

44. Working Group III recommends to the Preparatory Committee for the United Nations Conference on Environment and Development the adoption of the following draft decisions:

DRAFT DECISION I

Survey of existing agreements and instruments,
and criteria for evaluation

The Preparatory Committee for the United Nations Conference on
Environment and Development:

(a) Takes note of the report by the secretariat on the survey of existing agreements and instruments, and criteria for evaluation (A/CONF.151/PC/77);

(b) Welcomes the expected outcome of its work on this agenda item, as reflected in annex I;

(c) Requests the Secretary-General of the United Nations Conference on Environment and Development to compile the necessary background information in accordance with the proposed criteria for evaluating the effectiveness of existing agreements and instruments (annex II), on the basis of a revised list of such agreements and instruments (annex III) and in cooperation with the international secretariats or depositaries concerned, as applicable.

ANNEX I

Expected outcomes

In accordance with its terms of reference, Working Group III will prepare an annotated list of existing international agreements and international legal instruments in the environmental field, describing their purpose and scope, evaluating their effectiveness, and examining possible areas for the further development of international environmental law, in the light of the need to integrate environment and development, especially taking into account the special needs and concerns of the developing countries.

Possible areas to be examined in the context of Agenda 21 are:

(a) Priorities for future law-making at the appropriate level, incorporating environmental and developmental concerns;

(b) Measures to promote and support the effective participation of developing countries in the negotiation and operation of international agreements or instruments, including technical and financial assistance and other available mechanisms for this purpose;

(c) Measures for effective implementation and compliance, regular assessment and timely review and adjustment of agreements or instruments by the Parties concerned;

(d) Measures for improving the effectiveness of institutions and procedures for the administration of agreements and instruments;

(e) Measures for the resolution and prevention of conflicts, including potential conflicts between environmental and development/trade agreements or instruments, also with a view to ensuring that such agreements and instruments are mutually reinforcing.

ANNEX II

Criteria for evaluating the effectiveness of existing agreements or instruments

(Some of the criteria listed may not be applicable to all agreements or instruments to be evaluated).

A. Objectives and achievement

1. What are the basic objectives formulated in the international agreements and instruments evaluated, and how do these objectives relate to the effective integration of environment and development?
2. In the case of regional agreements and instruments, what is their actual and potential bearing on global environmental protection and sustainable development?
3. Do these agreements or instruments take into account the special circumstances of developing countries?
4. To what extent have the basic objectives (environmental/developmental) formulated in international agreements and instruments been met, and how is goal achievement measured?

B. Participation

5. Is membership limited or open-ended?
6. Are reservations possible, and to what extent have they been used?
7. What is the current geographical distribution of membership in existing environmental agreements and instruments, especially as regards developing countries?
8. What is the record of actual participation by developing countries in the negotiation and drafting of these agreements and instruments, and in programme activities and meetings organized under these agreements and instruments?
9. Which incentives (e.g. financial, trade, technology benefits) are available to encourage participation and facilitate implementation by developing countries?

10. Which measures have been taken to promote and support the effective participation of developing countries in the negotiation and operation of international agreements or instruments, including technical and financial assistance and other available mechanisms for this purpose?
11. Which factors influenced the participation, especially of developing countries, in the agreement or instrument? e.g.
 - (a) Financial resources required and available for participation in the agreement or instrument;
 - (b) Technical assistance required and available for participation in the agreement or instrument;
 - (c) Scientific assistance required and available for participation in the agreement or instrument;
 - (d) Information on the (operation of the) agreement or instrument to Governments, parliaments, press, NGOs, industries and the general public;
 - (e) Role of parliaments, press, NGOs, industries and public opinion in general;
 - (f) Availability of reservations.

C. Implementation

12. To what extent has the implementation of agreements or instruments been constrained or accelerated by provisions regarding their entry into force?
13. What are the commitments imposed on parties by these agreements and instruments, and how is compliance by parties with their commitments monitored and measured?
14. How do parties report on their performance in implementing agreements and instruments, and to what extent have they complied with reporting duties?
15. Which are the specific requirements (if any) of data supply and data disclosure, and to what extent have they been met by the parties?
16. Which possibilities exist to promote compliance and to follow up on non-compliance, and to what extent have they been used?
17. Which mechanisms are available to deal with disputes over implementation and to what extent have they been used?
18. Which factors influenced the implementation? e.g.
 - (a) Financial resources required and available for implementation of the agreement or instrument;

- (b) Technical assistance required and available for implementation of the agreement or instrument;
- (c) Scientific assistance required and available for implementation of the agreement or instrument;
- (d) Information on the (operation of the) agreement or instrument to Governments, parliaments, press, NGOs, industries and the general public;
- (e) Role of parliaments, press, NGOs, industries and public opinion in general;
- (f) International supervisory or implementing bodies;
- (g) Obligations to report on compliance and/or to supply and disclose data;
- (h) Non-compliance procedures and procedures for settlement of disputes (including fact-finding procedures).

D. Information

- 19. In which form and in which languages are the texts of existing agreements and instruments published and disseminated?
- 20. How is current information on the operation and implementation of international agreements and instruments made available to Governments, to the industries concerned and to the general public?
- 21. What additional materials are available to provide guidance for the implementation of international agreements and instruments at the national level?
- 22. To what extent is the above information used in international and national training and education programmes?

E. Operation, review and adjustment

- 23. Which are the institutional arrangements for international administration of existing agreements and instruments?
- 24. What are the annual (1990) costs of international administration (secretariat, meetings, programmes) of agreements and instruments, and how are they financed?
- 25. Which are the main benefits and the main cost elements of national participation in existing agreements and instruments, and which possibilities exist to reduce participation cost for developing countries?
- 26. Which mechanisms are available to ensure that scientific knowledge and advice is taken into account in policy-making decisions under these agreements and instruments?

27. How do these arrangements and mechanisms ensure the effective participation of (a) national authorities, especially from developing countries; and (b) non-governmental participants, including the industries concerned and the scientific community?
 28. Which mechanisms are available to ensure periodic review and adjustment of international agreements and instruments in order to meet new requirements, and to what extent have they been used?
- F. Codification programming
29. Which new drafts, or draft revisions of existing agreements and instruments, in the environmental field are currently under preparation or negotiation?
 30. To what extent and through which mechanisms is drafting coordinated with related work regarding other agreements and instruments?
 31. Which are the remaining gaps that need to be covered by legal provisions?
 32. To what extent are mechanisms other than formal agreements or instruments contributing to the development of international law in the field of the environment?

ANNEX III

Revision of the list of agreements and instruments contained
in A/CONF.151/PC/77

1. In section (A), take into account the Declaration of the United Nations Conference on the Human Environment, the 1982 World Charter for Nature, and add the 1957 Treaty Establishing the European Economic Community (as revised by the 1986 Single European Act) with reference to environment-related EEC agreements, decisions, directives and regulations.
2. Include an evaluation of the relationship between existing agreements or instruments in the environmental field and relevant international trade agreements and other development-related agreements or instruments, taking into account the 1990 Declaration on International Economic Cooperation of the General Assembly, the International Development Strategy for the Fourth United Nations Development Decade, and progress in the preparation of a Code of Conduct for Transnational Corporations.
3. In section (B), include representative examples of relevant bilateral agreements or instruments regarding shared natural resources and the protection and enhancement of the environment.
4. In section (C), include environment-related agreements and instruments regarding outer space.
5. In section (E), delete Nos. 65 and 67 and add the 1989 Convention on the Prohibition of Driftnet Fishing in the South Pacific, and related protocols.

6. In section (F), correct the French title of No. 84.
7. Rearrange Nos. 32, 35, 42, 83, 86, 87, 88 and 91 in a new section on "liability for damage".

DRAFT DECISION II

Principles on general rights and obligations

The Preparatory Committee for the United Nations Conference on Environment and Development,

- (a) Taking note of A/CONF.151/PC/78 and documents submitted by delegations (A/CONF.151/PC/WG.III/CRP.8, A/CONF.151/PC/83, A/CONF.151/PC/WG.III/L.5, A/CONF.151/PC/WG.III/L.6, A/CONF.151/PC/WG.III/L.16*, and A/CONF.151/PC/WG.III/L.17*);
- (b) Decides to consider and take appropriate action on A/CONF.151/PC/WG.III/L.6 at its fourth session;
- (c) Decides to take as a basis for the discussion at the fourth session of the Preparatory Committee, the ideas and proposals contained in the above-mentioned documents, in combination with the proposals from delegations contained in A/CONF.151/PC/WG.III/L.8 and Add.1, without prejudice to further contributions or proposals to be submitted by national delegations or regional groups after the third session of the Preparatory Committee;
- (d) Requests the Secretary-General of the United Nations Conference on Environment and Development to update A/CONF.151/PC/WG.III/L.8 to incorporate all proposals from delegations and to reflect precisely the state of discussions on it at the end of the third session of the Preparatory Committee in preparation for further deliberations at the fourth session of the Preparatory Committee.

DRAFT DECISION III

Legal instruments for transboundary waters

The Preparatory Committee of UNCED,

Having taken note of the progress report of the Secretary-General on the development of legal instruments for transboundary waters (A/CONF.151/PC/79),

In view of the need to take into account further progress on this matter in the International Law Commission of the United Nations and in the United Nations Economic Commission for Europe, as well as the results of the International Conference on Water and the Environment,

Decides to consider this matter under agenda item 2 of Working Group III at the fourth session of the Preparatory Committee.

* To be issued after the session.

DRAFT DECISION IV

Environmental disputes: prevention and settlement

The Preparatory Committee of the United Nations Conference on Environment and Development,

Recalling General Assembly resolution 44/228 on the United Nations Conference on Environment and Development and in particular paragraph 15 (w), under which the Conference should assess the capacity of the United Nations system to assist in the prevention and the settlement of disputes in the environmental sphere and to recommend measures in this field, while respecting existing bilateral and multilateral agreements that provide for the settlement of such disputes,

Bearing in mind the interrelationship of environmental policies, development strategies and peaceful cooperation to achieve global sustainable development,

Recalling Principle 21 of the Declaration of the United Nations Conference on the Human Environment, held in Stockholm in June 1972,

Taking note of the proposals contained in A/CONF.151/PC/L.29 of 22 March 1991 and A/CONF.151/PC/WG.III/L.1 of 27 March 1991,

1. Decides to devote one or two sessions of Working Group III under agenda item 2 at the fourth session of the Preparatory Committee to subparagraph 15 (w) of General Assembly resolution 44/228; and

2. Requests the secretariat, in the evaluation of international agreements in preparation for the fourth session of the Preparatory Committee, to give special attention to the mandate of paragraph 15 (w) of General Assembly resolution 44/228.

DRAFT DECISION V

Institutions

The Preparatory Committee for the United Nations Conference on Environment and Development,

(a) Takes note of the progress reports on institutions by the Secretary-General of the Conference (A/CONF.151/PC/36, A/CONF.151/PC/80 and Corr.1) and comments thereon; and

(b) Requests the Secretary-General of the United Nations Conference on Environment and Development to prepare an updated compilation of institutional proposals made during the third session of the Preparatory Committee, including those made in Working Groups I and II and the plenary as well as relevant observations that may be contained in national reports, and originating from regional preparatory conferences with a focus on options for action.

DRAFT DECISION VI

Provisional agenda for the third session of Working Group III

1. Adoption of the agenda and other organizational matters
2. Survey of existing agreements and instruments and its follow up
3. Principles on general rights and obligations
4. Other legal, institutional and related matters, as well as legal and institutional aspects of cross-sectoral issues, including those referred to Working Group III by Working Group I, Working Group II and the Plenary of the Preparatory Committee
5. Adoption of the report of the Working Group.

ANNEX I

Documents before Working Group III

<u>Document number</u>	<u>Agenda item</u>	<u>Title or description</u>
A/46/48 (Part I)		Report of the Preparatory Committee for the United Nations Conference on Environment and Development on its second session
A/CONF.151/PC/36	5	Progress report of the Secretary-General of the Conference on institutions
A/CONF.151/PC/39 and Corr.1	1	Annotated provisional agenda for the third session of the Preparatory Committee
A/CONF.151/PC/77	3	Note by the secretariat on a survey of existing agreements and instruments, and criteria for evaluation
A/CONF.151/PC/78	4	Note by the secretariat on an annotated check-list of principles on general rights and obligations
A/CONF.151/PC/79	5	Progress report by the secretariat on the development of legal instruments for transboundary waters
A/CONF.151/PC/80	5	Progress report of the Secretary-General of the Conference on institutions
A/CONF.151/PC/81	5	Letter dated 27 June 1991 from the Permanent Representative of Peru to the United Nations Office at Geneva addressed to the Secretary-General of the United Nations Conference on Environment and Development

<u>Document number</u>	<u>Agenda item</u>	<u>Title or description</u>
A/CONF.151/PC/83	4	Letter dated 17 July 1991 from the Permanent Representative of Peru to the United Nations Office at Geneva addressed to the Secretary-General of the United Nations Conference on Environment and Development
A/CONF.151/PC/L.29	5	Letter dated 19 March 1991 from the head of the delegation of Austria containing a proposal submitted by the PENTAGONALE countries and Poland, regarding a resolution on the prevention of international disputes concerning the environment
A/CONF.151/PC/WG.III/L.1	5	Letter dated 26 March 1991 from the head of the delegation of Austria containing a proposal submitted by the PENTAGONALE countries and Poland, regarding elements for a resolution on the settlement of international disputes concerning the environment
A/CONF.151/PC/WG.III/L.4	5	United States proposal for improving United Nations institutional involvement in environmental affairs: enhancing central coordination and the role of UNEP

<u>Document number</u>	<u>Agenda item</u>	<u>Title or description</u>
A/CONF.151/PC/WG.III/L.5	4	Letter dated 15 August 1991 from the Head of the delegation of Canada to the Preparatory Committee for the United Nations Conference on Environment and Development at its third session addressed to the Secretary-General of the United Nations Conference on Environment and Development
A/CONF.151/PC/WG.III/L.6	4	Draft proposal submitted by Ghana on behalf of the States Members of the United Nations that are members of the Group of 77
A/CONF.151/PC/WG.III/L.7 and Add.1	7	Draft report of Working Group III
A/CONF.151/PC/WG.III/L.8 and Corr.1 and Add.1	4	Chairman's consolidated draft
A/CONF.151/PC/WG.III/L.9 and Corr.1	3	Chairman's summary
A/CONF.151/PC/WG.III/L.10	5	Chairman's summary
A/CONF.151/PC/WG.III/L.11	5	Draft decision submitted by Sweden
A/CONF.151/PC/WG.III/L.12	5	Draft decision submitted by Austria, Czechoslovakia, Hungary, Italy, Kenya, Poland, Switzerland and Yugoslavia
A/CONF.151/PC/WG.III/L.13	4	Chairman's summary
A/CONF.151/PC/WG.III/L.14	6	Provisional agenda for the third session of Working Group III
A/CONF.151/PC/WG.III/L.15	3 and 5	Draft decisions submitted by the Chairman

<u>Document number</u>	<u>Agenda item</u>	<u>Title or description</u>
A/CONF.151/PC/WG.III/L.16	4	Letter dated 23 August 1991 from the Permanent Representative of the Holy See to the Preparatory Committee for the United Nations Conference on Environment and Development at its third session addressed to the Secretary-General of the United Nations Conference on Environment and Development
A/CONF.151/PC/WG.III/L.17	4	Letter dated 29 August 1991 from the Head of the delegation of Colombia to the Preparatory Committee for the United Nations Conference on Environment and Development at its third session addressed to the Secretary-General of the United Nations Conference on Environment and Development
A/CONF.151/PC/WG.III/L.18	4	Draft decision proposed by the Chairman on the basis of informal consultations
A/CONF.151/PC/CRP.8	2	Proposal submitted by the Union of Soviet Socialist Republics

EARTH CHARTER

SUMMARY

Working Group III began the difficult and laborious task of drafting an "Earth Charter" or "Rio Declaration" at the third session of the PrepCom. The group in fact achieved more than many expected that it would although the really difficult negotiating session will be at the last PrepCom in New York. A G-77 initiative to establish "guidelines" for the drafting of the document was also deferred until New York. There was very broad agreement that the final document must be short, concise, comprehensible, closely linked to Agenda 21 and must build on, and go beyond earlier declarations (Stockholm, Charter for Nature). The one page Canadian draft Earth Charter continues to influence the thinking of many delegations and remains important, if not a crucial base document.

Documentation

A/CONF.151/PC/78	-General Principles
A/CONF.151/PC/83	-Peruvian Draft Earth Charter
A/CONF.151/PC/CRP.8	-USSR Proposal on the Earth Charter
A/CONF.151/PC/WG.III/L.5	-Canadian Draft Earth Charter
A/CONF.151/PC/WG.III/L.6	-G-77 Draft Decision on Guidelines
A/CONF.151/PC/WG.III/L.8	-Compilation of Proposals of Delegations
Corr.1, Add.1, Rev 1	
A/CONF.151/PC/WG.III/L.10	-Chairman's Summary

PREPCOM DISCUSSIONS

The primary Canadian objectives were:

- In the months leading up to the third session of the UNCED PrepCom, Canada had expended considerable effort developing a one page Earth Charter containing eight principles. Although it was not expected that the exact wording of the Canadian draft would survive the initial negotiating process, Canada's objective was to ensure that delegates appreciated, and if possible accepted its style, structure, length, clarity and internal cohesiveness as goals that should guide the drafting of the final Earth Charter. This objective was achieved as all elements of the Canadian draft remain in the negotiating document. In addition, the Canadian draft remains the "model" for many delegations and hence will continue positively to influence the drafting process.

At the request of the Chairman of Working Group III, Canada was the first delegation to intervene in discussion on a possible Earth Charter. Conference Chairman Koh, UNCED Secretary General Strong and WG III Chairman Moldan had all been very impressed with the Canadian draft charter and the thought that had obviously gone into the document. Therefore, in order to better focus the WG debate, Moldan asked the Canadian delegation to lead off with description of what the Canadian draft sought to achieve. Canada's intervention stressed the legal perspective of draft, the importance of length (one page) and style (clear and concise), before reviewing the draft paragraph by paragraph of L.5. At the end of the Canadian intervention, the Chairman noted that the Canadian document, along with others from Peru, USSR and NGOs, provided a good basis to begin drafting the actual Earth Charter. Following the Canadian intervention, Peru introduced paper A/CONF.151/PC/83 which sets out a much more detailed, technical and lengthy approach to drafting an Earth Charter. The Peruvian draft proposes a preamble, along with sections on objectives, articles setting out general principles, rights and obligations, operative articles and articles setting out final provisions. Although perhaps a useful survey, most delegations found the Peruvian approach too heavy-handed.

The US intervention stressed that a decision had not been taken in Washington as to whether an Earth Charter is even needed. According to the US, the issue of limited or incomplete adherence to existing instruments could not be skated over by simply developing yet another "Charter". If a useful document is to be developed, the Earth Charter would have to (1) build on Stockholm Declaration, (2) reflect basic principles of democracy that are essential for sustainable development, (3) reflect the central role of free market mechanisms to achieve sustainable development and (4) define a new relationship with the biosphere without repeating language of the past, much of which represents a "less than consensus view".

In a notably lucid presentation, China outlines eight principles (same number as Canada) that it wished to see in the Earth Charter, some of which were drawn from the Beijing Declaration. Highlighted were "unity" between environment and development, the special needs of developing countries (i.e. the root cause of environmental degradation is poverty), cooperation between countries to support sustainable development (i.e. examine debt policies, commodity pricing and reverse resource flows) and sovereign right to protect and improve the environment within national jurisdictions (i.e. the right to exploit natural resources).

Virtually all countries called for the eventual document to be short, concise and clear. Some delegations mentioned one page, others two, but the preference for a short document was very evident. The other element around which consensus was evident was the need for the "principles" document to be closely associated with Agenda 21. Some delegations went so far as to propose that there was only the need for one document and that the "Earth Charter" could become the "preface" for Agenda 21. Several African countries questioned reference in the Secretariat documentation to poverty "alleviation", insisting that UNCED must strive for poverty "creditation". The "right to development" as fundamental right also figured prominently in numerous LDC interventions, most particularly from African states. Led by Mexico, most Latin American states questioned the use of "Earth Charter" as the title of the document to be

produced. On the grounds that the Earth Charter is too eco-centred, they proposed that "The Rio Declaration on Environment and Development" was a more appropriate title.

The most ideological statement of the debate was made by Malaysia. Malaysian intervention opened with statement that deliberations on general rights must begin from the "fact" that developed countries have developed at the expense of the developing countries; this must be the basis for apportioning responsibility. Second theme was sovereign right of all states over their natural resources. Promotion of concepts such as global commons and common heritage of mankind were seen as ways for developed countries to perpetuate their access to developing country resources.

The European countries, including the EC and Sweden, generally confined themselves to setting up a number of principles, usually less than ten, which were considered to be of particular importance. A similar approach was also taken by Australia and New Zealand. There was often considerable overlap principles such as polluter pays and precautionary approach figuring in almost all developed country presentations. The Holy See stressed man's moral duty to care for the environment, that the goods of the earth are for the benefit of all, responsibilities were different based on needs, and finally that science and technology are in the service of humanity and not ends in themselves. India stressed that developed country environmental standards may not be appropriate for developing countries and that environmental concerns cannot be used to justify restrictive trade practices. Brazil flagged opposition to any reference to "global commons" in the document on grounds that its meaning was not adequately defined. The WMO intervened to suggest working for the Earth Charter, an action that was questioned by Brazil. Finally, at the end of the debate, several NGOs utilized opportunity to introduce their own work on a draft Earth Charter.

Following a full day of discussions, the Chairman proposed to draft a document for informal discussions that would attempt to place written submissions received in some logical and comparative order. Consequently the Canadian, Peruvian and Soviet texts were combined, using the structure of the Canadian text.

However, when the Working Group met to consider the document based on the initial written government submissions, it was clear immediately that the G-77 was unwilling to examine a document based on only a few texts. Delegations were then asked to provide the Secretariat with written texts. A further informal meeting was held to: (1) ensure that the presentation of national and group positions was factually correct; and (2) consider the process of drafting the "Earth Charter/Rio Declaration" in light of the revised document which contained 15 principles. The follow-up meeting almost ground to a halt before it started when the G-77 objected to the fact that the document was not out 24 hours in advance and in all UN languages. In the end, however, the Chairman managed to conduct a productive session which allowed delegations the opportunity to ensure that further revisions would set out their positions as they would like.

To the surprise of some delegates, WG III began substantive discussion of the Earth Charter during the second week of its debate. Based on a compilation document (L.8) which gathered all suggestions submitted by delegations during the formal discussions of the previous week, the Working Group examined the first two principles (Environment and Development) and (Common but Differentiated Responsibility) before procedural matters and a G-77 initiative to establish their priorities as "guidance" for the drafting of the Charter stopped further substantive discussion. Following the formal discussion of the issue, the Chairman produced a summary which attempted to draw together the sense of the Working Group on the procedural aspects of the final document. Although the summary (L.10) will have no formal status in future discussions, it is a useful reference document as the Chairman characterized the debate as leading to a Charter which (1) is short and concise, (2) closely integrated with Agenda 21, (3) inspiring (4) easily understood while ensuring legal precision, and (5) builds upon exiting principles (i.e. Stockholm and World Charter for Nature) in a forward-looking way.

The review of principles I and II produced various attempts to stitch several ideas together in a single paragraph. While most delegations felt that the discussion on "Environment and Development" did move the debate forward, the same cannot be said about the review of "Common but Differentiated Responsibilities". The results of these discussions have been incorporated in a revised compilation document (L.8/Rev.1) which will be the base document for the deliberations at the Fourth PrepCom in New York. The document now contains 136 paragraphs spread over 17 principles (excluding proposals for the preamble). Distilling this document into a one to two page inspiring "Charter" will be a herculean, if not impossible task. Accordingly the Chairman of WG III attempted to obtain as much time as possible for the Working Group to continue its deliberations in New York and he has also proposed to hold some informal meetings on the margins of the General Assembly Second Committee discussion in November 1991.

The other issue the Working Group dealt with in week III of PrepCom was the insistence of the G-77 that action be taken on its draft decision (L.6) that attempts to establish "guidelines" for the drafting of the Charter, and with which the Charter must be consistent. Many aspects of L.6 were clearly unacceptable to the developed countries. Adoption of L.6 would have both prejudged the content of the final Charter and given the G-77 negotiating position a privileged position compared to other submissions, including the Canadian draft Charter (L.5). All the substantive points contained in L.6 had already been incorporated in the base negotiating document L.8, and therefore developed countries were reluctant to go any farther. The issue was eventually deferred to the Fourth PrepCom via the decision (L.18) on agenda item 4 which, after listing all the documents related to the Charter available to the Working Group (including L.6), states that "consideration and appropriate action" on this draft decision will take place in New York.

OUTCOMES AND ASSESSMENT

Delegations were cautiously positive about the outcomes from the discussions on the Earth Charter/Rio Declaration at the Third session of the PrepCom. Many delegations, including Canada, initially did not expect that substantive discussion would begin until New York. Although the first examination of the compilation document did little to reduce either the number of outstanding principles or paragraphs, the Working Group should be able to quickly enter detailed examination of the text. However, the fact remains that the negotiation of the Earth Charter/Rio Declaration will be a time consuming and tortuous exercise. Given the wide divergence of views of substantive issues, perhaps the most difficult will be keeping the eventual document short, concise and punchy. A "balanced" but lengthy statement, (similar to the Stockholm Declaration) although easier to agree on, will not achieve the goal its drafters have set for themselves.



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Item 4 of the provisional agenda

PRINCIPLES ON GENERAL RIGHTS AND OBLIGATIONS

Letter dated 15 August 1991 from the Head of the delegation of
Canada to the Preparatory Committee for the United Nations
Conference on Environment and Development at its third session
addressed to the Secretary-General of the United Nations
Conference on Environment and Development

The document transmitted herewith comprising an explanatory note and a draft "Earth Charter" is intended as a contribution by my delegation to the third session of the Preparatory Committee for the United Nations Conference on Environment and Development and to the Conference itself, to be held in June 1992 in Rio de Janeiro.

I should be most grateful if you could arrange for this document to be distributed during the third session of the Preparatory Committee.

(Signed): John Bell
Head of the Canadian
Delegation

EXPLANATORY NOTE ON A DRAFT EARTH CHARTER

The proposed text for an Earth Charter is based on a review of the 25 principles included in the UNCED secretariat document A/CONF.151/PC/78 entitled "Annotated check-list of principles on general rights and obligations".

The following parameters were used in preparing this draft:

(a) The text must be brief (only one page long), simple and clear if it is to be widely circulated; to the extent possible, legal language has been avoided.

(b) The Charter should not be a legally binding instrument, in order to be acceptable to all participants at UNCED; it would be desirable however, if over time, as the Stockholm Declaration, it could contribute to the development of new principles of international law.

(c) The word "shall" is used in each article in order to manifest strong political commitments toward general objectives rather than legal obligations.

(d) The text is broad enough to include, implicitly or explicitly, all issues of concern to the conservation and protection of the Earth and its ecosystem.

(e) Each of the operative paragraphs includes a reference to the Earth, and deals principally with the relationship between humankind and the Earth.

(f) The text reflects a positive approach: for example, in paragraph 4, "respect" was used instead of "not harm"; in paragraph 6, reference is made to "the value of the environment" and not to "environmental costs"; for the same reason, no references are made to settlement of disputes, damage or the application of the polluter pays principle.

(g) The Charter indicates clearly that not only States are responsible for the preservation of the Earth, but also individuals, and organizations such as companies, NGOs, international institutions. The UNCED process being more open to non-governmental participation than any United Nations conference in the past, it seems appropriate that commitments also include responsibilities for individuals and organizations.

The first preambular paragraph deals with the entitlement of all individuals to full development; the second paragraph is taken from resolution 1991/44 of the Commission on Human Rights and General Assembly resolution 45/94; the third paragraph borrows from the concept of sustainable development, with an emphasis on future generations, and is a reflection of the fact that humankind is an integral part of the "web of life", and Earth's global ecosystem.

Paragraph 1 is inspired by the second part of Principle 1 of the Stockholm Declaration, which states man's solemn responsibility to protect and improve the environment. The conservation of biological diversity includes the conservation of the diversity of ecosystems.

Paragraph 2 combines the principle that all are entitled to full development together with the principle of sustainable development.

Paragraph 3 is a reiteration of the principle of sustainable development with an emphasis as in the preamble on future generations.

Paragraph 4 deals in positive language with the avoidance of harm to the environment, and includes the second element of Principle 21 of the Stockholm Declaration which is about the responsibility of States to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond national jurisdictions.

Paragraph 5 is a new principle and states that the global commons, such as the high seas, should be treated in at least as good terms as one's own environment.

Paragraph 6 relates to decision-making in the field of the environment; two of the most important elements in that regard are mentioned: the principle of precautionary/preventive action, which includes the necessity to carry out impact assessments as appropriate, and the consideration of the value (not only economic) of the environment.

Paragraph 7 on education and information builds upon Principle 19 of the Stockholm Declaration and paragraph 16 of the Bergen Declaration on Sustainable Development in the Economic Commission for Europe Region.

Paragraph 8 states that the implementation of the Charter must take into account the equitable sharing of responsibilities, including between States. The language used in this respect is taken from article 2.2 of the Vienna Convention for the Protection of the Ozone Layer. The necessity to cooperate is also recognized, and implies cooperation between individuals, between organizations, and between States, as well as between individuals, organizations and States including public participation in decision-making.

EARTH CHARTER

Whereas all individuals are entitled to develop to their fullest potential,

Whereas all individuals are entitled to live in an environment adequate for their health and well-being, and

Whereas the achievement of these ends, for future as well as present generations, depends upon the Earth, its ecosystem and its resources,

All individuals, organizations and States:

1. share the responsibility to conserve, protect and restore the Earth's ecosystem, including its air, land, water and biological diversity;
2. shall enjoy full development and equity consistent with a sustainable use of the Earth's resources;
3. shall manage the Earth's ecosystem and resources for the benefit of future as well as present generations;
4. shall respect the environment of other individuals, organizations and States, and the Earth's ecosystem;
5. shall treat the global commons of the Earth in a manner at least as favourable as their own environment;
6. shall adopt precautionary and preventive approaches, and consider the value of the environment, when planning activities that may affect the Earth;
7. shall ensure the availability of education and information on the Earth and its ecosystem;
8. shall pursue and encourage the achievement of the objectives of this Earth Charter, in cooperation and in accordance with the means at their disposal and their capabilities.



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PRINCIPLES ON GENERAL RIGHTS AND OBLIGATIONS

Draft proposal submitted by Ghana on behalf of the States
Members of the United Nations that are members of the
Group of 77

Draft Decision

Rio de Janeiro Charter/Declaration on
Environment and Development

The Preparatory Committee for the United Nations Conference on Environment
and Development

1. Takes note with appreciation of the proposed principles to be
contained in an instrument/charter/declaration as reflected in document
A/CONF.151/PC/78;

2. Decides that the elaboration of such document should inter alia, contain a reaffirmation of the Declaration of the United Nations Conference on the Human Environment (1972) and shall fully take into consideration, and be consistent with, the following principles:

(a) Reaffirmation of, and respect for the sovereign and inalienable right of all countries to utilize their own natural resources pursuant to their own environmental policies and their development and economic priorities;

(b) The principles enumerated would form the basis of Agenda 21. Hence, it must incorporate the relevant guidelines provided by General Assembly resolution 44/228;

(c) Environmental and development issues should be treated in an integrated manner;

(d) The right of development is an inalienable human right and therefore the development needs of all developing countries should be treated as a matter of priority;

(e) The right to a sound environment;

(f) Protection of human person through guaranteeing him the right to development and freedom from hunger, disease and poverty, underlining that no environment can be safe if the human state is in misery;

(g) The largest part of the current emission of pollutants into the environment, including toxic and hazardous wastes, originates in developed countries, and therefore those countries have the main responsibility for combating such pollution;

(h) Full recognition should be given to the specificities and realities of the developing countries including their social, economic and environment needs as well as their national plans and priorities;

(i) The responsibility of the industrialized countries in the improvement of the international economic environment should be stressed;

(j) The transfer of adequate, new and additional financial resources to the developing countries;

(k) Access to, and transfer of environmentally sound technology including at preferential concessional terms and promotion of endogenous capacity building;

(l) Research, free exchange and transfer of scientific knowledge and experience must be provided to the fullest extent for the building of natural scientific capacities in developing countries to facilitate the solution of environmental problems and promote growth and development;

(m) The responsibility of the State for the damage caused to the global environment for activities related to nuclear weapons and all other means of mass destruction;

(n) Commitments of all countries, in particular of the developed countries, to address their unsustainable patterns of production and consumption;

(o) The establishment of environmental standards should respond to the principle that the protection of the environment is a common but differentiated responsibility of States and their application by developing countries should be in accordance with their respective capabilities and responsibilities;

(p) Respect and full implementation of the above-mentioned principles would allow the establishment of a global partnership between all countries for the protection of the global environment and promotion of development.



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PRINCIPLES ON GENERAL RIGHTS AND OBLIGATIONS

Chairman's Consolidated Draft

(Based on documents A/CONF.151/PC/CRP.8, A/CONF.151/PC/83,
A/CONF.151/PC/WG.III/L.5, A/CONF.151/PC/WG.III/L.6,
A/CONF.151/PC/WG.III/L.16, A/CONF.151/PC/WG.III/L.17
and other proposals received from delegations)

EARTH CHARTER [:] [/] THE RIO DE JANEIRO DECLARATION ON
ENVIRONMENT AND DEVELOPMENT

[Preamble

- AUSTRIA: Whereas all individuals, organizations and States share the duty to make sustainable development a reality for all people on the Earth;
Whereas environment and development are pertinent to the security of individuals and States.
- BURKINA FASO
(for G22): Considering the state of poverty in which many peoples of developing countries live;
Convinced that the elimination of poverty is an indispensable condition for the beginning of sustainable development;
Considering the differentiated responsibility of the industrialized countries and of the developing countries for environmental degradation, and the intolerable contrast in living conditions between the countries of the North and of the South.

- CANADA: Whereas all individuals are entitled to develop to their fullest potentials;
Whereas all individuals are entitled to live in an environment adequate for their health and well-being; and
Whereas the achievement of these ends, for future as well as present generations, depends upon the Earth, its ecosystem and its resources.
- CHILE: Bearing in mind the Charter of the United Nations, the general principles of international law, General Assembly resolutions 1803 (XVII) and 2625 (XXV), and the relevant instruments of international environmental law including principle 21 of the Declaration of the United Nations Conference on the Human Environment;
Recognizing that this duty of cooperation has given rise to the law of development and of cooperation and must be the frame of reference for international environmental law.
- G77: The elaboration of the document should, inter alia, contain a reaffirmation of the Declaration of the United Nations Conference on the Human Environment;
The principles enumerated would form the basis of Agenda 21, hence must incorporate the relevant guidelines provided by General Assembly resolution 44/228.
- HOLY SEE: The entire universe and all it contains has been endowed by its Creator with its own integrity and its own internal, dynamic balance. The care for the environment is not a matter of choice but rather a moral duty, universal in character;
The goods of the Earth, included those produced by human activity, are for the benefit of all, not that of a few;
The duty to promote the integral development of all demands a corresponding solidarity in seeking to promote an ever-better quality of life for all, as well as the protection of the environment which supports that life;
Science and technology are at the service of the human person and are not ends in themselves.
- KENYA: There is need to continually develop and review environmentally sound principles and guidelines without prejudice to general economic development. (KENYA)
- NETHERLANDS (for EEC): Reference to the Declaration of the United Nations Conference on the Human Environment.
- NEW ZEALAND: The Earth is a complex whole in which social, economic and natural environments are interdependent. Harmony between all its diverse parts is essential for the well-being of humanity and nature.
- PERU : Preamble to be elaborated on the basis of part II, paragraphs 1-5, of document A/CONF.151/PC.83.

SWEDEN: Considering overall developments in international relations in recent years which despite setbacks offer unprecedented opportunities for progress in international cooperation; Aware of new and increasing threats such as unacceptable poverty and unsustainable lifestyles of the affluent, as well as environmental deterioration jeopardizing the long-term survival of the fragile global ecosystem; Conscious of the political imperatives of the interdependence between nations.

USSR : Profoundly concerned over the present state of the environment, which threatens human civilization with irreversible ruinous consequences and is capable of calling its very existence into question; Believing that the world community faces the urgent task of ensuring a transition to a form of coexistence with the environment based on new ethical attitudes that would ensure sustainable development for mankind in harmonious unity with nature; Taking into account the experience gained in international environmental cooperation and the basic documents on this subject, such as the Declaration of the United Nations Conference on the Human Environment, the 1982 Nairobi Declaration and the 1982 World Charter for Nature; Solemnly state that they will respect and consistently implement in their relations with each other and in their domestic activities the principles of environmental ethics set out below, all of which are of paramount importance.

USA: We, the people of the world, understand that the Earth is a unique, whole and interdependent system. We are conscious that many of our past perceptions and relationships are no longer adequate, and that we must teach ourselves and our children that whatever we humans do to the world in which we live, we do to ourselves; In light of our understanding of the planet as a functioning whole, in which all of its ecosystems are interrelated, we fully recognize our mutual interdependence. We must live in balance with nature to ensure the continuity and quality of life for future generations.

General principles

Principle 1 [Integration of environment and development]

1. States [, international organizations and multinational corporations (MAURITIUS)] shall address environmental issues in the process of development by integrating environmental concerns with the imperatives of economic growth and development (CHINA). Respect and full implementation of the [present] principles would allow the establishment of a global partnership between all countries for the protection of the global environment and promotion of [sustainable (MAURITIUS)] development (G77).

Option A

2. In this connection the right to [economic and social (COLOMBIA)] development of the developing countries shall be fully recognized (CHINA) [, bearing in mind the norms of the law of development and cooperation as laid down in articles 55 and 56 of the Charter of the United Nations (CHILE)]. Equality of opportunity for development is a prerogative both of nations and individuals who make up nations (INDIA).

Option B

3. [States shall (USSR)] promote equity in participation in ecologically sustainable development [and] minimize any adverse environmental impacts of economic development through integrating environmental considerations with economic and sectoral planning and policies (FIJI). In formulating plans for economic restructuring, economic development, equilibration of balance of payments, population growth and the improvement of standards of living, States, companies, financial bodies and international organizations will take into account the principle of precedence of long-term sustainable development over short-term interests (ROMANIA).
4. In order to ensure global sustainable development, it is paramount that countries formulate national policies that will lead to reduced rates of population growth until its stabilization within a given time horizon. In this regard it is recognized that the only way to guarantee the success of such policies is constant improvement of the levels of socio-economic well-being and especially of popular education (VENEZUELA).

Principle 2 [Common but differentiated responsibility]

5. All individuals, [peoples, (SINGAPORE)] [enterprises, (PERU)] [governmental and non-governmental (USSR)] organizations and States share [in an equitable manner (SINGAPORE)] the responsibility [duty (ARGENTINA)] [common interest (MEXICO)] [common commitment (USA)] [responsibility and commitment (USSR)] [with differentiation between industrialized and developing countries (PERU)] to conserve, protect and restore the Earth's ecosystem, including its air, land, water and biological diversity (CANADA) [and to enhance sustainable development, taking into account in particular the special needs in developing countries, bearing in mind the principles of solidarity and equity (AUSTRIA)]. Special and differentiated treatment consists in the giving of additional resources and transferring technology to developing countries (PERU).
6. The duty of solidarity is universal in nature; equity demands, however, that the responsibilities be differentiated and complimentary, according to the needs and abilities of each. Both equity and justice demand that the responsibility of each State for the prevention of environmental damage be in accord with the degree of its environmental damaging activities. Similar consideration must also be given to its ability to limit such damage, while pursuing the integral development of its citizens (HOLY SEE).

Option A

7. The establishment of environmental standards should respond to the principle that the protection of the environment is a common but differentiated responsibility [duty (ARGENTINA)] [concern (MEXICO)] [commitment (USA)] [responsibility and commitment (USSR)] of States, and their application by developing countries should be in accordance with their respective capacities and responsibilities (G77). Environmental standards which are valid for the most advanced countries may be inappropriate and of unwarranted economic and social cost for the developing countries; however, common international standards can be developed and applied on the basis of provision of full incremental costs to the developing countries concerned (INDIA). National standards should meet international standards, but the dynamics and methods of meeting these standards may differ from country to country, reflecting the particular concern of the development needs, capacity and responsibility of each country (YUGOSLAVIA).

Option B

8. Environmental standards should be developed by each State in a pragmatic and effective fashion to address the particular concerns of its development needs and activities (USA). The responsibility of States for combating pollution and environmental degradation should reflect and be commensurate with the [capacity (AUSTRALIA)] contribution to it (NETHERLANDS/EEC).
9. While protection of the environment is in the common interest of mankind, [the largest part of the current emission of pollutants into the environment, including toxic and hazardous wastes, originates in developed countries, and therefore (G77)] the developed countries [whoever is responsible for the greatest contamination (PERU)] should bear the main responsibility [the greater obligation to protect and regenerate the environment (PERU)] on the basis of their historical and present contribution to global environmental degradation and ability to address the problem (CHINA).
10. States shall be responsible for preserving, protecting and restoring the environment, establishing their own development policies in keeping with that responsibility. Every person shall be under a duty to collaborate with the State in activities for the protection, conservation and management of the environment. Non-governmental organizations are called upon to play an important part in this connection. The responsibility acknowledged for persons with regard to the environment shall also be required of transnational corporations, which shall comply with the environmental standard of the countries where they have their head offices, the countries where they have subsidiaries, and the countries to which they export or in which they install their technologies (COLOMBIA).
11. States which have achieved their development on the basis of other States' resources shall repay them for that gain by participating in the improvement of their environment and in achieving a better standard of living for their inhabitants (COLOMBIA).

12. Equitable sharing of responsibility may not be interpreted as equitable sharing of burden (REPUBLIC OF KOREA).

Principle 3 [Individual and group rights]

13. The right to life, food and shelter and a healthy environment; the right of women and indigenous people to full and active participation at all levels of activity relating to environment and development (AUSTRALIA).
14. All communities and population groups have the right to wholesome food and adequate medical care in equity and dignity (BURKINA FASO/G22).
15. All individuals, organizations and States shall enjoy full development and equity consistent with a sustainable use of the Earth's resources (CANADA).
16. Every human being shall have the fundamental and inalienable right to a healthy environment suited to his health and well-being and so to participate in economic, social and cultural and political development as to achieve a better quality of life and his full realization as a person. Every people shall have the right to have its own culture recognized, respected and handed on, to apply its ancestral knowledge of the natural environment and methods for the use and sustainable management thereof and to generate science and technology, which shall be environmentally sound (COLOMBIA).
17. States shall recognize the special relationship of indigenous peoples to the environment and their right to decide their own priorities for the process of development. States shall take special measures to safeguard the environment of indigenous peoples and to ensure their right to be consulted at all levels of decision-making in matters pertaining to the environment (DENMARK).
18. Human resources are the most valuable asset of a country. Within the context of the protection of the human environment, certain indigenous peoples live in a special relationship to their natural surroundings. The right of such peoples to maintain this relationship and to live according to their long-standing cultural patterns must be guaranteed by adequate means; these necessarily include protecting those natural surroundings in which they live (HOLY SEE).
19. The right of development is an inalienable human right and therefore the development needs of all developing countries should be treated as a matter of priority (G77).
20. The right to a sound environment should be affirmed (G77).
21. The human person should be protected through guaranteeing him the right to development and freedom from hunger, disease and poverty, underlining that no environment can be safe if the human state in is misery (G77).

22. All individuals and nations shall have the right to development and equity consistent with a sustainable use of the Earth's resources. Women and indigenous people shall be accorded full partnership in all fields of human endeavour, including environment and development (NEW ZEALAND).
23. Every continent, nation, country, population group, or community has the right freely to pursue and achieve (1) food security, (2) energy security, (3) suitable conditions for durable and sustainable growth in employment and other economic activities to combat poverty as well as to ensure a fair and equitable distribution of wealth and incomes to this end, (4) financial security and stability, and (5) an improved as well as acceptable quality of life and habitat (NIGERIA/G22).
24. The Charter should make reference to the rights of such groups as indigenous people and the role of women in the development process (NORWAY).
25. The right of every individual to enjoy a healthy and balanced environment; primacy of sustainable development in the long-term over individual interests or short-term interests and allocation of environmental costs to economic activities (PERU).
26. Each individual has the right to live in optimal environmental conditions. It is the obligation of every State to guarantee this right for all its citizens (USSR).
27. States shall act to ensure the incorporation of women's perspectives, aspirations, needs, concerns and participation at all levels and in all sectors relating to promotion of sustainable development particularly at the level of decision-making, planning and management taking due account of the Convention on the Elimination of All Forms of Discrimination against Women (ZIMBABWE).

Principle 4 [Responsibility to present and future generations]

28. All individuals, organizations and States shall manage the Earth's ecosystem and resources for the benefit of future as well as present generations (CANADA).
29. The Earth Charter shall be an obligatory legally-binding document with the objective of creating the conditions for sustainable development especially taking into account the needs of the present as well as future generations (CHILE).
30. It shall be guaranteed by suitable planning, for the sake of fairness, that sustainable development extends without discrimination to all regions and all inhabitants, without prejudice to the right of future generations to well-being and development (COLOMBIA).
31. Meeting the needs of the present generation without compromising the ability of future generations to meet their own needs; a call on the international community to respect the rights of the people who protect their environment as custodians for present and future generations (FIJI).

32. The document should entrench the rights of children and adults of today and unborn generations to enjoy and benefit from sustainable development (JAMAICA).
33. Each generation has, in particular, the responsibility to ensure that in any national or international forum where it is likely that a decision be taken affecting the interest of future generations, access be given to an authorized person appointed as "guardian" of future generations to appear and make submissions on their behalf (MALTA).
34. The obligation on individuals, enterprises, institutions and Governments to protect, improve and regenerate the environment for the benefit of present and future generations (PERU).
35. States shall act to preserve the planet in a healthy condition for children and to promote development of human resources with special emphasis on their participation in sustainable development taking due account of the Convention on the Rights of the Child (ZIMBABWE).

Option: Combined text proposed by MALTA

36. The Earth Charter which shall be a political [legally binding] document shall bind all individuals, enterprises, institutions, States, and groups of States to manage [the Earth's ecosystems and] [natural] resources to promote sustainable development for the benefit of present and future generations, taking into special account [the rights of children and future generations] [their rights] to well-being and development. Where it is likely that a decision be taken affecting the interests of children as future generations, a guardian shall be appointed with the right to make submissions on their behalf.

Principle 5 [Sovereignty and responsibility to others]

37. Each State shall take the necessary measures to ensure that activities under its jurisdiction do not cause harm to the environment of another State (BURKINA FASO/G22).
38. All individuals, organizations and States shall respect the environment of other individuals, organizations and States, and the Earth's ecosystem; and treat the global commons of the Earth in a manner at least as favourable as their own environment (CANADA), keeping in mind the interests of humankind as a whole (AUSTRIA).
39. National sovereignty of States shall not be an obstacle to the interdependent resolution of the global problems of development and environment by the international community.
40. This will require action in solidarity, inter alia, to avoid the degradation of natural resources, infringements of global international security, and to contribute to the eradication of extreme poverty. States, international organizations and transnational corporations shall prevent transfrontier damage and shall protect the global commons (CHILE).

41. Countries shall have the sovereign right to utilize their natural resources in order not only to meet the subsistence needs of their inhabitants but also to ensure sustainable development economically, socially and culturally within the constitutional framework and in keeping with its environmental and developmental policies (COLOMBIA).
42. States shall have the sovereign right to exploit their own natural resources while ensuring that activities carried out within their jurisdiction and control do not cause damage to the environment of other States and of the areas beyond national jurisdiction (CHINA).
43. All countries have the sovereign and inalienable right to utilize their own natural resources pursuant to their own environmental policies and their development and economic priorities (G77).
44. States shall provide prior and timely notification and relevant information to other concerned States on activities which may have a significant international or transboundary effect and shall consult with those States at an early stage and in good faith (NETHERLANDS/EEC).
45. The pursuit of decent and satisfactory livelihoods, including the sovereign rights of countries over the natural resources found within their legal boundaries, must be recognized, reaffirmed and defended. Each and every country shall take all necessary steps to avoid polluting, directly or indirectly the environment of their countries (NIGERIA/G22).
46. The sovereign right of States to exploit their natural resources through their environmental policies, and their responsibility to ensure that activities under their jurisdiction and control do not cause environmental damage (PERU).
47. Each State has the right to utilize the environment and natural resources for the purposes of development and for serving the needs and interests of its citizens; the environmental well-being of any State may not be achieved at the expense of other States, or without regard for their interests. Economic activities conducted within the territories of States must not cause damage to the environment either within or beyond their national jurisdiction (USSR).

Principle 6 [Precautionary principle and prior assessment]

48. The precautionary principle and with it the promotion of full use of environmental impact statements; allied to this, the avoidance of irreversibility (AUSTRALIA).
49. All individuals, organizations and States shall adopt precautionary and preventive approaches, and consider the value of the environment, when planning activities that may affect the Earth (CANADA).
50. States, international organizations and transnational corporations shall have the obligation to take precautionary and preventive measures

regarding activities that may cause environmental damage. Prior assessment of environmental risks and notification of those concerned or potentially affected shall be undertaken (CHILE).

51. Environmental measures shall foresee, prevent and correct the causes of environmental degradation through appropriate planning of development in general and of activities which may cause deterioration in particular, so that environmentally sound development may be achieved more effectively and economically (COLOMBIA).
52. Activities which may involve a high environmental risk shall be preceded by an exhaustive evaluation. The proponent or proponents shall be required to prove that the expected benefit exceeds the potential damage to nature. When the adverse effect is insufficiently known, the activity shall not be permitted. Lack of scientific certainty shall not be used as a pretext for postponing the adoption of measures to prevent environmental deterioration (COLOMBIA).
53. Formulating resource use and development planning policies based on the precautionary principle (FIJI).
54. Environmental measures must anticipate, prevent and attack the causes of environmental degradation, and where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. Proposed activities which are likely to have a significant adverse effect on the environment shall not be undertaken without prior assessment of the environmental risks (NETHERLANDS/EEC).
55. The obligation to take precautions when activities may affect the environment, including preventive measures; prior assessment of environmental risks and the notification of all persons or entities concerned or potentially affected (PERU) and the obligation for industries and other activities concerned to mitigate harmful effects of accidents caused by them (ITALY).
56. Any type of economic or other activity whose environmental consequences are unpredictable is inadmissible. Each State must make a comprehensive assessment of the environmental consequences of economic activities conducted in its territory, and make it available to other interested States, and also to international organizations (USSR).

Principle 7 [Cooperation]

57. Concerted efforts shall be made in solidarity to lay solid foundations for sustainable development, within the framework of international cooperation, to bring about, inter alia, the establishment of worldwide food security (CHILE).
58. All States, big or small, rich or poor, have the right to participate on an equal basis in matters related to the environment and development.

States shall carry out international cooperation in the field of environment and development on the basis of the principle of equality among sovereign States (CHINA).

59. States shall cooperate with other States to ensure the conservation of renewable natural resources in such a way as not to impair their capacity for regeneration, taking into account the principle of sovereignty. In the same way they shall promote the conservation of ecosystems of special importance in relation to the culture and lifestyle of the populations that depend on them.
60. States shall cooperate with other, neighbouring States in the protection of ecosystems situated in frontier areas.
61. Steps shall be taken to reach agreements or conclude conventions with neighbouring States on the adoption of mechanisms for providing information, on, and for preventing, mitigating or correcting the effects of transboundary environmental deterioration.
62. States shall develop contingency plans for emergency situations that may cause transboundary environmental damage or degradation, shall supply relevant information and shall cooperate with the State affected in an emergency (COLOMBIA).
63. States, organizations and individuals shall cooperate in good faith and in a spirit of partnership in the implementation of the principles embodied in this Charter.
64. States shall immediately inform other States of any emergency situation which might cause sudden harmful effects on the environment of those other States (NETHERLANDS/EEC).
65. Public participation is dependent on a positive and fruitful cooperation and interaction between Governments and constituencies outside government, in particular industry, trade unions and the various voluntary organizations (NORWAY).
66. The obligation of States, transnational corporations, institutions and NGOs to cooperate globally and regionally to protect, preserve and regenerate the environment (PERU).
67. Protection of the environment is a global task of all mankind that must be performed through the joint efforts of States and international organizations, based on international cooperation. States must provide each other with assistance in cases of environmental emergency (USSR).

Principle 8 [Special needs of developing countries]

68. In order to strengthen the participation of the developing countries in the implementation of international environmental law and their ability to move towards sustainable development, the States capable of doing so and the international organizations shall provide the necessary technical and financial assistance (CHILE).

69. The special situation and needs of the developing countries should be fully taken into account. The environmental problems of the developing countries arising from the conditions of poverty should be addressed as a matter of priority (CHINA).
70. Full recognition should be given to the specificities and realities of the developing countries, including their social, economic and environment needs as well as their national plans and priorities (G77).
71. The responsibility of the industrialized countries in the improvement of the international economic environment should be stressed (G77).
72. Access to, and transfer of environmentally sound technology including at preferential concessional terms and promotion of endogenous capacity building (G77).
73. Full recognition and respect should be given to the special needs and concerns of the developing countries in the creation and implementation of international agreements and legal instruments (TANZANIA).

Principle 9 [Environment and world trade]

74. Consistency between international trade and environmental obligations, and avoidance of trade distortion (AUSTRALIA).
75. States shall cooperate to promote an international economic environment supportive of the sustained and sustainable development. The industrialized countries whose policies have major impacts on the world economy should ensure that their actions are conducive to the growth of the world economy in general and the development of the developing countries in particular (CHINA).
76. Global environmental considerations cannot justify restrictive trade practices, except when these are introduced in terms of specific provisions in a globally accepted environmental convention (INDIA).
77. Environmental concerns may not be used as a disguised instrument for impeding the development needs of developing countries. Environmental regulations may not be used as non-tariff barriers or as protectionist measures against exports of developing countries (REPUBLIC OF KOREA).
78. Cooperation on a global level to develop a genuine universal framework to ensure social and economic justice for all the world's people. This means that issues of patterns of development and liberalization of world trade need to be addressed at a global level (NEW ZEALAND).
79. The right of populations and countries freely to exploit and trade their natural resources and the goods and services derived therefrom or related thereto must be reaffirmed and defended. No economic policies or management tools should be devised which would negatively impact or affect the environment or living conditions and expectations of any continent, nation, country or population group (NIGERIA/G22).

80. The principle of free trade benefits the world economy and promotes the development of all countries, especially the developing countries. We should seek to eliminate existing barriers against free trade and resist attempts to build new barriers under the guise of protecting the environment (SINGAPORE).

Principle 10 [Peace and security]

81. States which promote or participate in a war shall be responsible for the social and environmental costs incurred through it. That responsibility shall apply to tests or trials of weapons or technologies of war.
82. State parties to a conflict which, if continued, may endanger security and international peace shall endeavour to reach a negotiated solution using such machinery as consultation, mediation, conciliation, arbitration or judicial settlement or shall use international instruments or agreements or other peaceful means (COLOMBIA).
83. States are responsible for the damage caused to the global environment by the effects of nuclear weapons and all other means of mass destruction (G77).
84. The use of nuclear weapons is a crime against humanity and the human environment (INDIA).
85. Peace and security are essential prerequisites for sustainable development (NEW ZEALAND).
86. Any act having an impact on the environment which is conducted as a method of warfare, or any other use of force, is inadmissible. States must refrain from any other military activities, including the testing of weapons of various types, which may damage the environment either within or beyond their national jurisdiction (USSR).
87. There can be no sustainable development without stable or lasting peace, and without the commitment by States to accelerate disarmament and progressively to reduce military expenditures (VENEZUELA).

Principle 11 [Production and consumption patterns]

88. All States, organizations and individuals shall endeavour to develop environmentally sustainable patterns of living (AUSTRIA).
89. Sustainable development is incompatible with the imposition of environmental and economic conditions and with the restriction of access to technology (COLOMBIA).
90. All countries, in particular developed countries, should make commitments to address their unsustainable patterns of production and consumption (G77).
91. Those responsible for development within a given area have the duty to see that wasteful consumption patterns or style of life are not being

promoted for economic gain alone; the lifestyle of few cannot damage the quality of life of others, a quality that all must consistently work to improve (HOLY SEE).

Principle 12 [Information and Education]

92. All individuals, organizations and States shall ensure the availability of education and information on the Earth and its ecosystem (CANADA) and encourage the use and diffusion of best available environmentally sound technologies (AUSTRIA).
93. Every person shall have the right to education as a public service in order to gain access to knowledge, science and technology. Through education, responsible attitudes to nature shall be cultivated.
94. States shall develop mechanisms to provide information on activities or products that may adversely affect the human environment, human health or human well-being and shall guarantee the participation of the community in decisions that may affect it.
95. States shall lay down suitable standards for environmental protection, the monitoring of changes and the publication of significant data on environmental quality and the use of resources (COLOMBIA).
96. Research, free exchange and transfer of scientific knowledge and experience must be provided to the fullest extent for the building of natural scientific capacities in developing countries to facilitate the solution of environmental problems and promote growth and developing (G77).
97. Universal education and access to information are important elements for effective participation by individuals and communities in decision-making (NEW ZEALAND).
98. Access to information on environmental risks (PERU).
99. The state of the environment and natural resources and changes therein must be effectively monitored at the global, regional and national levels, against internationally recognized criteria and parameters; a system must be instituted whereby States report on their environmental protection activities and on environmental incidents that have occurred or have been averted in their territories.
100. A free and unhindered international exchange of scientific and technological information on environmental matters and on advanced technology for the conservation of nature must be ensured.
101. Consistent and systematic efforts must be made in all States in the field of environmental education and awareness and the dissemination of knowledge concerning the rational use of nature (USSR).

Principle 13 [Cost internalization]

102. The principle of polluter-pays and user-pays; the principle of ensuring that environmental assets are appropriately valued (AUSTRALIA).
103. The State shall ensure that anyone who carries on activities which endanger the environment shall be responsible for preventing or making good the damage. The economic analysis of works and projects shall include the environmental and social costs of the proposed works or activities as an input in the cost structure and not as an incidental subheading. Care shall be taken to ensure that the users of natural resources who develop production processes or carry on activities that may cause environmental deterioration repay the cost of renewal or bear the cost of decontaminating or restoring the affected resource. The defrayal of such costs shall not exempt the person responsible from compliance with the standards laid down or from such penalties as he may incur for any offence he has committed (COLOMBIA).
104. The polluter should bear the expenses of carrying out the necessary pollution prevention and control measures introduced by public authorities to protect the environment (NETHERLANDS/EEC).
105. Open and free markets at the national, regional and international levels are fundamental to the achievement of sustainable development. Market forces and mechanisms, and other economic instruments, including emission charges, tradeable permits, and reductions of subsidies, need to be harnessed to achieve sustainable development goals at each of these levels. To this end, environment and development objectives and policies should be integrated with economic and trade policies (USA).
106. Polluters should bear the costs of pollution they cause, including the expenses of carrying out the necessary pollution prevention and control measures introduced by public authorities to protect the environment (USA).
107. Markets should reflect full economic accounting of environmental costs and benefits (USA).

Principle 14 [Liability for damage and dispute settlement]

108. Restatement of principle 21 of the Declaration of the United Nations Conference on the Human Environment which incorporates the concept of environmental liability and compensation for damage. Need for universal adherence to and full compliance with relevant international instruments and the need for future development of the legal framework relating to the environment (AUSTRALIA).
109. All individuals, organizations and States shall pursue and encourage the achievement of the objectives of this Earth Charter, in cooperation and in accordance with the means at their disposal and their capabilities (CANADA), giving due attention, inter alia, to the evolution of mechanisms on dispute prevention and settlement concerning the environment (AUSTRIA).

110. Adequate compensation shall be paid or other remedy be provided to the victims of an international or transboundary environmental interference (NETHERLANDS/EEC).
111. The objective responsibility and obligation of individuals, employers, institutions and States to make good damage (PERU).
112. Norms must be laid down in international law and national legislation establishing liability for environmental damage and compensation to the victims thereof. All disputes arising from environmental issues must be resolved exclusively by peaceful means (USSR).

Principle 15 [Public participation and democracy]

113. The right of individuals and groups to participate in decision-making and to have access to information and to legal redress (AUSTRALIA), including the obligation of Governments and industry to inform the public of environmental consequences of their planned actions, and the right of individuals and organizations to be heard early enough in the process so as to have a genuine possibility to influence the decision-making process (NORWAY).
114. All States, organizations and individuals shall have the possibility to participate in democratic decision-making processes concerning the environment and development (AUSTRIA).
115. The right of individuals and non-governmental organizations to be informed about environmental issues relevant to them, to have access to information, and to participate in the formulation and implementations of decisions likely to affect their environment (FIJI).
116. All persons without discrimination shall be informed of interferences with their environment and shall have their views taken into account in the formulation of decisions of direct concern to their environment (NETHERLANDS/EEC).
117. The rights of individuals and communities to participate in decision-making that is likely to affect their social, economic and natural environments (NEW ZEALAND).
118. USA: Sustainable development requires the democratization of environment and development decision-making. To this end, wider participation of individuals, groups and organizations at all levels, local, national, regional and international, will be essential.
119. In accordance with the Universal Declaration of Human Rights, individuals, groups and organizations concerned with the environment and development have the right to participate in the government of their country at a local and national level. This right includes the rights to express ideas freely, to assemble peacefully, to seek and disseminate information, and to participate in public debate.

120. To further these ends, the following rights should also be respected by all States and incorporated in national laws and regulations:
121. Individuals, groups and organizations should have access to information relevant to the environment held by national authorities, including information on products and activities which have or are likely to have a significant impact on the environment, and on environmental protection measures.
122. Communities should have access to information about hazardous materials and the potentially serious impacts of industrial accidents in their area, including information on contingency planning, and should be informed immediately when such accidents occur.
123. National authorities should make available at regular intervals reports on the state of the environment.
124. The views of the public should be taken into account in government decision-making processes related to the environment and development. Competent authorities should facilitate and encourage public participation, *inter alia*, by providing wide notification to the public of relevant policies, plans and activities, by making information widely available, and by receiving public views, including through the convening of open public fora.
125. For any proposed activity or any proposed major change to an activity which is likely to have a significant impact on the national environment and which is subject to a decision of a competent authority, an environmental impact assessment should be undertaken.
126. As part of an environmental impact assessment, the public should be provided, for examination and comment, information about any proposed activity: about reasonable alternatives, where appropriate, including the alternative of no action; about the environment likely to be affected; about the environmental impacts of the proposed activity and its alternatives; about appropriate measures for mitigating adverse environmental impacts; and about uncertainties and gaps in knowledge.
127. Individuals, groups and organizations should have the opportunity to transmit comments on proposed activities to the competent authority before the final decision is taken.
128. A final decision should take into account the results of the environmental impact assessment as well as the comments received from the public and should be published promptly.
129. States should provide an opportunity to the public in areas outside their territory to participate in relevant environmental impact assessment procedures regarding activities which are likely to have a significant adverse transboundary impact on their local

environment and should see to it that the opportunity provided to the public of the affected country is equivalent to that provided to their own public.

130. In matters related to the environment, States should provide access to administrative and judicial procedures for contesting decisions of competent authorities and private persons and entities that may be unlawful or may infringe on rights under the law. Such procedures should also provide appropriate remedies.
131. In matters related to the environment and development, Governments should extend access to administrative and judicial procedures to all groups and organizations with a recognized legal interest. States should also extend access in such matters to individuals, groups and organizations with a recognized legal interest who are outside their jurisdiction on an equivalent basis to those who are inside their jurisdiction (USA).
132. In order to ensure sustainable development, the existence of democracy is indispensable as a permanent process of advancement, in which private citizens play a central role by participating in the making of decisions that affect their future (VENEZUELA).

Principle 16 [Poverty]

133. It should be recognized that a united struggle against poverty entails correcting the causes of poverty; for that purpose it is necessary to make changes in economic and social policies within countries and to modify the developed countries' relations with the developing countries (COLOMBIA).
134. States, organizations and individuals shall cooperate in good faith and in a spirit of partnership in the effort to eradicate poverty (TANZANIA).

Principle 17 [Resource transfer]

135. Adequate new and additional financial resources shall be provided to the developing countries to enable them to address effectively the environmental and developmental problems. Access to and transfer of environmentally sound technologies to the developing countries shall be ensured on preferential and non-commercial terms (CHINA).
136. The transfer of adequate, new and additional financial measures to the developing countries should be ensured (G77).

Specific principles and possible restructuring

- CHILE:
- (a) Precautionary principle;
 - (b) Principle of intergenerational equity;
 - (c) Principle of non-discrimination;
 - (d) Principle of equal opportunities and equal access to technology;
 - (e) Principle that research on problems of development and environment shall take into account especially the interests of the developing countries;
 - (f) Equitable use of shared natural resources;
 - (g) Duty to cooperate in good faith in information exchange and consultations with a view to laying the foundations for strengthening and harmonizing international environmental law.
- KENYA:
- (a) Common heritage of mankind;
 - (b) Common concern;
 - (c) Intrinsic value of biodiversity;
 - (d) Need for financial support and economic incentives;
 - (e) Equitable sharing of burdens;
 - (f) Duty to prevent substantial transboundary harm.
- NETHERLANDS
(for EEC):
- (a) Integration of environment and development (elements from paragraphs 1, 3, 10, 28, 30, 31, 41, 51, 74, 76, 77, 78, 79, 80, 88, 89, 90, 91, 105);
 - (b) Cooperation for sustainable development/differentiated approach (elements from paragraphs 1, 2, 3, 5, 6, 7, 9, 12, 39, 41, 44, 50, 55, 56, 57-67, 68, 69, 70, 71, 73, 75, 78, 99, 100, 109, 129, 133, 134, 135, 136);
 - (c) Individual and group rights (elements from paragraphs 1, 2, 9, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 32, 34, 62, 64, 67, 88, 93, 119);
 - (d) Information, education and participation in decision-making (elements from paragraphs 13, 17, 31, 33, 55, 63, 65, 92, 94, 98, 99, 101, 113-124, 127, 130, 131, 132);
 - (e) Intergenerational equity (elements from paragraphs 3, 28, 29, 31-34);

- (f) Sovereignty and responsibility (elements from paragraphs 5, 6, 7, 9, 37, 38, 39, 40, 41, 42, 43, 44, 45-47, 50, 56, 59, 62, 64);
- (g) Precaution/impact assessment (elements from paragraphs 48-56, 95, 125, 129);
- (h) Attribution of environmental cost (elements from paragraphs 25, 102-104, 105, 107, 108, 110, 111);
- (i) Population (elements from paragraph 4).

PERU: To be elaborated on the basis of sub-sections IV/b-c of document A/CONF.151/PC/83.]



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PREPARATORY COMMITTEE FOR THE UNITED NATIONS
CONFERENCE ON ENVIRONMENT AND DEVELOPMENT
Third session
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Working Group III
Agenda item 5

OTHER LEGAL, INSTITUTIONAL AND RELATED MATTERS, AS WELL AS LEGAL AND
INSTITUTIONAL ASPECTS OF CROSS-SECTORAL ISSUES, INCLUDING THOSE
REFERRED TO WORKING GROUP III BY WORKING GROUPS I AND II AND THE
PLENARY OF THE PREPARATORY COMMITTEE

Chairman's summary

1. Under this agenda item, Working Group III considered other legal, institutional and related matters, as well as legal and institutional aspects of cross-sectoral issues, including those referred to Working Group III by Working Group I, Working Group II and the plenary of the Preparatory Committee. The Working Group had before it the progress reports on institutions by the Secretary-General (A/CONF.151/PC/36, A/CONF.151/PC/80 and Corr. 1) as well as several documents submitted by delegations (A/CONF.151/PC/81, A/CONF.151/PC/L.29, A/CONF.151/PC/WG.III/L.1 and A/CONF.151/PC/WG.III/L.4). Furthermore, in response to a request by Working Group II at the second session of the Preparatory Committee (decision 2/20, subparagraph 2 (p)), the Working Group had before it for consideration a progress report by the Secretariat on the development of legal instruments for transboundary waters (A/CONF.151/PC/79).

2. In the course of the discussion, most speakers stated that their comments were of necessity preliminary at this stage. Although the Working Group did not attempt to reach any conclusions, there was broad agreement on the following points which could serve as guidance for the future work of the Working Group at the fourth session of the Preparatory Committee:

(a) Some reform of United Nations institutions in the field of environment and development is needed, taking into account general efforts for restructuring and revitalization of the United Nations in the context of General Assembly resolution 45/264.

(b) Working Group III must take into account decisions with institutional implications originating from Working Groups I and II and the Plenary.

(c) Proliferation of institutions at the global level must be avoided.

(d) There is a need to work out mechanisms to promote coordination, both at the intergovernmental level and at the level of the Secretariat and United Nations specialized agencies and programmes involved with environment or development.

(e) Existing international institutions at the global and regional levels in the field of environment and development, including UNEP and UNDP, should be adapted to changed circumstances in order to support sustainable development. There was consensus that UNEP must be strengthened.

(f) Among the goals of institutional reform at the global and regional levels should be enhancement of the capacity of institutions at the national level, especially in developing countries, to ensure the full integration of environment and development.

(g) Institutions and organizations outside the United Nations system, including the non-governmental sector, have an important role in this process.

(h) The Working Group, at the fourth session of the Preparatory Committee, will have to consider the need for institutional arrangements, both at the intergovernmental and secretariat levels for the implementation and continuous review of Agenda 21.

3. In order to facilitate discussion at the fourth session of the Preparatory Committee, the necessary documentation should be prepared by the Secretariat. Specifically, an updated compilation of institutional proposals made by delegations during the third session of the Preparatory Committee, including those made in Working Groups I and II and the plenary, with a focus on options for action, is required. In this context, the matrix developed by the delegation of Canada should be used, as well as the relevant information contained in national reports. In addition, it is expected that the Working Group will have before it, in response to General Assembly resolution 44/229, a report by the Secretary-General on the structure and responsiveness of the United Nations in dealing with major environmental issues.

FINANCIAL RESOURCES

SUMMARY

After one formal plenary debate and two informal negotiations chaired by the Head of the Canadian Delegation, John Bell, the Third PrepCom plenary approved a procedural decision on financial resources, deferring the real negotiations to the fourth PrepCom. However, along the way, a very substantive exchange of views between developed and developing country delegations was held, which was captured in the Chairman's compilation of views attached to the decision. Key issues raised in the debate were the needs of developing countries for financial resources to cover the full incremental costs of implementing Agenda 21; the funding implications of dividing sustainable development problems into global and local issues; the future role of the Global Environmental Facility; possible new funding mechanisms, including two new proposals from China and from Brazil and Argentina; and the appropriate governance for the funding mechanisms used to channel financial resources to developing countries. While the real options regarding financial resources have yet to be defined, the questions that delegations wish to address in New York are now much clearer. Canada is likely to be asked again to chair these informal negotiations at the next PrepCom.

Documentation:

- | | | |
|--------------------|---|---|
| A/CONF.151/PC/86 | - | Proposal for a Green Fund by China |
| A/CONF.151/PC/93 | - | Position on Financial Mechanisms proposed by Brazil and Argentina |
| A/CONF.151/PC/L.54 | - | Final decision on Financial Resources |
| A/CONF.151/PC/L.41 | - | Draft Decision proposed by G-77 and China |
| A/CONF.151/PC/L.42 | - | Draft Decision proposed by Australia |

PREPCOM DISCUSSION

The basic objective of the Canadian delegation at this PrepCom was to narrow down the range of issues under discussion, so that we could propose a few concrete options to Ministers as the basis for a negotiating mandate at the fourth PrepCom.

At the start of the PrepCom, the Chairman Tommy Koh, asked the Head of our delegation, John Bell, to chair the informal negotiations of the Plenary on financial resources. For this reason, the delegation decided that it would be inappropriate to deliver our own national statement on this subject.

The formal debate on financial resources was held on Wednesday morning, August 28th. Major statements in the debate were delivered by Netherlands for the EC, the US, Norway, Japan, Ghana for the G-77, China, Malaysia and India. While, the debate covered most of the same ground as the formal on financial resources in second PrepCom, there was a moderation in the tone of the debate. Ghana for the G-77 repeated its position that ODA flows need to be increased to meet the 0.7% target - but did not define "new and additional resources" as flows above 0.7%. Malaysia and Mexico, for example, clearly signalled that what was important to them was to obtain a basic commitment from the developed countries for new and additional resources and to leave the determination of volumes to a later date. India's principal pre-occupation was the redirection of existing ODA flows, in particular from multilateral development banks, away from development objectives, and the imposition of new environmental conditionality on loans.

In contrast, the US reiterated its long standing opposition to ODA target and to the principle of "new and additional" resources and repeated its desire to existing aid flows redirected away from unsustainable development towards sustainable development. The EC on the other hand explicitly stated its commitment to providing "new and additional" resources. Japan did not take a position on this polemical point, but referred to the significant increases in its ODA funding for environmental purposes in the past three years and indicated that further increases were likely.

Much of the discussion revolved around the structure and governance of financing mechanisms, in particular the GEF. The EC, Japan and US all stated that they could foresee the GEF evolving into a general fund to finance developing country commitments under conventions. Developing countries rejected this approach and insisted on dedicated funding mechanisms for each convention. Many G-77 delegations criticized the GEF for its lack of transparency and its weighted voting structure. There was some interest shown by the EC and the Nordics in the concept of "partnership in additionality", as described in the Secretariat paper on financial resources, PC/51.

The issue of innovative sources of funding received surprisingly little discussion. The Netherlands for the EC commended examination of energy taxes - although the UK came out against this position. Norway recommended expanded use of debt for nature swaps. Malaysia wondered why delegations were not prepared to seriously examine proposals for redirecting military spending.

Two papers from delegations were tabled but not discussed in any detail. China circulated its proposal for Green Fund, as developed at the June 1990 Beijing Ministerial (PC/86); while Brazil and Argentina tabled their own paper on financing mechanisms (PC/93), which proposed a "Fund for the Promotion of Sustainable Development". Both proposals amount to the creation of a general fund for sustainable development activities not covered by conventions, based on mandatory contributions from developed countries and voluntary contributions from developing countries. Governance in both proposals would be based on parity between donors and recipients - along the lines of the Montreal Protocol Fund. The Brazilian/Argentine proposal is more detailed in outlining possible

sources of revenues for the Fund, based on consumption taxes levied in developing countries on such items as crude oil, automobiles, newspapers and postage stamps.

The principal difference between the two proposals lies in the suggested program areas. The Chinese Green Fund is oriented towards rural areas, with an emphasis on reforestation, improving freshwater supplies and preventing soil degradation. The Brazilian/Argentine proposal takes a broader cut at financing requirements for Agenda 21, and includes such urban and industrial environmental issues as urban sanitation, control of chemical and solid wastes, and industrial air pollution.

Two draft decisions were presented by delegations for consideration at the informal negotiation: one, tabled by the G-77 and China (L.41) and the other, tabled by Australia (L.43) which drew on the consensus language of UNGA resolution 44/228. The first informal session on Friday afternoon proved difficult, as the G-77 insisted that their draft decision be the basis for further discussion, while the developed country delegations, for the most part refused to respond. The EC spokesman made it very clear that the EC would need to consider in capitals how it would respond to the G-77 draft. The meeting broke up with the G-77 delegations protesting that they had spent the preceding three weeks in the other working groups talking about environmental measures that would restrict their development, but that when the issue of financial resources for developing countries finally came forward, the developed countries refused to discuss it.

Over the weekend, the Canadian Chairman consulted with a number of delegations and obtained an agreement that a careful discussion of the G-77 decision would be held in a second meeting and that all the existing documents on financial resources would be forwarded to the fourth PrepCom, along with a Chairman's compilation of the views expressed in the informal negotiations. On this basis, a second informal was held on Monday, September 2nd. This session proved to be an essential confidence building measure, as delegations came prepared to discuss the G-77 paper in considerable depth. The discussion focused in particular on two issues: whether one could or should make a distinction between global and local environmental problems, as a means of defining the incremental costs to be covered by new and additional financial resources; and the appropriate governance for any new funding mechanisms. The full range of views in this debate are captured in the Chairman's summary annexed to decision L.54.

A second informal was held in Tuesday, September 3rd, to approve a new procedural decision developed by the G-77 on financial resources. The principal sticking point, between the US and the G-77, proved to be the priority to be accorded to the G-77 text, L.41, at the fourth PrepCom. After approving the rest of the text, an appropriate form of words was found through private consultations with the Chairman the following morning and the entire text, including the Chairman's compilation of views, was adopted as L.54 without debate as the final decision of the Plenary.

OUTCOMES AND ASSESSMENT

L.54 is a simple procedural decision. Its principal instruction is that the issue of financial

resources will be scheduled to begin at the start of the PrepCom, and that enough time will be given to it to reach a decision before the end of the PrepCom. G-77 delegations signalled that a decision on financial resources at the fourth PrepCom would be a prerequisite for any conclusions on the other sectoral issues in Working Groups I and II. L.54 also requests the Secretary General undertake cost evaluations for the implementation of each programme area of Agenda 21, in order to "assist the negotiation of financial requirements at the fourth session".

Finding the formula for a successful conclusion to the next round of negotiations on financial resources will require striking a compromise between the perspectives of developed country donors and developing country recipients. Based on discussions at the third PrepCom, it would seem that the place to strike the compromise is over the governance and the definition of the program areas for an "evolved" GEF or a replacement general purpose "Green Fund".

CANADIAN INTERVENTION - THIRD SESSION OF THE INTERGOVERNMENTAL
NEGOTIATING COMMITTEE-WORKING GROUP II: FINANCIAL MECHANISM
SEPTEMBER 17, 1991

Mr. Co-Chair,

In discussing mechanisms, it will be important to draw a clear line between policy control, implementation and evaluation. Governance and decision-making over broad policy approaches and resource allocation and decision-making should be based on a partnership approach, and equitable partnership, and should rest with the Conference of the Parties.

At the same time it will be important to share administrative and implementing mechanism with existing institutions. This would help to:

- (a) avoid duplication of effort in implementing what might be done under a climate change convention and what might be done under other conventions or other specific international arrangements;
- (b) ensure consistency of approaches at the international level. In climate change - where response actions will be pervasive and will have to form part of sweeping national action strategies -- there will be a need to establish, or utilize, a mechanism which can efficiently and cost-effectively link specific actions on climate change with sectoral policies and macro-economic policies; Finally,
- (c) this would help to provide economies of scale in administering and implementing specific projects and related activities.

My colleague in Working Group I has made clear Canada's commitment to this exercise, and our willingness to bear our fair share of the burden, whatever the agreed results of our deliberations. Canada recognizes the need for appropriate new financial flows and improved flows of beneficial technology -- "best practice technology" is the term we believe most apt -- to assist developing countries address their priorities, address global environmental problems, and meet the defined and agreed incremental costs associated with Convention goals and obligations. This is a clear statement of our intent and our commitment.

We continue to believe that the principles of effectiveness and cost-effectiveness should guide our discussions. It is our view that the Montreal Protocol Multilateral Fund and the World Bank/UNEP/UNDP Global Environment Facility (GEF) represent new financing mechanisms for responding to the global environmental challenge. Canada has supported both approaches. I wish to remind colleagues that we are in a new era of addressing common global environmental concerns. No one had a monopoly on wisdom when the MP Fund and the GEF were established. Both are capable of evolving as experience is gained. We should be creative and flexible in this period.

We agree with those who have said that we should avoid unnecessary new institutions and bureaucracies, particularly where these might generate unnecessary costs. This must be balanced against the need for equitable, effective governance arrangements. We may ultimately feel that the Montreal Protocol model meets our requirements, particularly given the Protocol's use of existing institutions -- World Bank, UNEP, UNDP (and regional development banks) -- for programme delivery and project implementation. On the other hand, the GEF could become the funding mechanism to suit our needs, as was made clear by the participants in the London Economic Summit in July. A GEF with appropriate, mutually acceptable, possibly significantly changed, governance arrangements --- some have used the phrase "an evolving GEF" -- could be an effective approach. Canada, at this point, continues to see the GEF as an interim, point facility from which we can learn lessons in the near term. Our Indian colleague has mentioned his concerns with the GEF, as have others. But comment has been made that more must be known of the GEF and how it operates before it can be fully considered. Let us, therefore, having successfully defined the options, keep an open mind at this stage, and return to the question in December. But, I stress our view that the overall policy and decision-making framework for any financial commitments under this convention should be formulated by and be under the control of the Contracting Parties. It is here that we should be able to draw some valuable lessons from the Montreal Protocol model, including how the Protocol Fund has been administratively linked with the GEF for purposes of cost-effective implementation.

We believe that developing countries should have an equitable voice in the decision-making structures associated with global environmental agreements, including in the mechanism under a climate change convention. Existing effective mechanisms and

institutional channels should be utilized wherever possible to effect the transfer of resources, including financial resources, and to focus, among other things, on strengthening institutional capacities of recipient countries. Duplication of effort must be avoided. Creative alternatives should be considered where they are seen as cost-effective options -- the Norwegian proposal for a "financial clearing house" is one example which merits careful consideration.

We feel that the issue of technology cooperation and transfer is inextricably linked with the question of financial mechanisms, as Mexico has pointed out, but will hold our comments until we deal with that specific subject.



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Geneva, 12 August - 4 September 1991
Agenda item 2 (c)

PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND
DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY RESOLUTION 44/228 AND
TAKING INTO ACCOUNT OTHER RELEVANT GENERAL ASSEMBLY RESOLUTIONS
CROSS-SECTORAL ISSUES

China and Ghana*: draft decision

Financial resources

* On behalf of the States Members of the United Nations that are
members of the Group of 77.

The Preparatory Committee recalling General Assembly resolution 44/228, Decides that the consideration of the item on financial resources, at its Fourth Session, should include the following elements:

(a) Provision of adequate funding, covering the full incremental costs and not entailing any reallocation of ongoing or required developmental programmes from the developing countries' own resources; new and additional funding, in that there is no reallocation of existing multilateral or bilateral financial flows for development purposes.

(b) There should be a separate fund for each convention, or proposed convention.

(c) There should be a general Fund (Fund for the Promotion of Sustainable Development/Green Fund) to cover activities not included in separate conventions. This Fund should be separate from the Global Environment Facility (GEF) and should serve the sustainable development needs of developing countries, including Agenda 21. Predictability in the flow of funds should be guaranteed by mandatory contributions from developed countries, in accordance with their responsibilities.

(d) The governance of the funding mechanisms should be transparent; democratic in nature; with an equal voice for all parties; with access to all developing countries without any conditionality; and provide for funding of activities according to the priority of the developing countries, taking into account the priorities identified in Agenda 21.

(e) These funds from the developed countries to developing countries will be to a great extent of a compensatory nature.

(f) The notion of "partnership in additionality" is to be understood as a commitment to provide new and additional financial resources to developing countries, for meeting, inter alia, the commitments under Agenda 21, and other sustainable development concerns.

(g) The need for a supportive international economic environment which promotes economic growth and development, particularly in developing countries, inter alia, through various ways such as market access, terms of trade, remunerative commodity prices, transfer of technology on preferential and non-commercial terms, addressing efficiently and urgently debt problems and alleviation of poverty.



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DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY RESOLUTION 44/228 AND
TAKING INTO ACCOUNT OTHER RELEVANT GENERAL ASSEMBLY RESOLUTIONS

CROSS-SECTORAL ISSUES

Australia: draft decision

Financial resources

Recalling General Assembly resolution 44/228,

The Preparatory Committee,

1. Decides that it should make recommendations at its fourth session on financial resources issues, and that the following elements, drawn from UNCED objectives set out in resolution 44/228, should serve as the framework for such recommendations:

(a) Identification of ways and means of providing new and additional financial resources, particularly to developing countries, for environmentally sound development programmes and projects [44/228 OP15J];

(b) Identification of ways and means of providing additional financial resources for measures directed towards solving major environmental problems of global concern and especially of supporting those countries, in particular developing countries, for the implementation of such measures [44/228 OP15K];

Under (a) and (b), the Preparatory Committee should take into account, inter alia:

(i) Proposals concerning the need to provide adequate funding which covers the full incremental costs of implementing environment related development activities;

(ii) Proposals concerning the use of existing and any new financial resources, including from the following sources:

- (a) Greater efficiency in domestic government expenditures;
- (b) Enhanced use of market mechanisms to allocate resources;
- (c) Private investment flows;
- (d) Instruments for debt reduction;
- (e) Increased trade through improved market access;
- (f) Official development assistance;
- (g) Voluntary donations from non-governmental sources;

(c) Consideration of various funding mechanisms, including voluntary ones, and the examination of the possibility of a special international fund and other innovative approaches, with a view to ensuring, on a favourable basis, the most effective and expeditious transfer of environmentally sound technologies to developing countries [44/228 OP15L];

(d) Quantification of the financial requirements of the successful implementation of UNCED decisions and recommendations and the identification of possible sources, including innovative ones, of additional resources [44/228 OP15V];

Under (c) and (d), the Preparatory Committee should take into account, inter alia:

- (i) Existing funding mechanisms, including:
 - (a) The Global Environment Fund;
 - (b) The UNEP Voluntary Fund;
 - (c) Existing bilateral ODA channels;
 - (d) The Montreal Protocol Multilateral Fund;
 - (e) UNDP country programmes and funds;
- (ii) Proposals for the establishment of a separate fund for each convention or proposed convention;
- (iii) Proposals for the establishment of a general fund for the promotion of sustainable development/green fund (separate from the Global Environment Facility) which would cover activities not included in separate conventions and which would serve the sustainable development needs of developing countries, including Agenda 21;
- (iv) Proposals for the establishment of separate funds to meet specific needs, including:
 - (a) A national capacity building fund;
 - (b) Issue specific voluntary funds;
 - (c) Bilateral arrangements under the concept of "partnerships-in-additionality";
- (v) Proposals regarding predictability in funding of environmentally sustained development activities through any new general fund, including through assessed or voluntary contributions;
- (vi) Proposals regarding the governance of any new funding mechanisms, reflecting:
 - (a) The need for accountability;
 - (b) The need for transparency;
 - (c) The need to build partnership among all countries involved;

2. Requests the secretariat to prepare possible draft elements on the above for inclusion in Agenda 21.



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PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT
AND DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY
RESOLUTION 44/228 AND TAKING INTO ACCOUNT OTHER RELEVANT
GENERAL ASSEMBLY RESOLUTIONS: CROSS-SECTORAL ISSUES

Draft decision proposed by the Vice-Chairman, Mr. J. Bell (Canada)
on the basis of informal consultations held on A/CONF.151/PC/L.41

Financial resources

1. The Preparatory Committee, in discussing the issue of financial resources *in accordance with* raised in UNGA resolution 44/228, took note of documents L.43, PC/51, PC/86, PC/93 and held discussions on L.41.
2. The Vice-Chairman's compilation of views on these discussions is annexed to this decision.
3. Decides that negotiations on the issue of financial resources at its fourth session should be based on document L.41 taking *without prejudice to the status of* into account other proposals from delegations including L.43, PC/86 and PC/93.

4. Decides further that priority should be given to this issue in the scheduling of meetings of the fourth session, and that time from the beginning of the fourth session should be given to the negotiation of this issue, with a view to reaching a final agreement before the end of the session.

5. Requests the Secretary-General of the Conference, taking into account the views expressed on this issue during the third session, to provide concrete proposals based on cost evaluations for the implementation of each programme area of Agenda 21 which would assist the negotiation of financial requirements at the fourth session of the Preparatory Committee.♦

Vice-Chairman's compilation of views
on financial resources

The draft decision on financial resources proposed by Ghana on behalf of the G77, and China was extensively discussed in informal sessions of the Plenary during the third session of the Preparatory Committee. The following is a compilation of the views expressed by delegations on each of the paragraphs of L.41.

Preamble:

There was general agreement that any decision on financial resources should reflect the importance of this issue for the outcomes of UNCED.

Paragraph (a)

There was general agreement that financial resources from external sources will be needed to help developing countries meet the costs of achieving sustainable development.

Delegations discussed how agreement could be reached over the incremental costs which should be covered by external funding and how such incremental costs could be calculated.

Some delegations argued that the distinction between local and global environmental problems would be useful in reaching such an agreement.

Other delegations disagreed, arguing that such a distinction could not be made given the global consequences of all environment and development problems. Furthermore, it was argued that the identification of "global problems" was being made by developed countries on the basis of their own national concerns and priorities - which might not be shared by all developing countries. The priority concerns of developing countries should not be considered as local problems, particularly if there is to be a global partnership in the interests of sustainable development.

Delegations also discussed the appropriateness of re-allocating flows from existing development assistance programmes to meet incremental costs for sustainable development.

Some delegations stated that any re-allocation of external financial flows would be inappropriate. Concern was also expressed about the potential re-allocation of resources from domestic budgets due to meet commitments under international environmental agreements.

Other delegations argued that a re-allocation of flows away from unsustainable development towards sustainable development should be a major outcome of UNCED. Such a re-allocation could be combined with additional funding, from different sources, depending on the specific funding needs.

Some Delegations also pointed out that re-allocation to meet changing priorities is a constant factor of existing financial flows.

Some Delegations also observed that it is difficult to make a distinction in practice between the "environmental" and "developmental" components of projects over the life-time of the project.

Paragraph (b)

There was general agreement that funding would be required to help developing countries meet their commitments under conventions.

Delegations discussed in general the appropriate funding mechanisms for conventions.

Some delegations suggested the need to create a separate fund for each convention.

Other delegations recommended that consideration be given to using a more general fund with separate mechanisms for channelling funding under each convention.

Paragraph (c)

There was general agreement that funding would be required to help developing countries implement the programmes contained in Agenda 21.

Delegations discussed whether there is a requirement for a general fund to serve the sustainable development needs of developing countries, including Agenda 21.

Some delegations argued in favour of such a fund. Other delegations thought that existing funding mechanisms should be used.

Delegations discussed whether the GEF, as it is presently structured, could serve as a general fund. Some delegations mentioned that the GEF could perhaps serve as a general fund, provided that its governance was made more transparent and democratic.

Some delegations argued that it could not and that there should be a general fund, separate from the GEF, to cover activities not included in separate conventions. The factors cited in favour of separating a general fund from the GEF included: the GEF's current mandate which is limited to

four "global problems"; the voluntary basis for contributions; its governance based on weighted voting; and the influence on its operations of the culture of the World Bank.

Other delegations suggested that the discussion of a new separate fund should be left for later negotiations.

Many delegations noted that the governance of funding programmes and mechanisms could be separated from the administration of the funds, and could be assigned to separate agencies. The example of the Montreal Protocol Multilateral Fund was cited in this regard.

Delegations discussed whether mandatory contributions were appropriate for any general fund and whether they would increase the predictability in the flow of funds and the volume of funding available.

Some delegations noted the importance of finding innovative sources of funds, in particular from non-government sources. Such innovative sources would most likely have to be voluntary, rather than mandatory.

Paragraph (d)

There was general agreement that the governance of funding mechanisms needs to be transparent.

Many delegations argued that the governance of funding mechanisms should be more democratic.

There was general agreement on the need for governments to set priorities for funding under Agenda 21.

Delegations discussed the applicability of mutual responsibility for funding to meet national priorities.

Some delegations expressed concern that there should be no new conditionality imposed on such funding.

Paragraph (e)

Delegations discussed the concept of whether funding from developed to developing countries should be on a compensatory basis. ~~Some~~ Many delegations expressed the need for further explanation of this concept.

Paragraph (f)

Many delegations expressed an interest in the concept of "partnership in additionality" and supported further examination of this concept.

Paragraph (g)

There was general agreement on the need for a supportive international economic environment which promotes economic growth and development, particularly in developing countries, and which will assist in the alleviation of poverty.



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Plenary

Item 2 (c) of the provisional agenda

PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND
DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY RESOLUTION 44/228 AND
TAKING INTO ACCOUNT OTHER RELEVANT GENERAL ASSEMBLY RESOLUTIONS

CROSS-SECTORAL ISSUES

Proposal submitted by the delegation of the People's Republic of China

THE GREEN FUND

Background

1. Each and every action taken to protect the global environment will require a certain amount of funding to ensure its success. This is particularly important to the developing countries.
2. As of now, global environmental funding comes mainly from the following two sources: one is the funding mechanism provided for in the Montreal Protocol on Substances that Deplete the Ozone Layer, by which the developed countries provide funding to assist the developing countries in reducing the production of such substances as CFC and achieving their replacement. The other is the Global Environmental Facility (GEF) which is used for projects in areas such as climatic change and biodiversity. These funding mechanisms have by and large concerned themselves with environmental problems of a global nature, whereas no corresponding fundings are available with respect to some special environmental problems mainly facing the developing countries.

3. The developing countries are very concerned about such a situation. They have called the attention of the international community to their special problems and special needs and called for its practical actions of assistance in the areas of funding and technology. The proposal for the Green Fund is aimed at solving some of the problems involved.

4. The Green Fund proposal was made for the first time by the Chinese Delegation at the first and second sessions of the Preparatory Committee. At that time, its concept was limited mainly to fundings for planting trees and grasses in the developing countries with a view to increasing their vegetation and their capacity to absorb greenhouse gases. This proposal has aroused much interest from many countries and international organizations which in turn have given it their endorsement and support.

5. At the Ministerial Conference of the Developing Countries on Environment and Development held in Beijing in June 1991, the Green Fund proposal also enjoyed extensive support from the developing countries. Moreover, its content has expanded to include, besides planting trees, assistance to help solve the special environmental problems facing the developing countries, problems that are not covered by the existing specific international legal instruments. Through consultation, the Green Fund was written into the Beijing Declaration (A/CONF.151/PC/85):

"23. In order to deal with the long-existing but now rapidly aggravating environmental problems of immediate concern to the developing countries, a special Green Fund should be established to provide adequate and additional financial assistance to them. This Fund should be used to address problems which are not covered by specific international agreements, such as water pollution, coastal pollution affecting mangrove forest, shortages and degradation of fresh water resources, deforestation, soil loss, land degradation and desertification. It should also cover the costs of the transfer of environmentally sound technologies and the costs of building up national capabilities for environment protection and for scientific and technological research. This Fund should be managed on the basis of equitable representation from developing and developed countries and should ensure easy access for developing countries."

6. Therefore, the Green Fund is intended to be another global funding mechanism aimed at solving the special environmental problems facing the developing countries.

The Necessity for the Green Fund

7. Many developing countries are under pressure from various sides while confronting the challenges of environment and development. They must step up economic development to lift themselves from poverty and backwardness, while taking upon themselves the task of protecting the environment. They must take part in finding solutions to such global environmental issues as climate change and ozone depletion, while meeting challenges posed by the traditional environmental problems inside their countries. All these efforts require

large amounts of financial input, which is well beyond their capacity, given their present level of development. Therefore, it is necessary to furnish them with effective financial assistance.

8. The efforts to help the developing countries to solve their special, traditional, regional and domestic environmental problems are closely related to their extensive participation in international actions aimed at solving global environmental issues. In view of the fact that the developing countries are beset with economic underdevelopment and serious environmental problems domestically, if funding consideration is given only to the GEF-listed global issues without giving priority to the real needs of the developing countries, then, it will still be very difficult to endure their full, sustained and effective participation. It is hardly a comprehensive and realistic view to believe that financial assistance in certain areas will get all countries at different stages of development effectively mobilized.

9. The 1992 Conference on Environment and Development, as an important opportunity to promote even more extensive and in-depth global cooperation on environment and development, will, in addition to formulating document(s) aimed at mobilizing the international community, work to achieve a number of substantive results which will serve as the basis for follow-up actions of the future. The Green Fund, which provides a new way of funding, has already received the endorsement and support of many countries, and may become an attractive and important practical solution.

The Main Areas of Application of the Green Fund

10. In accordance with the Beijing Declaration, the Green Fund is aimed at solving the special environmental problems facing the developing countries which are not covered by the existing specific legal instruments. It will be used mainly in:

(a) Preserving forests (including mangrove forests), planting trees and increasing vegetation;

(b) Increasing the supply capacity of fresh water resources, preventing and treating water degradation;

(c) Preventing soil degradation, including control of soil loss and desertification.

11. When using the funds from the Green Fund in the above-mentioned areas, consideration will be given to the following needs:

(a) Provision of subsidies for the developing countries to purchase, on preferential terms, intellectual property for relevant technologies of environmental protection or environmentally sound technologies for economic development, and promotion of their transfer to and application in the developing countries;

(b) Provision of credit to the developing countries to help their projects of land development and ecosystem improvement, particularly their projects on large-scale afforestation, vegetation expansion and management, rational use of water resources and water degradation control;

(c) Provision of aid for the developing countries to strengthen their work of formulating environmentally sound socio-economic development programmes and their capacity to implement them, with particular emphasis on needed institutional facilities and personnel training;

(d) Provision of aid for the developing countries to develop demonstration projects which coordinate environment protection with development, such as eco-farming, alternative energy (hydro, wind or solar) projects.

The Mode of Fund Raising of the Green Fund

12. The Green Fund may follow the example of the existing economic development assistance funding institutions of the world in its fund raising efforts. Namely, the developed countries and the relevant international agencies will provide most of the funds. The developing countries will contribute as they can afford on a voluntary basis. The fund-raising methods could be diversified to include:

(a) A percentage formula, such as a certain percentage of GNP or United Nations membership assessment;

(b) Voluntary contributions by various countries;

(c) Intergovernmental grants, both bilateral and multilateral;

(d) Contribution by non-governmental organizations and individuals;

(e) Other creative methods of fund-raising, such as SDR distribution, global bond issues or global stamps, pollutant discharge quota exchange and excessive per capita pollutant discharge fees.

13. Under the current circumstances, the first method will be the main channel to draw funds for the Green Fund.

The Management of the Green Fund

14. As to the mode of management of the Green Fund, considering the special nature of the environmental problems it is set to resolve, it is advisable to make it a separate international fund. A governing council, which should be small and capable, comprising equal numbers of representatives from the developing and developed countries, should be set up and take charge of making decisions on important matters. Its day-to-day operations can be entrusted to appropriate international agencies such as the World Bank, UNDP, UNEP or FAO. The coordination would be done at a certain level in keeping with the decision taken by the 1992 Conference on Environment and Development.



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PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND
DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY RESOLUTION 44/228
AND TAKING INTO ACCOUNT OTHER RELEVANT GENERAL ASSEMBLY RESOLUTIONS
CROSS SECTORAL ISSUES

Position paper submitted by Argentina and Brazil

Financial resources

FINANCIAL MECHANISMS FOR THE PROMOTION OF SUSTAINABLE DEVELOPMENT

I. Principles

1. The growing threat of imbalance in the global ecosystem is a direct consequence of development models that have been adopted since the first industrial revolution, especially in the developed world, where inadequate production, consumption, and waste standards have prevailed, particularly in regard to energy sources. In developing countries, environmental problems originate mainly from development models which have not created conditions to overcome poverty, with ensuing environmental degradation, which is aggravated by the limited access these countries have to environmentally sound technologies.

2. In order to solve the serious environmental problems of our days, efforts are required from the international community as a whole. The main effort must come from the highly industrialized countries, which are in a better position in terms of resources and which have played a more significant part in bringing about the damages and risks we are facing today.

3. The promotion of sustainable development is the fundamental goal of the Rio Conference. This concept was defined by the Governing Council of UNEP as the kind of development which meets the present needs without jeopardizing those of future generations and which does not imply, from any point of view, any interference in the national sovereignty of States. The implementation of sustainable development involves greater international cooperation, including assistance to developing countries, according to their national development plans, priorities and objectives. Sustainable development also depends on a favourable international economic situation capable of producing sustainable economic growth in all countries. Therefore, it requires a prompt solution to the economic crisis which affects the developing world through stepped-up flows of financial and technological aid to these countries. In addition, the consolidation of more equitable international trade mechanisms is essential. Finally, sustainable development implies the incorporation of environmental considerations into the planning process and economic policies, requiring substantial investments in the protection of the environment on a global and local scale without introducing a new form of conditionality to the funding of development.

4. Given the economic and financial restrictions developing countries face, the attainment of a common objective of sustainable development requires an expanded flow of funds to finance programmes and projects aimed at promoting environmentally sound development models in these countries, without sapping the funds already allocated to traditional international cooperation initiatives. These funds must therefore be new and additional.

5. The funds for initiatives directly related to protect and recover the quality of the environment are, in most cases, channelled to projects which produce none or very little financial return. A highly concessional component must also be incorporated to these funds, so that the disbursements may be made on a non-refundable basis or with preferential return rates, according to the characteristics of each project. One must not forget that important

social gains will be achieved by the implementation of environmental projects. This is an economic fact that would by itself justify the financing of such projects, either by national means or by the international community.

6. If the Rio Conference is to make fundamental decisions aimed at promoting sustainable development on a global scale and establishing a comprehensive action programme in this regard, we must bear in mind that the effectiveness and credibility of those decisions directly depend on a financial support mechanism capable of making the necessary investments feasible in the developing world.

7. In tune with the new rationale of sustainable development, it is worthwhile to point out that an environmental expense should be seen more as an investment, than a cost, especially in terms of the creation of social benefits, even if only on a long-term basis.

8. The new financial resources should be channelled by means of appropriate institutional mechanisms. The mechanisms available today are clearly inadequate for the new commitments to be taken on by the international community at the Rio Conference. The main problems of the "traditional" financing sources - bilateral cooperation, UNEP Environment Fund, multilateral financing institutions, and the Global Environmental Facility of the World Bank, among others - are the insufficiency or nonexistence of concessional disbursement modes, the imposition of conditionalities and limitations on meeting the recipient's priorities, and the "stagnant" treatment given to the environment and development issues.

9. In addition, the new resources cannot be limited only to financing initiatives related to environmental issues commonly defined as global. They should also serve the local and domestic environmental issues of developing countries. It is important to notice that there is not a hierarchy between the local and the global problems. Although local problems affect more directly the communities which experience them, they often have also an impact on the ecosystem of the planet as a whole.

10. The several multilateral legal instruments which are already available or are in negotiation on the global issues related to the environment (ozone layer, biological diversity, climate change, etc.) should include financial mechanisms of their own. This would ensure concessional resources to the developing countries, which are parties to it, aimed at covering, in full, the incremental costs of their obligations. Even if the developing countries accept the burden of international legal obligations related to the protection of the environment in connection with problems for which they are accountable only to a limited extent, they will hardly have the means to implement their commitments.

11. In addition to the mechanisms provided for in specific international instruments, a Fund for the Promotion of Sustainable Development (henceforth referred to as "the Fund") should be established on an open basis with the aim of financing solutions to the environmental problems faced by developing countries, and the expansion of their national technological capacities, as well as the environmental components of development programmes and projects, so as to promote the sustainable development model.

12. The contributions made to the various new mechanisms, that is, the Fund and the mechanisms linked to agreements on global issues, should be compulsorily provided by the countries that are in a position to do so. They should be preferentially set according to technical criteria, with the aim of guaranteeing the predictability and steadiness of the necessary resources to be applied in the different objectives involved. These resources will be channelled to the developing countries, which will have no obligation to contribute.

13. The financial resources to be invested in domestic programmes and projects of the developing countries would include the financing of the following initiatives, inter alia, according to Agenda 21:

(a) Basic sanitation projects in urban areas with a large concentration of population;

(b) Water decontamination and watershed protection projects;

(c) Control of chemical and solid waste, particularly of toxic and dangerous substances;

(d) Air pollution control in industrial areas;

(e) Protection and rational use of coastal zones;

(f) Protection of land resources: actions against desertification, deforestation, erosion, and drought; and support to rural communities, so as to settle population in areas with agricultural capability and alleviate pressure on forest areas;

(g) Actions aimed at eradicating poverty and improving living and working conditions in rural and urban areas;

(h) Actions aimed at promoting improvements in the conditions of health and education.

14. There should be a clear definition of the donor countries and the recipient countries. According to the decisions and recommendations of the Rio Conference and to the criteria adopted by the United Nations, the developing countries shall be the recipients.

15. The decision-making process in connection with the different financial mechanisms - the Fund and the mechanisms of the conventions - should be based on the representation on a parity basis of the recipient and donor countries. It should preserve the decision-making autonomy of the parties to each of the agreements on global issues and a corresponding system should be conceived for the Fund.

16. The terms for the disbursement of resources allocated to each environmental project financed by the Fund and by specific mechanisms should be adapted to the nature of such projects, taking into account not only its financial return features, but also its dimension and extension.

II. Financing Mechanisms

17. A first issue to be considered is the definition, even if approximately, of the amount of resources needed to meet the priorities of the developing countries and their commitments in connection with the agreements on global issues. Some data is available in the document on Financial Mechanisms prepared by the secretariat of UNCED to inform the debates of the III Session of the Preparatory Committee (A/CONF.151/PC/51):

(a) Total amount of Official Development Assistance (ODA) - 55 billion dollars/year, which is a modest figure as compared to the 25-trillion-dollar global-wide GDP, and which corresponds to about 0.35% of the GDP of OCDE countries, and only half of the 0.7% of GDP goal for ODA set up by the United Nations;

(b) Additional resources necessary to assure a minimum growth rate combined with environment-protecting strategies in LDCs: 60 billion additional dollars in 1990, reaching a sum of 140 billion additional dollars in the year 2000 (WIDER - World Institute for Development Economics Research, United Nations University);

(c) According to WIDER, the above-mentioned sums can be fully covered by the international financing capacity. The key issue is political will.

18. "Accurately" defining the sums may be a time-consuming task, and this fact should not be used as an excuse to impose obstacles on the creation of appropriate financial mechanisms and their implementation. The definition of necessary sums will be refined as operation of the Action Programme to be adopted by the Rio Conference begins.

19. The precedent of the Montreal Protocol Fund and the experience acquired during its first year of activities must be taken into account in the process of establishing the new financial mechanisms. Identical or similar solutions to the ones defined by the parties to the Protocol will be used as a basis for the referral of concrete proposals on the following points:

(a) Institutions under which the different financial mechanisms will be established;

(b) Financial management (a Treasury function);

(c) Decision-making on the financing of projects;

(d) Implementation and follow-up of operational activities;

(e) Institutions responsible for the secretariat function of the Fund.

III. Proposal for the Creation of the Fund for the Promotion of Sustainable Development.

20. The Rio Conference will decide on the institutional location of the Fund. The institution under which the Fund will be created would be basically charged with treasury functions.

21. The new Fund will be served by a small secretariat, but one consistent with its assignments.

22. The decision-making process related to the approval of projects within the context of the Fund will require the participation on a parity basis of donor and recipient countries.

23. Designed International Institutions will act as "implementing agencies" within the limits of their institutional competence. The terms set for the cooperation between these "agencies" and the Fund will be defined by means of agreements individually negotiated with each "agency".

IV. Setting Criteria for Compulsory Contributions to the Financial Mechanisms

24. The contributions to the future financial mechanisms should be defined according to specific criteria. It is also important to set a goal for the total amount of annual contributions, thereby ensuring the predictability of resources needed to finance the desired actions.

25. The financial mechanisms to be defined by the different conventions being negotiated at present should include the criteria for setting the contributions. Therefore, the assumptions listed below are more specifically related to the criteria which are applicable to the establishment of contributions to the Fund for the promotion of the sustainable development.

26. Bearing in mind that certain patterns of consumption and the use of some products, directly or indirectly, play a role in generating environmental problems, compulsory contributions could be set in order to promote the adoption of sustainable patterns worldwide and discourage the patterns of production and consumption that prevail in developed countries. An example which has been very often cited due to its contribution to pollution and environmental damage is the use of fossil fuels. The choice of the products and the value of contributions as a percentage of their consumption should be evaluated by specific fora of experts. One of the main advantages of this proposal is the fact that it is based on equity: excluding the developing countries, for obvious reasons, those countries among the developed countries with high rates of consumption should afford higher economic costs. An additional advantage is that low values established for widely-consumed products will produce substantive contributions, as the following examples show:

(a) Consumption of oil barrels in OECD countries: 37.5 million barrels/day = 13,687,500,000 barrels/year (1989). A tax of \$US 1 on the consumption of each oil barrel (or equivalent product) would produce an annual global revenue of about 13.6 billion dollars;

(b) Motor-driven vehicles in circulation in OECD countries: in the USA alone, there are 177,135,000. A contribution of \$US 10 for each vehicle/year would yield 1,771,350,000/year.

(c) Daily circulation of newspapers in OECD countries: in the USA alone, there are 267 copies/1,000 inhabitants (1983), or 63,546,000 copies/day = 23,194,290,000 copies/year. Contribution of \$US 0.001 for each copy: \$US 23,194,290,000/Year.

27. Each country should define its own means to raise resources to cover the cost of its contribution.

V. Raising Additional Resources for the Fund

28. Many innovative approaches may be considered in this connection, in addition to the compulsory contributions:

(a) Issue of Bonds. Environmental control projects would be funded by means of the issuance of bonds by international organizations, endorsed by the industrialized countries. The bonds would have a long reimbursement term (20 to 30 years) and the interest would be paid by the endorsing countries. The interest paid to the purchasers of the bonds would be low and would be free of taxes in the respective countries;

(b) Clearing house. Projects within the interests of developing countries would be submitted to the secretariat of the Fund. The latter would act as a clearing house, spotting possible alternative bilateral or multilateral financing sources. If the financing for the project is insufficient, it would be referred to the Executive Committee of the Fund, which would discuss the possibility of complementing the sums with the Fund's own resources. The main advantage of this system is that it allows the donors to apply their disbursements to earmarked projects.

(c) Green Mail. As a complementary resource-raising mechanism, an environmental stamp would be created to be used compulsorily in all international correspondence. It allows private individuals to make donations just by buying stamps. The idea has a strong marketing appeal. Just to illustrate the volume of resources that could be raised, it is worthwhile checking the following data:

- (i) International correspondence (letters, "petit paquets", printed matter, etc.) exchanged in 1989: 8,224,000,000 units;
- (ii) Correspondence (only regular letters) sent by the developed countries alone in 1989: 3,750,000,000 units;
- (iii) Total domestic and international correspondence sent in 1989: 431,000,000,000*;

(d) Contributions from multilateral credit organizations. Also as a complementary mechanism, part of the net income of these institutions would be annually channelled to the Fund;

* Source: UPU data, provided by the Brazilian Mailing and Telegraph Company

(e) Contributions from international indemnification and compensatory payments related to environmental accidents could be used as a capitalization mechanism for the Fund, if the Rio Conference makes a decision in that connection;

(f) Utilization of the Special Drawing Rights of the IMF;

(g) The importance, in this context, of improving terms of trade, with the consequent need to reduce the net transfer of resources from developing countries towards multilateral financial organizations.

VI. Resource-Raising by the Countries on Individual Bases

29. Debt for environmentally sound development programmes may be applied to countries individually and according to their convenience. It should not be regarded as a solution to be internationally advocated.

30. A system could also be devised according to which the resources from interest and principal payment of loans borrowed with the aim of promoting sustainable development would not necessarily return to their sources. In some cases, which are yet to be defined, these resources would be kept in national Funds set up according to the domestic rules of each country and in local current, to be allocated to environmental protection projects with no financial return. This proposal would be implemented without harming in any way the continuous flow of new resources to new projects. The advantage of this proposal is that it alleviates the foreign debt of the countries involved. The disadvantage is that it "stamps" the allocated money as a loan, which remains in the recipient country.

**SUSTAINABILITY, INTERNATIONAL ECONOMY,
INTEGRATED ECONOMIC-ENVIRONMENTAL ACCOUNTING AND
ECONOMIC INSTRUMENTS**

SUMMARY

This issue covers the interface between economy and the environment, and mechanisms for integrating environmental objectives into current trade and financial practices. The international economic system and current international trade rules were questioned from both developmental and environmental perspectives. It is clear that there is considerable pressure for change in the way the international economy works and in the current framework for international trade, carrying implications for institutions concerned with these matters, particularly the GATT.

Documentation

A/CONF.151/PC/46	The Relationship between Demographic Trends, Economic Growth, Unsustainable Consumption Patterns, and Environmental Degradation
A/CONF.151/PC/47	The International Economy and Environment and Development
A/CONF.151/PC/48	Environment and International Trade
A/CONF.151/PC/49	Integrated Economic Environmental Accounting
A/CONF.151/PC/50	Utilization of Economic Instruments
A/CONF.151/PC/68	Recent Actions of Intergovernmental and Other Bodies of Relevance to the Preparatory Process
A/CONF.151/PC/L.50	Decision: Sustainability, International Economy, Integrated-Environmental Accounting and Economic Instruments

PREPCOM DISCUSSION

Canadian objectives on this cluster focused principally on:

- support for and agreement to examine further the concept for a coordinated approach to the use of economic instruments, including the principle of Polluter Pays;
- the examination of the UN institutional framework with a view to establishing closer links with the work of the OECD and other international organizations on economic instruments and of ways and means to assist developing countries develop greater capacity to undertake analysis of the application of economic instruments to meet environmental objectives.

Most delegates addressed one or at most two of the PC documents. Reflecting national and/or regional priorities, G-77 countries focused more on PC47 (International Economy and Environment and Development) and PC48 (Environment and International Trade), while industrialized nations spoke more to PC49 (Integrated Economic-Environmental Accounting) and PC50 (Utilization of Economic Instruments).

A. International Economy and Trade

Overall there exists a consensus that the current trade regime must change, *inter alia* to encompass environmental considerations, although views differed on where and how that change should occur. Views and proposals centred around the triad of trade, development and environment with all delegates agreeing that the last should not be used to inhibit or distort the first two. The principle of internalizing environmental cost into the pricing system was raised repeatedly as was harmonization of environmental standards (taking into account national capacity and providing mechanisms for capacity building where necessary).

The role of the GATT in integrating trade and environmental policies, in setting standards and in dispute settlement was raised by a number of delegates, with one delegate (Venezuela) calling for an environmental agenda for the GATT, and both G-77 states and the EC calling for the added involvement of other UN agencies involved in environment (UNEP), development (UNDP, FAO) and trade (UNCTAD). The EC and the US, in their interventions on trade, emphasized that free trade is a positive force for the environment in allowing more efficient operation of the market, particularly if prices reflect environmental cost.

B. Utilization of Economic Instruments

Economic instruments were addressed in a positive light by developed countries, with many pointing to the useful work underway in international financial bodies such as the OECD, IMF and the World Bank. A number gave details about their own national experiences and Japan, Germany, Norway and EC emphasized the critical role that regulation has played in achieving environmental objectives in trade and industrial policy.

G-77 states were more cautious, emphasizing that instruments must be under domestic control and take into account national contexts, and Argentina's statement on behalf also of Brazil and Uruguay qualified its support of economic instruments by citing the need for an initial situation of a distortion free pricing system (i.e., total absence of subsidies, tax incentives), the inclusion of environmental cost in the regulatory framework, and a system of Polluter Pays with income derived allocated to environmental purposes.

There was general concern, chiefly amongst developing nation delegates but also in developed delegates, that any measures or regulations established to achieve environmental policy objectives not become a new form of protectionism, and that all measures be non-discriminatory and based on scientific evidence.

C. Integrated Economic-Environmental Accounting

The EC's first statement dwelt on the benefits of improved national accounting and the integration of environmental information to project economic performance. Norway's intervention included the description of a system of satellite accounts of emissions and its link to economic activity through which it is now able to project future emissions using macroeconomic models and suggestions for future integrated activities to establish a better basis for policy-making.

The US intervention also described its efforts to improve its system of economic-environmental accounting and expressed support for technical support to developing countries in this area. Finally, DIESA gave a statement describing its work to increase the level of environmental accounting and the need to establish and maintain integrated databases.

OUTCOMES AND ASSESSMENT

The Plenary approved by consensus Decision L.50 calling on the Secretary General to continue working on the issues within this agenda cluster and to submit to the Fourth Prepcom proposals for Agenda 21.

Certain issues covered in this agenda item are emotive, and lend themselves to divisions on North/South lines. It is clear that developing countries are looking for fundamental changes in the international economic system in their focus on terms of trade, debt, commodity price stability and flows of financial resources as the principal factors in inhibited development and, as a corollary, increased environmental degradation.

They did not, however, shut the door on the examination of economic instruments and environmental-economic accounting but recognized that these are closely linked to capacity building. There was general agreement that substantial review of the institutions (UN and inter-governmental) and their linkages are required in each area within the agenda cluster.

The final decision, to request specific action proposals from the Secretariat for consideration by the Fourth Prepcom, was reached without substantive discussion. This was perhaps inevitable given that this was the first Prepcom session in which these issues were discussed. While nothing in the decision runs counter to Canadian objectives, the next session of the Prepcom and the emission of documents by the Secretariat will provide a clearer indication of the direction of future discussions on these questions.

Note to all Members of the Delegation:

STATEMENT ON ECONOMIC INSTRUMENTS

Attached is a Canadian statement on this subject to be made in plenary on Monday, September 2.

Adriaan de Hoog

CANADA

UNCED PREPCOM III
PLENARY: ITEM 2C

ECONOMIC INSTRUMENTS

Mr. Chairman,

My New Zealand colleague has addressed documents PC/47 and 48 and we fully concur with his statement. My comments are on documents PC 49 and 50. They are important and very good documents. They deal with an issue, the integration of environmental with economic and development policies and approaches, that in the longer term is more likely to bring about sustainable development than almost any other one.

PC/50 is a very useful tour d'horizon of current international thinking on the economic instruments that can speed environmentally sound and sustainable economic growth. OECD Environment Ministers discussed economic instruments at length last January. Their conclusions are outlined on pages 28-30 of document PC/50. We urge all delegations to look through those conclusions, as indeed through the relevant paragraphs of all the political statements contained in Annex 2 of the document. They graphically show a global political recognition that the environment and economy link is a fundamental one.

The key point to keep in mind when discussing economic instruments is that it is an area for national decision making. Each country must get its own economic policies right; each country will have to

decide on the best workable mix of regulatory action, taxation, incentive schemes, subsidies and the use of price signals and market forces. Where we can collectively make progress in the development of new economic levers is through the sharing of experiences and through case studies.

In terms of further work, we have several suggestions: First, the Secretariat should actively pursue this area for the next PrepCom. The ongoing work in the OECD in breaking new ground is valuable and should be made full use of, along with the work of other international organizations.

Second, all UNCED participants should bring their national work to the attention of the Secretariat. Summaries of such national efforts could be collated and made available to PrepCom IV. In Canada, for example, we are finalizing a comprehensive discussion paper on the use of economic instruments as a prelude to possible eventual economic policy decisions.

Third, the question of technical assistance to developing countries in this area to meet their special needs should be addressed. Regional seminars on this question would be useful for the economic and environment policy makers of developing countries. A clearing house to share information, mentioned in PC 50, would be very useful. These kinds of activities should be carried out through the collaboration of the IBRD, UNDP and UNEP.

Finally, Agenda 21 should specifically and clearly recognize the

importance of market mechanisms to achieve environment and development goals as well as the vitally important role of national policy making for making full use of economic instruments.

Concerning document PC/49: We believe that developing new approaches to systems of national accounting will be essential for policy makers to ensure that their decisions are not leading to long-term economic and environmental impoverishment. The presentation in PC/49 is most helpful to arrive at a better understanding of the issue. It is also extraordinarily complex, however, and we would look forward to the results of case studies demonstrating how a standard system of National Accounts and a system of integrated Environmental and Economic accounting would compare. This would show the value for rational decision making of an SEEA. We urge the Secretariat to build on PC/49 for PrepCom IV.

Lastly, I would like to inform the meeting of an International Forum on Environmental Information for the 21st Century held in Montreal last May which was relevant to the whole area of environmentally sound economic decision making. It arrived at many practical recommendations. The forum was co-sponsored by the OECD, UNEP, the International Chamber of Commerce, the World Resources Institute and the World Environment Centre. The Recommendations of the Forum are attached in a document which can be found on the table at the back of the room.



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CONFERENCE ON ENVIRONMENT AND DEVELOPMENT
Third session
Geneva, 12 August-4 September 1991
Agenda item 2 (c)

PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND
DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY RESOLUTION 44/228 AND
TAKING INTO ACCOUNT OTHER RELEVANT GENERAL ASSEMBLY RESOLUTIONS

CROSS-SECTORAL ISSUES

Draft decision proposed by the Rapporteur, Mr. Ahmed Dioghlaif (Algeria)
on the basis of informal consultations

Sustainability, international economy, integrated-
environmental accounting and economic instruments

The Preparatory Committee,

Recalling General Assembly resolution 44/228,

1. Takes note with appreciation of the reports of the Secretary-General on sustainability, international economy, integrated economic-environmental accounting and economic instruments contained in documents A/CONF.151/PC/46-50;

2. Requests the Secretary-General to continue work on these issues and to prepare and submit to the Committee at its fourth session proposals for action on relevant issues pertaining to sustainability, international economy, integrated economic-environmental accounting and economic instruments, to be included in Agenda 21 in accordance with its agreed structure as contained in decision [contained in document A/CONF.151/PC/L.49], taking into account views expressed by delegations at the current session.

Form 675 (G.15)
PROJET DE **Plusdex** - PROJET 55
MONTREAL TORONTO

TRANSFER OF TECHNOLOGY

SUMMARY

Discussions on this issue area opened in the last week of the Prepcom, with three days allowed for formal and informal sessions. The resulting time constraint meant limited opportunities for in-depth exploration of the options on technology transfers. The G-77 in both their statements and draft resolution (A/CONF/151/PC/L.46) continued to emphasize the need for new mechanisms to transfer technology on "concessional and preferential terms". There was also a direct link to the need for financial resources. OECD countries focused on capacity building - with several variations on the theme developed in the Secretary General's report (PC/53).

In the end, due to time constraints exacerbated by the nature of the debate on the issue, no substantive draft decision could be agreed upon and the subject was put over to PrepCom IV with a request for the Secretariat to produce "draft options" for Agenda 21. Of note is the requirement that each of the ten sectors of Agenda 21 also deal with Transfer of Technology. This has the potential to direct the issue at specific problems and activities. It also has the potential to complicate negotiations by diffusing debate.

DOCUMENTATION

- A/CONF.151/PC/53 - Report on Transfer of Technology
- A/CONF.151/PC/L.46 - Draft decision on Transfer of Technology submitted by G-77 and China
- A/CONF.151/PC/L.53 - Draft decision on Transfer of Technology submitted by Vice-chair
 - Preliminary Summary of Plenary Session Statements on Transfer of Technology submitted by the Vice-chair
 - Draft - A Technology Cooperation Framework for Sustainable Development (US informal paper)
 - Informal written comments on PC/L.46 by
 - (1) Canada
 - (2) US
 - (3) Netherlands (EC)
 - (4) US

PREPCOM DISCUSSION

Specific objectives for the Canadian delegation to PrepCom III include:

- to build on the "capacity building" concept as outlined in the Secretariat document;
- to determine if and how country studies being pursued in the biodiversity and climate change conventions might be extrapolated to other areas;
- to gather views from other countries on how to approach this issue at UNCED, and to ascertain the principal concerns of developing countries;
- to represent Canadian commercial and economic interests with respect to transfer of technology;

In the discussions, several developing countries emphasized their view that transfer of technology should be effected on preferential and concessional terms (Pakistan) or preferential and non-commercial terms (India and Egypt). At the same time, the G-77 spokesperson (Ghana) focused more on the need to improve overall flows of technology, endogenous capacity building and the need to monitor technology use in developing countries (eg. limiting the transfer of outmoded (ie. "dirty") technologies and limit the use of developing countries as testing ground (eg. in biotechnology). This view was reflected in the individual interventions of several ASEAN countries. For OECD member countries, several themes recurred. These included the fundamental importance of human resource development (EC, Nordics, CANZ, US), the danger of overemphasis of Intellectual Property as an issue (EC, CANZ), the need to improve information on technologies (EC, US), and the essential role of the private sector in the transfer of technology.

The G-77 introduced a draft decision (PC/L.46) designed to set the framework for a fuller discussion of Transfer of Technology at PrepCom IV. Its main emphasis was the creation of "mechanisms" to transfer environmentally sound technology; the establishment of these mechanisms was linked directly to the financing issue (a recurring theme in all interventions made by developing countries). There were extensive references to the role of developed countries in the Transfer of Technology but the intellectual property issue was not emphasized.

Following an informal session, and with written amendments from the EC, USA, and Canada, a session of informal negotiations on the draft decision was held. Unfortunately, several key delegates, principally from the developing countries, were absent, restricting the breadth of the dialogue.

The final informal session based its discussions on a text introduced by the Chair. The Saudi Arabia and Indian delegates were very active at this session with the Indian delegate referring as much to the G-77 text as to that of the Chair. Unresolved issues were highlighted as bracketed text in the draft decision, which the group eventually agreed to send to the Fourth PrepCom.

OUTCOMES AND ASSESSMENT

It was not really possible to do more than open the discussion on this issue given the limited time given to it, explaining in part the limited progress made at this Prepcom. It is clearly a priority issue for developing countries, although variations appeared in the approach taken by different countries.

The emphasis by the G-77 on "mechanisms for" and "financing" of Transfer of Technology reinforces the linkages between the Transfer of Technology, financial resources and institutional issues. The Fourth PrepCom promises to be a difficult one for Transfer of Technology in its own right and in terms of the development of a "package" on the three issues collectively. The need now to deal with Transfer of Technology in each of the separate Agenda 21 chapters may exacerbate the difficulties. While this approach may lead to some concrete proposals on Transfer of Technology in some areas, the diffusion of the discussion could lead to proposals for new institutions, mechanisms, financing, information systems, etc.

DRAFT STATEMENT
TRANSFER OF TECHNOLOGY
CANADA, AUSTRALIA AND NEW ZEALAND
AUGUST 28, 1991

The governments of Australia, Canada and New Zealand welcome the importance being attached to transfer of technology as we believe that science and technology in their broadest sense will be critical factors in ensuring the sustainable development of our home planet-earth. Technology alone will not of course be a panacea - a large number of other elements will also be important including most especially values - economic, social, cultural and personal. However, as technology and its use have been a large part of the problem - technology and how it is applied will have to be a large part of the solution.

This we agree will lead to the need to develop new and improved technologies as well as ensuring that both the existing and new technologies best suited to the problem involved will have to be more effectively transferred and diffused.

A crucial need in the move to sustainable development is the need to promote greater levels of international cooperation in both the development and diffusion of technologies and practices which are less damaging at the outset to our land, air and water resources.

All three of our countries have a great deal of experience in the international transfer of technology. As small countries in population terms, we all import a great deal of the technology we need to do the things we need done. Needless to say, the vast majority of this technology is transferred by the private sector through normal market mechanisms with little or no government involvement.

We believe it is important for governments individually and collectively to encourage technology transfer by providing the best possible economic and public policy climate possible for these transactions. We must ensure that there are minimal barriers to both the import and export of technologies. We must also, as governments, try to remove distortions that might affect the development application, and transfer of technologies that are both environmentally sound and best meet development needs.

We are generally satisfied with the approach to technology transfer taken in the Secretary General's report as contained in PC/52, if not always with the details. It gives a good overview of some of the more important elements of the transfer of technology debate in an extremely constructive manner. Two or three points do in our view warrant some comment at this time.

One relates to the whole question of "best available technology" or "most advanced technologies". In our view, we should really be talking about what engineers call "best practice technologies". The best technology, in economic and environmental terms, to address the particular problem in a given social and economic context. This will change from case to case and place to place. Different contexts will require different solutions and thus different technology mixes. These will seldom be so called "state of the art" technologies which are often uneconomic for companies and other institutions anywhere.

A second point relates to the debate about the influence of intellectual property protection on the transfer of technology. In our view, this is a largely exaggerated problem in terms of both effect on whether a technology is transferred and the additional costs of the transfer. It is, however, a major incentive to the development of technology, and will continue to be so, in the search for the new technologies needed to ensure sustainable development. While there are from time to time cases where the monopoly provided to owners of patents is abused, and there may be a need to address remedies to these relatively rare situations, we do not believe that UNCED is the forum for that discussion.

A third point relates to what might be called the "choke point" in technology transfer. From our perspective we do not believe there is a fundamental problem in the supply of technology - there are thousands of companies and institutions out there flogging their technologies in virtually all of the areas addressed by the UNCED agenda, given the demand, new technologies will be developed which respond to problems on an even more environmentally sound basis. The problem, and we have them too, are demand problems - in being able to identify the problems, the technologies needed to address these problems - in decision making (both technical and economic) about which technologies and other factors best match the total set of circumstances being addressed.

This quite logically leads me to one of the elements of the Secretary General's report with which our delegations were particularly pleased - namely the section on capacity building. While we have several comments we might make on this section, we must say that we believe the general approach is the one that will prove most useful in dealing with the practical problems of assisting developing countries to develop, transfer, adopt and adapt technologies best suited to their own environmental and developmental needs.

In this regard, we must also say we have noted the proposals made by the United Kingdom and the USA, there and in other fora. We believe that these initiatives complement the approach being

taken by the Secretary-General in his proposal on capacity building.

One point on capacity building we would like to emphasize is the need to review not just the "hard" capacities such as R and D facilities, education and training associated scientific research and technological development. Capacity building should also include the development of S and T policy institutions and the ability to legislate and regulate based on sound scientific knowledge of the problems, and available solutions (both technology based and others). We believe that the most fruitful dialogue on the transfer of technology lies in pursuing this theme of capacity building, in exploring what can be done that is new, different and additional in efforts to further build up the science and technology capacities of developing countries to identify, assess and solve development needs and environmental problems. How can the existing mechanisms for international cooperation, public and private, facilitate the strengthening of endogenous capacities and what role should various parts of the UN play are important questions which we look forward to discussing with others.

We do not believe that a regurgitation of the twenty-year old debate on the terms and conditions of technology transfer will serve UNCED or the cause of sustainable development well.

The debate has become in our view exceedingly sterile, with the basic positions of most countries well known.

At the end of the day, two fundamental things have to be kept in mind: (1) technology transfer is primarily conducted on a commercial basis. As a commercial transaction, the terms and conditions are always subject to negotiation by the parties involved. With few exceptions, it is not an area where we believe that there is a large direct role for governments, although there could be a significant catalytic role; and, (2) Technology Transfer is a "body-contact sport". It is not an abstract undertaking and engineers, scientists, technicians and others do it through hands-on efforts to solve problems and create new and improved goods and services.



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PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND
DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY RESOLUTION 44/228
AND TAKING INTO ACCOUNT OTHER RELEVANT GENERAL ASSEMBLY
RESOLUTIONS

CROSS-SECTORAL ISSUES

Draft decision proposed by the Vice-Chairman, Mr. E.S. Utheim (Norway)
on the basis of informal consultations

Transfer of technology

The Preparatory Committee

Recalling General Assembly resolution 44/228

1. Takes note with appreciation of the report of the Secretary-General on the Transfer of Environmentally Sound Technology (A/CONF.151/PC/53),
2. Requests the Secretary-General of UNCED
 - (a) to transmit the text of the Coordinator (annexed to this decision) to the fourth session for further negotiations;
 - (b) to continue work on these issues and to prepare and submit to the fourth session draft options for Agenda 21 taking into account the Coordinator's text and the discussions during the Plenary and the informal consultations.

ANNEX

Coordinator's text on

THE TRANSFER OF ENVIRONMENTALLY [SAFE AND] SOUND TECHNOLOGY

(on the basis of A/CONF.151/PC/L.46, informal consultations)

The Preparatory Committee decides to deal, at its fourth session on the basis of General Assembly resolution 44/228, with the issue of transfer to the developing countries of environmentally [safe and] sound technology and the corresponding technical know-how taking into account the objectives and programmes that may emerge in Agenda 21 which should include the following elements:

1. The concepts included in paragraph 15 (m) of resolution 44/228,
2. The [identification] [and examination] with a view to the establishment and/or development of appropriate international and national mechanisms to promote, facilitate and finance the transfer of environmentally [safe and] sound technology including on concessional and preferential terms, without prejudice [to the protection of intellectual property rights or] to specific commitments and arrangements on transfer of technology to be adopted in specific international instruments regarding the protection of the environment. In this regard, [the Fourth Preparatory Committee Session should discuss with a view to arriving at an agreement on recommendations to the Conference on such mechanisms which aim at:] such mechanisms should also aim at:

New para 2(a):

(a) [Encouragement of improved flows of environmentally [safe and] sound technology to developing countries, also making uses of commercial mechanisms.]

(a) Supporting the development of endogenous capacity building in developing countries through, inter alia, the development of human resources and the strengthening of institutional capacities in R & D on the basis of country and sector specific assessment of the technology needs, in accordance with the plans, objectives and priorities of these countries

(b) [Helping to ensure] [Ensuring] the access, particularly of developing countries, to scientific and technological information, including state-of-the-art technologies, inter alia, through the establishment and/or development of international information networks and their databases, based on regional and national centres, easily accessible by potential users to information related to technological options, trading conditions, implementation costs, and technological [security] [safety],

(c) Exchanging experiences of and developing the capacity for technology assessment, environmental impact and risk assessment of technology, (particularly new technologies) in particular in developing countries to enable them to make choices based on environmentally [safe and] sound technology.

(d) Purchasing [appropriate] [environmentally [safe and] sound technology] patents for their transfer to developing countries on non-commercial terms [as part of aid packages].

[Purchasing patent licences on commercial terms for their transfer to developing countries on non-commercial terms.]

[Facilitating the transfer of intellectual property rights between countries where such action is essential to the success of the project.]

[Facilitating transfer of appropriate technologies including intellectual property rights to the developing countries in various modalities as part of aid activities.]

(e) Developing [appropriate] international safeguards on the transfer of technologies, especially new technologies, which are subject to restriction or prohibition on environmental or health grounds in the country of origin;

(f) Sponsoring regular and short-term visits or facilitating [on a voluntary basis] the permanent return of qualified experts in the field of environmentally [safe and] sound technologies who are of developing-country origin and are currently working in developed country institutions;

(g) Facilitating the maintenance and promotion in developing countries of environmentally sound indigenous technologies that may have been neglected or displaced.

New para 2:

2. [[Recognition of the needs to facilitate] [Facilitation of] the roles of market mechanisms, private sector, trade expansion, and intellectual property rights in promoting further advances in technology development, cooperation, and transfer.]

3. Ways and means to promote long-term technological partnerships between the holders of environmentally sound technology and potential users in developing countries, inter alia through increase of direct investment, joint ventures and joint R & D programmes; taking into account developing countries objectives and policies.

4. The creation [promotion] by [developed] [all] countries of systems of incentives, fiscal or otherwise to stimulate and increase the transfer, by companies operating under their jurisdiction [and control], of environmentally [safe and] sound technologies in particular to developing countries [whilst ensuring that intellectual property is protected].

5. Support for programmes of cooperation and assistance including that provided by United Nations agencies and international organizations to developing countries in the field of R & D, technological and human resources capacity building in the fields of training, maintenance and environmental impact assessments.

6. Ways and means to promote and strengthen favourable access by the developing countries to processes, equipment, research and expertise related to the development and use of environmentally sound technology.

7. Ways and means to support regional and national programmes of scientific research, dissemination of information and technology development among developing countries, including through the involvement of both public and private enterprises and research facilities, as well as funding for TCDC programmes in this areas.

8. [The easing of the transfer of patents and know-how, including the issues of the period of patent protection.]

[The strengthening of the transfer of patents and know-how, including the examination of the issues of the period of patent protection, taking into account also the on-going work in WIPO.]

9. To agree on incorporating [encourage the incorporation of] the transfer of environmentally sound technologies to developing countries in negotiating an International Code of Conduct on Transfer of Technology.

POVERTY AND POPULATION

SUMMARY

For the developing countries, the issue of poverty was the key 'development' issue of the PrepCom. They were therefore concerned that it came so late in the agenda and was allocated only one day for consideration along with a cluster of other issues which included health, education and population. Interventions spoke mainly to the issue of poverty but many, including developing country delegations, said that population was an essential issue to address in combatting poverty.

Other highlighted issues included were the role of the international financial and trading systems in creating and perpetuating poverty in developing countries, the need for developed countries to reduce consumption and change lifestyles, the role of women and the need to work more with indigenous peoples and local communities.

Documentation

- | | | |
|----------------------|---|--|
| A/CONF.151/PC/45 | - | Poverty and environmental degradation |
| A/CONF.151/PC/46 | - | The relationship between demographic trends, economic growth, unsustainable consumption patterns and environmental degradation |
| A/CONF.151/PC/CRP.14 | - | Cross sectoral issues: poverty, education, health, Chairman's Summary |
| A/CONF.151/PC/L.40 | - | Women in environment and development: Decision |
| A/CONF.151/PC/L.47 | - | Youth in environment and development: Decision |
| A/CONF.151/PC/L.48 | - | Indigenous peoples and local communities: Decision |
| A/CONF.151/PC/L.51 | - | Cross sectoral issues: poverty, sustainability, health, education, Decision |

PREPCOM DISCUSSION

The following Canadian objectives were identified for the third PrepCom:

- To encourage greater focus on the issue of the national and international inequitable distribution of economic resources;
- To have the Prepcom seriously address the role and status of women within the economy.
- To encourage examination of consumption patterns in middle income and rich nations and develop proposals for action to enable countries to achieve a sustainable balance between their population size, natural resource endowment and standard of living.
- To promote more effective poverty reduction strategies based on bottom up approaches to planning, local and traditional technologies and the integration of women and indigenous peoples into decision making and to monitor such strategies through the development of appropriate indicators.

The meeting opened with a plea from the director of UNIFEM to include women as a sector in their deliberations as majority of the world's population. Subsequent

presentations touched on the need to change human behaviour and values and to address health issues. Many delegations referred to population issues and the need to contain growth in this area. Very few delegations referred to the need for education. One of the exceptions was Australia who in their general statement on education included a reference to the ECO-ED conference in Toronto.

The G-77 focused on international economic issues and the need to address these seriously. They criticized the Secretariat paper PC45 for focusing exclusively on national policies as the principal cause of poverty in developing countries. Their intervention looked in some detail on the statistics relating to the flow of resources between developing and developed countries. They argued that massive transfers from poor to rich countries caused perennial balance of payments difficulties, necessitating the introduction of structural adjustment measures. Since these programmes focus on short term measures intended to reduce public expenditure, they create considerable economic and social dislocation and further exacerbate conditions of poverty in the countries concerned.

The EC linked the issues of poverty and affluence and referred to the concept of primary environmental care. They spoke about the environmental health aspects of development with respect to the issues of urbanization, toxic chemicals and hazardous wastes. They welcomed the establishment of the WHO Commission on Health and Environment. They went on to say that the rich who are mainly found in the industrialized countries use a disproportionate share of the world's renewable and non-renewable resources and discharge their waste into the environment in quantities that exceed the ecosystem's absorption capacity. They called for equal access to natural resources. They also pointed out that security of land tenure was an important issue to consider when looking at poverty and environmental degradation. They called for clearer elaboration of the document which looked at consumption patterns and urged that sustainable development be translated into national policies.

Sweden, on behalf of the Nordic countries, spoke of the unsustainable consumption patterns of the rich countries. They felt that the main responsibility for reducing poverty rested with national governments. The necessary policies should be based on regarding people as an asset, providing basic social services to the poor and looking to the redistribution of wealth and resources within countries. On an international level the efforts of developing countries needed to be supported by favourable external economic conditions, including a well functioning world economy and improved market access for developing countries.

Malaysia pointed out that poverty alleviation was central to UNCED and that external resources were needed to address poverty issues. Costa Rica recommended that military spending be allocated to the environment. Tanzania urged UNCED to address global economic imbalances.

The Third World Network (an Asia based NGO) referred to the need to empower communities, the need for better North-South cooperation and the need internationally for a new economic order. They pointed out that poverty has international, national and local roots. At the international level the causes of loss of income to the poor countries due to the inequitable economic world order must be tackled. They

recommended that Agenda 21 formulate action programmes to reverse the Third World's poor and declining terms of trade, increase the value of Third World raw materials to reflect their scarcity value and ecological and social value and establish mechanisms to settle the problem of Third World debt. At the national level rich countries should strengthen social security systems for poor people in their own countries, and poor countries' governments should readjust their development strategies so that priority is given to poverty eradication. At the community level political spaces must be widened so that national policies can be operationalized in ways that really benefit the poor.

The ICFTU (International Confederation of Free Trade Unions) said that cleaning up the environment involves both rights and obligations. They pointed out that if we are to make progress towards the alleviation of poverty and the achievement of sustainability in economic development, industry, including workers and their representative trade unions would be key players. Trade unions have a long history of working for the health and safety of their members. Agenda 21 must specifically recognize the role of workers and their trade unions in the process of change towards a sustainable future.

Nepal made a special reference to the poor in fragile mountain areas. They spoke of the need for public participation and urged the meeting not to forget children in their deliberations. Kenya called for new approaches to family planning. The European Youth Forum spoke in tandem and asked that funds be reserved for youth to attend the conference in Brazil. Mr. Koh replied that this had been done. China reminded the plenary that poverty was different in each country and urged the meeting to make recommendations to improve the existing irrational economic order, to improve the conditions of debt, the capital outflow from poor countries and terms of trade.

Parliamentarians for Global Action, a network of 650 members of 51 parliaments around the world, have held three recent meetings one in Bellagio Italy, Cambridge Massachusetts, and Abidjan to formulate a policy on some principal aspects of sustainability. They called for new types of treaties which would strike a more enlightened balance of international equity between North and South. Such treaties should introduce the new concept of ecological security and the ethic of inter-generational equity. Such innovations must be clearly present and effective in the legal obligations of these protocols. They also called for action on global environmental issues such as climate change and pointed out that a precondition of sustainable development is adequate debt relief for the severely debt-distressed countries.

The chair thanked the NGO's for the richness which they added to the discussions and pointed out that it was extremely important to continue with this process, ie., the involvement of NGO's. The discussion ended with a presentation by Stephan Schmidheiny of the Business Council for Sustainable Development. He said that the transfer of technology had been largely unsuccessful because it had not been predicated on business reality. He said that most transfers of technology could be done through ordinary commercial means and he suggested that special funds should be made available for those areas where commercial financing was not available. He

urged the meeting to move away from general statements and to work strategically on key areas of importance.

OUTCOMES AND ASSESSMENT

The discussion of this item after formal statements from delegates was brief and looked very broadly at the chairman's summary (annexed to this report).

The decision adopted instructed the Secretary General to prepare proposals for inclusion in Agenda 21 to be considered at the next Prepcom. The discussion of Agenda 21 proposals on this item is to begin early on in the next Prepcom to allow adequate time for consideration of options.

With respect to the objectives set out by the Canadian delegation before the meeting, a full and complete airing of views on the international economic system took place both in discussions on poverty and in discussions on international economic issues. However, the meeting did not have much time for informal discussions nor were there Agenda 21 options to consider. This more detailed and realistic discussion will have to take place at the next Prepcom; it is not clear if there will be enough time to reach even a preliminary resolution of these issues or to decide on a future course of action at that time.

While there was no forum for detailed discussion of population and consumption issues it was clear that for developing and developed countries alike there was a will to discuss both issues openly and to develop Agenda 21 options for further action. The decision adopted instructs the Secretary General to prepare options on these two items for the next Prepcom. As with international economic issues there will be little time left before the conference itself to reach any resolution of these two issues. The best that can be hoped for is an agreement to refer them to specific other fora for action.

On the issue of women and environment and development, the draft decision which asked both for a separate Agenda 21 chapter and integration into other relevant chapters was sponsored by almost all delegations and passed without discussion. The challenge will be to assist the UNCED Secretariat to implement the decision in the short time remaining. CIDA and Status of Women Canada may wish to follow up with UNIFEM and the UNCED Secretariat to assist with implementation.

The Prepcom adopted two decisions on the importance of including indigenous peoples, local communities and youth in the deliberations of the meeting and in Agenda 21 options. This decision links closely with the objective of increasing the number of constituencies to be involved in deliberations. Canada continued to provide leadership on these issues in the third Prepcom and will continue to do so during the next meeting. New mechanisms will have to be sought to include the non-government sectors in a more meaningful and consistent fashion. The UN system as currently constituted is not set up to do this easily.

Third UNCED Prepcom
August 29, 1991

CANADIAN INTERVENTION ON POVERTY
DELIVERED BY JOHN BELL
HEAD OF DELEGATION

Mr. Chairman, distinguished delegates, I am pleased to have the opportunity to speak to you today on the links between poverty and environmental degradation. Poverty, or the lack of access to a dignified and healthy livelihood and to decision-making structures and systems, remains one of the central issues of our times.

While Canada is rightly seen to be a wealthy country within the global community, there still remain specific groups within Canada, such as indigenous peoples, the disabled and women whom the general prosperity of the country has not always reached.

We are, however, fully aware that developing countries face a vastly greater problem both in terms of the degree of poverty experienced by their people and in the absolute numbers of people affected. While governments and NGOs have developed many innovative approaches for the elimination of poverty, much remains to be done in terms of learning from these innovations and in developing new approaches. Micro successes at the local level too often have been negated by the lack of enabling policies and programmes at the national and global levels.

In Canada's programmes of official development assistance we have made an overall commitment to the achievement of sustainable development. The recently developed mission statement for CIDA, our ministry of state for overseas development is no less than to quote support sustainable development in developing countries unquote. We have worked hard to broaden the definition of sustainable development to include five major parameters: environmental, economic, political, social and cultural and have drafted a framework document elaborating these parameters.

With these points in mind Mr. Chairman, Canada would like to propose the following four priorities:

1. There needs to be a better understanding of the relationship between environmental degradation, poverty and international financial and trade systems. We urge those institutions already tasked with these considerations such as the OECD, GATT, UNCTAD, the World Bank and the regional banks to deepen their understanding of these relationships and to make sustainability a high priority.

2. The secretariat has addressed the joint issues of consumption patterns and population growth in PC46. We suggest that the Prepcom take a step further and develop concrete proposals related to the consumption patterns of rich countries identifying key resources such as energy for which consumption could be reduced through mass education campaigns and through the mass media.

At the same time we support putting in place programmes to facilitate building the capacity of developing countries to implement their own policies on population. There is considerable evidence to show that the most effective way to deal with this issue is to improve the standards of health, education, food security and income of the poorest people and especially of women.

3. National governments, non-governmental agencies, the private sector and especially the multilateral agencies must address far more seriously than they are doing at present the need to improve the status of women both nationally and globally. Women are key managers of natural resources at the local level in many countries, are major economic actors in the subsistence and informal sectors and retain prime responsibility for household management in all countries. Providing adequate support for these activities and most importantly providing access to decision-making structures will have a major positive impact. In this respect we urge the Prepcom to agree to the draft decision on the status of women which is now before you in document L40.

4. Local and municipal governments, NGOs and people's movements are increasingly the institutions which are the most effective in dealing with the day to day realities of poverty and sustainable development. They need the resources, training and enabling policy frameworks in order to become fully effective. Canada is hosting two conferences this year which directly address these issues, the World Cities and their Environment Mayors Conference being held in Toronto this week and The third Summit Conference of major Cities of the World to be held in Montreal in October of this year. We urge the Prepcom to fully integrate the results of these meetings into agenda 21 and the UNCED process. We also recommend that the Prepcom identify better processes to ensure full collaboration between governments, NGOs and industry during the months leading up to June of next year, during the conference itself and beyond.

Thank you Mr. Chairman.



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23 August 1991

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PREPARATORY COMMITTEE FOR THE UNITED NATIONS
CONFERENCE ON ENVIRONMENT AND DEVELOPMENT
Third session
Geneva, 12 August-4 September 1991
Item 2 (c) of the provisional agenda

PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT
AND DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY
RESOLUTION 44/228 AND TAKING INTO ACCOUNT OTHER RELEVANT
GENERAL ASSEMBLY RESOLUTIONS

CROSS-SECTORAL ISSUES

Canada, Finland, Germany, Ghana*, Japan, Netherlands**, New Zealand,
Norway, Sweden, United States of America: draft decision

Women in environment and development

The Preparatory Committee recalling General Assembly resolution 44/228 calls inter alia for the development of human resources, particularly in developing countries for the protection and enhancement of the environment, noting that the gender dimension is important in implementing this resolution and its decisions 1/24 (Guidelines for national reports), 1/25 (Environment and Development), 1/28 and 2/6 (Cross-sectoral issues) and taking due account of the recommendations on development in the Nairobi Forward-looking Strategies for the Advancement of Women as they relate to the work of the

* On behalf of the States Members of the United Nations that are members of the Group of 77.

** On behalf of the States Members of the United Nations that are members of the European Community.

United Nations Conference on Environment and Development, which state inter alia that national and international emphasis on ecosystem management and the control of environmental degradation should be strengthened and women should be recognized as active and equal participants in this process, requests the Secretary-General to undertake the following activities in collaboration with the relevant organizations and bodies of the United Nations system, Governments, intergovernmental and non-governmental organizations.

(a) To ensure that key elements relating to women's critical economic, social and environmental contributions to sustainable development be addressed at the United Nations Conference on Environment and Development as a distinct cross-cutting issue in addition to being mainstreamed in all the substantive work and documentation, particularly Agenda 21, the Earth Charter and the Conventions.

(b) To establish mechanisms:

- (i) To include a global goal in Agenda 21 promoting the effective participation of women in knowledge generation, decision-making and management at local, national, regional and international levels;
- (ii) To recommend specific actions needed in each of the sectoral and cross-sectoral areas of Agenda 21 to ensure that progress towards sustainable development incorporate measures which will have beneficial impacts on women;
- (iii) To identify human and material resources and infrastructural support needed from international, regional and national agencies, to promote women's participation in UNCED activities at all levels and in each sector.

(c) To ensure that recommendations from relevant meetings undertaken by non-governmental and intergovernmental organizations and Governments such as the UNCED/UNICEF/UNFPA symposium "Women and Children First"; the United Nations Commission on the Status of Women; the NGO World Women's Congress for a Healthy Planet and the UNEP/SWAG coordinated Global Assembly of Women, be made available to the Preparatory Committee and reflected in Agenda 21.

19 August 1991



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PREPARATORY COMMITTEE FOR THE UNITED NATIONS
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Agenda item 2 (c)

PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND
DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY RESOLUTION 44/228 AND
TAKING INTO ACCOUNT OTHER RELEVANT GENERAL ASSEMBLY RESOLUTIONS

CROSS-SECTORAL ISSUES

Ghana*: draft decision

Youth in environment and development

The Preparatory Committee,

Recalling the United Nations General Assembly resolution 44/228 as well
as decision 1/25 on environment and development and decisions 1/28 and 2/6 on
cross-sectoral issues.

Recalling also the vital role that youth can and should play in the
protection of the environment and the promotion of economic and social
development.

* On behalf of the States Members of the United Nations that are members
of the Group of 77.

1. Decides to include a global goal in Agenda 21, as well as in the Rio de Janeiro declaration on environment and development, the promotion of the effective participation of youth in the field of environment and development;

2. Invites the Secretary-General to present to the Preparatory Committee at its fourth session concrete recommendations and specific actions needed in each of the sectoral and cross-sectoral areas of Agenda 21 to ensure the effective participation of youth towards the integration of environment and development. In this context special attention should be given to the needs of the youth in developing countries.



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PREPARATORY COMMITTEE FOR THE UNITED NATIONS
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PREPARATIONS FOR THE UNITED NATIONS CONFERENCE
ON ENVIRONMENT AND DEVELOPMENT ON THE BASIS OF
GENERAL ASSEMBLY RESOLUTION 44/228 AND TAKING
INTO ACCOUNT OTHER RELEVANT GENERAL ASSEMBLY
RESOLUTIONS

CROSS-SECTORAL ISSUES

Australia, Bolivia, Canada, Colombia, Denmark, Ecuador,
Finland, Iceland, Mexico, New Zealand, Nicaragua,
Norway, Peru, Philippines, Solomon Islands, Sweden,
United Republic of Tanzania and Venezuela:
draft decision

Indigenous people and local communities

The Preparatory Committee for the United Nations Conference on
Environment and Development,

Recalling its decision 2/7 of 5 April 1991,

Recognizing the important contribution being made by organizations of
indigenous people and local communities to the preparations for the
United Nations Conference on Environment and Development,

1. Decides to incorporate, inter alia, the following elements for the consideration of the Preparatory Committee at its fourth session in the further elaboration of Agenda 21:

(a) Recognizing the traditional knowledge and resource management practices of indigenous people and local communities as contributions to environmentally sound and sustainable development;

(b) Recognizing that traditional and direct dependence on renewable resources and ecosystems, including sustainable subsistence harvesting, continues to be essential to the cultural, social, economic and physical well-being of indigenous people and local communities;

(c) Recognizing the need to protect the habitats of indigenous people and local communities from environmentally unsound development projects and from inappropriate integration processes;

(d) Strengthening the viability and sustainability of traditional management practices in the context of environmentally sound development, including by means of collaboration between Governments and the people and communities concerned;

(e) Supporting capacity building for indigenous people and local communities based on the adaptation and exchange of traditional experience, knowledge and resources management practices within and between regions;

(f) Supporting their development of alternative, environmentally sound means of production, to ensure the improvement of their quality of life so that they can participate in sustainable development;

(g) Mobilizing international technical and financial cooperation for the self-development of these people and communities, as a first step by means of the opportunity provided by the International Year for the World's Indigenous People;

2. Invites the Chairman of the Working Group on Indigenous Populations to contribute to the work of the secretariat, and to participate in the further deliberations on this topic by the Preparatory Committee and the Conference.



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3 September 1991

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PREPARATORY COMMITTEE FOR THE UNITED NATIONS
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PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND
DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY RESOLUTION 44/228 AND
TAKING INTO ACCOUNT OTHER RELEVANT GENERAL ASSEMBLY RESOLUTIONS

CROSS-SECTORAL ISSUES

Draft decision proposed by the Vice-Chairman, Mr. J. Muliro (Kenya)
on the basis of informal consultations

Poverty, sustainability and demographic pressures, health and education

The Preparatory Committee,

Recalling General Assembly resolution 44/228,

1. Takes note with appreciation of the reports of the Secretary-General
on poverty, sustainability and demographic pressures, health and education
contained in documents A/CONF.151/PC/45-46 and A/CONF.151/PC/54-55 and of the
Coordinator's summary of discussions on these subjects at the current session
contained in the annex to the present decision; 1/

1/ A/CONF.151/PC/CRP.14.

2. Requests the Secretary-General to continue work on these issues and to prepare and submit to the Committee at its fourth session proposals for action on relevant issues pertaining to poverty, sustainability and demographic pressures, health and education, to be included in Agenda 21 in accordance with its agreed structure as contained in draft decision [], taking into account views expressed at the current session.

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ENVIRONMENT AND HEALTH

SUMMARY

The issue of health and the environment was dealt with during the PrepCom among a cluster of issues which also included education, poverty and population. Of these four, poverty was major focus of most interventions. Several developed country interventions did refer to health, notably the European Community, the United States and Australia. The International Labour Organization (ILO), ICFTU (International Confederation of Free Trade Unions) and the World Health Organization (WHO) also made strong pleas for the meeting to look more seriously at health and environment. The WHO presented the preliminary findings of its Commission on Health and the Environment and asked that these recommendations be integrated in the Agenda 21 chapter on health. Timing may be difficult for this as the final report of the Commission is due in November while final documentation for the next Prepcom is due by 1 December. The latter deadline will be strict this time due to the many problems caused by late and untranslated documentation for this Prepcom. Decision A/CONF.151/PC/L.51 annexes the chairman's brief summary for the discussion of the four items and the summary does devote one section to health.

Documentation

A/CONF.151/PC/54	-	Environmental Health Aspects of Development
A/CONF.151/PC/CRP.14	-	Chairman's Summary of Discussions on Poverty, Education and Health
A/CONF.151/PC/L.51	-	Decision on Cross-sectoral Issues (poverty, sustainability, and health and education)

PREPCOM DISCUSSION

The primary Canadian objectives were:

- To develop an awareness of the different perspectives of developing and developed countries with respect to health;
- To obtain recognition that the decision-making process must involve the participation of all stakeholders;
- To foster international cooperation on the health impacts of environmental degradation;

The issue of health and environmental degradation was dealt with together with the issues of poverty, education and population/consumption patterns. Since poverty was the main 'development' issue and since up to that point very little attention had been given to development issues in the agenda, interventions on poverty far outweighed

given to development issues in the agenda, interventions on poverty far outweighed those addressing the other three issues including health. All four issues were dealt with in one half day formal discussion and a half day informal discussion.

Several delegations did make a point of addressing the issue of environment and health, however, and the chairman of the poverty discussion included a section on health in his brief overview of this part of the plenary agenda.

The European Community led the discussion by pointing out that health has linkages to nearly all other issues on the UNCED agenda. Health considerations are central when dealing with urbanization, fresh water supplies, toxic chemicals and hazardous wastes. In addition there are primary global problems such as global atmospheric changes and loss of biodiversity which have implications for health. The EC made reference to the WHO Commission on Health and Environment, established in 1990, and said that the Commission had laid the basis for WHO to develop strategies to tackle the problems of health and the environment in the future. They recommended that the final conclusions and recommendations of the WHO Commission should be considered for inclusion in Agenda 21 and discussed at the fourth PrepCom.

The EC supported the four action areas outlined in PC54 but said there would be a need to set priorities and for coordination. The intervention closed by reminding the plenary that the EC Ministers for Environment and for Health had met in December 1989 and adopted the European Charter on Environment and Health. Reference was also made to the Sudsvall Conference on Supportive Environments in June 1991. The EC asked that recommendations from this latter conference also be integrated into Agenda 21.

The ICFTU referred to the work that trade unions have done over the years on the health and safety of their members who are often put at risk by dangerous and polluting processes. The ILO called for recognition of the inter-relationship between the working environment and environment and development. They therefore asked that more attention be given in the documentation going to the next Prepcom to activities related to supporting the improvement of working conditions and environment, especially improvements in occupational safety and health.

The Australian statement referred to the WHO Commission and recommended that it be used as the basis for a health chapter in Agenda 21 as well as providing a range of options for possible incorporation in other specific sectoral chapters. They called for the key priorities which would hold the most promise for the improvement of human health to be identified. The German delegation called for improved access to health care as a means to reduce poverty.

The United States' intervention pointed out that sound development is impossible without a healthy population. Many of the health problems of poorest people are caused or at least exacerbated by environmental factors. Insect borne malaria causes over a million childhood deaths in Africa. One billion people lack safe drinking water and 2 billion lack sanitation. Over 1 billion people live in urban areas where the daily level of particulate matter exceeds WHO guidelines. These guidelines are exceeded several times over when biomass fuels are burned inside homes.

Steps to change this situation should be incorporated into Agenda 21. The subjects of such a programme should include clean air, pure water, safe food, sound nutrition, and sanitation. Success in achieving a healthier environment will have to relate to other agenda 21 topics such as human settlements, fresh water, air pollution, toxic and solid wastes. Such a programme should include risk assessment, which involves basic, applied and operational research and risk management which includes prevention, control and in extreme cases remediation or treatment. Thus operational efforts should be focused overwhelmingly on preventing problems rather than on expensive remediation procedures.

Finally the WHO presented the preliminary findings of its Commission on Health and Environment. The Commission held its last meeting in July of this year and is now finalizing its report which will be available in November together with the reports of the individual panels on energy, industry, urbanization and food and agriculture.

Some key findings of the report, included as an annex to this report, were that despite the high priority that people give to health, in general health has so far been excluded from the debate on environment and development. They called for Agenda 21 and the Earth Charter to deal with this concern. The report also noted that to achieve a sustainable basis for health for all a high priority should be given to reducing population growth rates and to reducing over-consumption and waste generation. Finally they called for greater initiatives on the part of the health sector in guiding all government sectors dealing with development policy and planning to ensure that human health is made to benefit from development.

OUTCOMES AND ASSESSMENT

In the Chairman's summary of the poverty, population, health and education debate, one point was devoted to health issues as follows: "health is a fundamental condition for development and therefore the protection and improvement of the health of women, children and all people should be integrated in all poverty alleviation as well as other appropriate programmes."

This seeming inadequacy is perhaps explained by the relatively fewer mentions of health in interventions (unlike the issue of population which was brought up by several developing and developed country delegations). A clear process will have to

be developed before the next PrepCom to ensure that the recommendations from the WHO Commission Report are well integrated into Agenda 21. The timing is less than ideal as the documentation for the next PrepCom will have to be ready by December 1. Health has not so far received the priority it deserves in the UNCED process. CIDA's Health Sector professionals and Health and Welfare Canada may want to follow up with WHO and the UNCED Secretariat on how to integrate the WHO Commission recommendations.

Of the three Canadian objectives enunciated before the meeting, the only one which was really addressed was the second, ie. the need to involve all stakeholders. This was done as part of a larger impetus to involve all stakeholders in all discussions of the meeting. For the other two objectives there was little occasion to discuss developed and developing country perspectives of health initiatives or to promote better international cooperation. With the release of the WHO report this might be different for the Fourth PrepCom.



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Geneva, 12 August - 4 September 1991
Agenda item 2 (c)

PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND
DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY RESOLUTION 44/228 AND
TAKING INTO ACCOUNT OTHER RELEVANT GENERAL ASSEMBLY RESOLUTIONS

CROSS-SECTORAL ISSUES

Draft decision proposed by the Vice-Chairman, Mr. J. Muliro (Kenya)
on the basis of informal consultations

Poverty, sustainability and demographic pressures, health and education

The Preparatory Committee,

Recalling General Assembly resolution 44/228,

1. Takes note with appreciation of the reports of the Secretary-General on poverty, sustainability and demographic pressures, health and education contained in documents A/CONF.151/PC/45-46 and A/CONF.151/PC/54-55 and of the Coordinator's summary of discussions on these subjects at the current session contained in the annex to the present decision; 1/

1/ A/CONF.151/PC/CRP.14.

2. Requests the Secretary-General to continue work on these issues and to prepare and submit to the Committee at its fourth session proposals for action on relevant issues pertaining to poverty, sustainability and demographic pressures, health and education, to be included in Agenda 21 in accordance with its agreed structure as contained in draft decision [], taking into account views expressed at the current session.

HUMAN SETTLEMENTS

SUMMARY

The discussion on human settlements was clearly a priority for delegations and one of growing importance for both developing and developed countries alike. The chairman's summary of the discussion is annexed to this report. The plenary adopted a decision making human settlements a separate chapter in Agenda 21 as well as recommending that the issue be integrated into key sector programmes, in particular but not limited to, atmosphere, land, coastal areas and fresh water. Underlying issues with respect to this area centre on the need not to forget rural human settlements, the role of UNCHS (Habitat) in coordinating international activities and the need to link the many activities occurring at the local level such as the World Cities and their Environment Congress which was held in Toronto in August and the 3rd Summit Conference of Major Cities of the World being held in Montreal from October 15 to 17. CIDA and CMHC may want to follow up with the UNCED Secretariat to ensure that the recommendations of these two conferences are integrated into the Agenda 21 draft being prepared for discussion at the Fourth Prepcom.

Documentation

A/CONF.151/PC.43	Human Settlements
A/CONF.151/PC/CRP.12	Human Settlements - Coordinator's Draft Text
A/CONF.151/PC/L.44	Decision adopted on Human Settlements

PREPCOM DISCUSSION

Canadian objectives were the following:

- To establish a direct link from international policy and programme recommendations to the local level of initiatives and action;
- To strengthen the issue of urban environment in UNCED and to incorporate into Agenda 21 specific recommendations related to the role of urban communities;
- To support the principle of partnership of public, private and community sectors in the development of strategies to integrate the needs of communities within international policy and programme recommendations;
- To highlight the economic and social roles of women in the urban environment

Human settlements was discussed in plenary and was one of the few subjects that was of equal and growing interest to both developed and developing countries. During formal interventions most delegates spoke to the importance of having urban issues as a separate Agenda 21 chapter. Some delegates also stressed that it was important not to forget rural human settlements.

The European Community pointed to the fact that cities were growing at an explosive rate around the world. Thus cities should be looked at both as fast growing problems and also as engines for social and economic development and growth. They pointed to the key role played by the UN Centre for Human Settlements (Habitat) and gave support to the UNCHS proposed 1997 Conference on Human Settlements.

The EC also noted that energy and transport were key issues to consider with respect to cities and supported the proposals made in PC 43 for programmes in these areas. They welcomed programmes proposed for adequate shelter for all, human settlements management and land resource management. They called for strengthening existing programmes of UNDP, UNCHS and the Urban Management Programme of the World Bank to implement such programmes.

The Executive Director of UNCHS (Habitat) spoke to the plenary. He highlighted 7 main programme areas to be included in Agenda 21, namely adequate housing for all, provision of infrastructure, provision of affordable and environmentally friendly energy supply and transportation services, management of land resources, development of construction capabilities, human resource and capacity building and better planning and management of human settlements. He also reinforced the call for a human settlements conference to be held in 1997.

The Kenya delegation agreed that urbanization was an inevitable part of the development process but urged the meeting not to forget rural areas since in many poor countries a large sector of the population still lives in the rural areas. The Nordic countries echoed the European Community's support for UNCHS and emphasized the importance of building a safe living environment for all, the need to improve and transfer construction technologies, the need for land use planning and integrated settlements management. They made particular reference to the cross sectoral nature of the issue especially with respect to land management, fresh water resources, coastal area management and waste management. Thus human settlements should not only be a separate Agenda 21 chapter but it would be necessary to review the issue with respect to the other Agenda 21 items.

Germany announced that they were ready to convene an International Conference on Strategies for the Improvement of the Urban Environment in Berlin in February 1992 to exchange views and to provide options for Agenda 21.

The United States pointed out that urbanization was a powerful engine for generating national economic prosperity and increasing access to basic health, education and social services. But they recognized that cities have created a host of new and often ill-understood problems such as adverse impacts on air, land and water resources. They called for bilateral and multilateral donors to establish credible targets for programmes to increase the supply of adequate shelter and related infrastructures. They realized that the nature of the problem was complex and solutions would require changes in long-standing national economic and social policies.

The Philippines pointed out in a particularly strong intervention that there was a need for an integration of socio-economic planning not just looking at physical infrastructure. It was essential that the users of this infrastructure be directly and closely involved in programmes. There was a need to look at population as an asset rather than a liability through programmes of education, capacity building and community mobilization. There was also a need to generate employment near housing. Economic development should go beyond production to the provision of services. For rural areas this meant attracting services to human settlements outside of cities both to ease pressure on migration and to provide alternative means of livelihood for forest dependent communities. They proposed the adoption of innovative mechanisms in city planning with the objective of achieving an equitable share of resources in megacities. These could involve policies through which rich districts could help subsidize poorer sections of the city and thus redistribute resources to meet pressing environmental problems. Finally the Philippines delegation made a special plea for disaster prone cities, those subject to flooding, earthquakes etc.

Chile referred to the Vancouver conference of 1977 and asked why so few of the 60 recommendations of that time had not been implemented. Was the reason lack of political will or lack of resources?

OUTCOMES AND ASSESSMENT

This was the first opportunity that the Prepcom had to address the issue of human settlements and it was clearly a priority issue among many delegations from developing and developed countries alike. The future role of UNCHS was mentioned by a couple of delegations notably the European Community but it was not clear from the discussion what role they might play. The Canadian intervention made reference to the two conferences coming up in Canada on cities (one was taking place as the intervention was given) and it would appear that other mechanisms at the municipal level are being put in place to look at urban human settlements on an international basis.

There was general consensus that this was a key issue which would only grow in importance over the next decade. The meeting adopted a decision making human settlements a separate chapter in Agenda 21 and urging that other programme areas include references to human settlements especially atmosphere, land, coastal and freshwater. This will be an area of growing interest for a broad range of actors and the challenge over the months leading up to the next Prepcom will be to ensure that activities taking place on a variety of fronts be integrated into the Agenda 21 chapter which will be completed in draft by the end of November. This process should not be left entirely up to UNCHS.

In terms of meeting the objectives set out before the meeting, to some degree all objectives were addressed if not entirely met. Recommendations on links between activities at the local and international levels were made but few mechanisms exist to follow up on these recommendations. CIDA and CMHC should follow up with the UNCED Secretariat to ensure that recommendations flowing from Canadian initiatives on this front are well integrated into the Agenda 21 chapter.

The second objective was fully met through the inclusion of Human Settlements as a separate Agenda 21 chapter. It now remains to be seen that it is adequately implemented. The third objective, to include a broad range of constituencies in discussions, stands as an overall objective of the delegation and as such was addressed on many fronts throughout the meeting and was mentioned directly in several of the various Canadian interventions. However, the UN system (and thus the Prepcom process) is not as yet accustomed to the participation of actors other than government. There were mixed results on this objective at the meeting and Canada should continue to demonstrate leadership in pursuit of broader participation if a range of interested parties is to continue on at UNCED and afterwards.

With respect to the role of women, a decision was adopted by the Prepcom to include a separate chapter on women in Agenda 21 and to integrate this issue into each sector. As with the decision on Human Settlements the implementation of this decision should be monitored carefully. Major conferences on women's issues being held in Miami in November are almost too late to feed into the drafting process for Agenda 21.

Third UNCED PrepCom

August 26, 1991

CANADIAN INTERVENTION ON HUMAN SETTLEMENTS

STATEMENT BY JOHN BELL

HEAD OF DELEGATION

Mr. Chairman, on behalf of the Canadian delegation, I'd like to commend the Secretariat first for recognizing the significant contribution in human settlements to the concept of sustainable development and second, for including human settlements as a separate agenda item for this meeting. Canada would also like to commend the UNCHS (Habitat) as the lead UN agency responsible for human settlements issues, as well as the World Bank, the WHO, UNDP, UNEP and the OECD for their excellence in furthering the progress of work relating to the complex field of human settlements and sustainable development and specifically to the targeting of initiatives related to sustainable cities.

By providing a focus for dealing with many of the symptoms of the global environment and development crisis such as climate change, deforestation, soil loss, and the pollution of oceans and freshwater, human settlements play an essential role in the development and implementation of environmental policies and programs as they affect the human condition. Communities also provide a unique forum which can address both sectoral and cross-sectoral issues and have the institutional capacity to integrate the social, environmental and economic dimensions of sustainable

development. More frankly, it is at the local level that environment and development issues will be dealt with and where the recommendations from Agenda 21 will most effectively be implemented.

The document PC 43 outlines very comprehensively the complex linkages of human settlements and sustainable development, the important role of cities, and the concept of urbanization which reflects the essential interrelationships between cities and rural communities. It also very aptly describes linkages between human settlements and issues of environment and development as well as highlighting the crucial opportunities for coordination and development of seven program areas for consideration by the preparatory committee for Agenda 21.

Canada strongly supports the recommendations of these program areas for Agenda 21 as outlined by the document. In addition, however, it is equally important that recommendations from the working groups dealing with sectoral issues incorporate a settlements and specifically an urban perspective. Some sectoral issues within UNCED such as freshwater and waste management are already doing this by incorporating urban issues directly in their work. However, we believe that this needs to be strengthened in other relevant sections such as technology transfer, poverty, population, health and education. In this respect, Canada urges national governments

to include specific references to settlements issues in their preparations and inputs in both working group sectoral and plenary cross-sectoral issues. Canada also suggests that the Secretariat develop mechanisms to ensure that the final Agenda 21 incorporate human settlements/urban issues not only as a distinctive component in the Agenda but ensure that it is integrated and strengthened in other relevant sections.

Relative to each of the program areas identified in the document, Canada would like to see an increased emphasis on capacity building through human resource development; the development of programs which establish linkages between cities; increased opportunities for information sharing, exchange of ideas, and technology transfer; the development and implementation of quality of life indicators which reflect environmental, economic and social needs; support and development of partnerships among governments and among the private sector, the public sector and the community; and finally a strengthening of the institutional linkages among UN agencies in the development of these programs.

Over the next three months, two major international events focusing on the role of cities and sustainable development will be held in Canada - the World Cities and their Environment Congress being held in Toronto as I speak (August 25-28) and the 3rd Summit Conference of Major Cities of the World being held in Montreal October 15 -17,

1991. From each of these will come specific recommendations on the role of cities as it relates to the UNCED process and specifically Agenda 21. Canada will bring these and other recommendations from urban based fora to UNCED discussions for inclusion into Agenda 21 and strongly encourages other governments whose municipalities are involved in these or similar processes to consider a like-minded strategy.

In addition, Canada encourages the Secretariat to create an opportunity for cities and particularly representatives from fora such as the World Urban Forum being held in Curitiba, Brazil from May 25-28, 1992 just prior to UNCED, to participate in UNCED and to present their findings and recommendations at the Conference.

Mr. Chairman, we believe that human settlements and sustainable development are essential elements to a sustainable future. Canada has been a strong supporter of these issues as early as the Stockholm and Vancouver Habitat Conferences and we believe that they are an essential component to sustainable development and must be strengthened within the UNCED agenda.



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PREPARATORY COMMITTEE FOR THE UNITED NATIONS
CONFERENCE ON ENVIRONMENT AND DEVELOPMENT
Third session
Geneva, 12 August-4 September 1991
Agenda item 2 (c)

PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND
DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY RESOLUTION 44/228 AND
TAKING INTO ACCOUNT OTHER RELEVANT GENERAL ASSEMBLY RESOLUTIONS

CROSS-SECTORAL ISSUES

Draft decision proposed by the Vice-Chairman, Mr. Enrique Peñalosa,
(Colombia) on the basis of informal consultations

Human settlements

The Preparatory Committee

1. Recalls General Assembly resolution 44/228, section I, paragraph 12, which affirmed that the environmental issues to be considered by the Conference would include, inter alia:

"(h) Improvement of the living and working environment of the poor in urban slums and rural areas, through the eradication of poverty, inter alia, by implementing integrated rural and urban development programmes, as well as taking other appropriate measures at all levels necessary to stem the degradation of the environment;

(i) Protection of human health conditions and improvement of the quality of life";

2. Welcomes the report on Human Settlements by the Secretary-General of the Conference contained in document A/CONF.151/PC/43, as well as the documentation transmitted by the Commission on Human Settlements in accordance with decision 1/28 of the Preparatory Committee;

3. Recognizes that human settlements activities can considerably strengthen the development component of the Conference agenda through their contribution to employment generation, human resources development, industrial growth, and the alleviation of poverty;

4. Notes that integrated planning and management of human settlements can both satisfy growing needs for shelter, infrastructure and services and contribute to minimizing adverse environmental impacts under most of the major issues addressed in resolution 44/228;

5. Further notes that the situation of urban agglomerations in developed countries and their quality of life have generally improved in the past two decades, instances of localized deterioration being rather the exception, and aware that, on the contrary, this situation of urban agglomerations in developing countries has steadily deteriorated with most serious and manifold consequences on their populations;

6. Decides that human settlements should be treated as a distinct programme of Agenda 21, and that its programme areas should address human settlements as a substantive framework for sustainable development and that programme areas such as atmosphere, land, coastal areas, freshwater and waste management should include the human settlements dimension;

7. Further decides that the implementation of the Global Strategy for Shelter to the Year 2000 should be strengthened and form a major element of the Human Settlements Programme of Agenda 21, aimed at facilitating adequate living conditions for all by focusing on critical elements in the enabling approach of the Strategy;

8. Requests the Secretary-General of the Conference in cooperation with the Executive Director of the United Nations Centre for Human Settlements (HABITAT) to develop the Human Settlements Programme as an integral part of the Agenda 21 document to be presented to the Preparatory Committee at its fourth session in March 1992 in the light of the relevant decisions of the Preparatory Committee on Agenda 21 and further requests the Secretary-General in developing the above-mentioned programme to fully take into account the coordinator summary of views submitted by Member States which, inter alia, include the following:

(a) That the urban environment should be accorded highest priority, while, specifically in connection with predominantly rural countries, full attention should be paid to the need to improve rural settlement environments;

(b) That a new programme area related to human settlements planning in disaster-prone areas be established and developed in cooperation with interested United Nations agencies active in this field, keeping in mind the effects on human settlements, on their residents and on the process of sustainable development of natural and man-made disasters (including wars), technological and other environmental accidents;

(c) That consideration be given to new and innovative human settlement strategies which take into account the following aspects:

- (i) Generation of employment in human settlements;
- (ii) Promotion of health, education and recreation in human settlements;
- (iii) Research, information and action programmes on adequate technology for human settlements (including technology for building; waste management, administration of human settlements, etc.);
- (iv) Exchange and dissemination of data between cities;
- (v) International cooperation for financing the upgrading of informal settlements and urban infrastructure;
- (vi) Adaptation of codes and regulations to the needs of the poor;

- (vii) Adoption of innovative city planning strategies for adequate sharing of resources (cross-subsidies);
 - (viii) Adoption of land-use planning techniques for a more efficient use of limited land resources;
 - (ix) Adoption of new programmes to slow down the growth of megacities through the creation of intermediate cities and the industrialization of rural areas;
 - (x) Adoption of programmes which actively promote shelter upgrading and delivery of increased housing stock through community participation;
 - (xi) Stimulation of the locally available intellectual, financial and private-sector potential for human settlements planning and management;
 - (xii) Shelter provision for the "no-income" groups of population and the critically poor;
 - (xiii) Research, development and use of indigenous building materials;
 - (xiv) Encouragement to Governments to mobilize funding from all possible sources through new and innovative mechanisms;
- (d) That certain programme area targets should be more clearly defined, for example:
- (i) By setting a target for providing drinking water for all by the year 2000;
 - (ii) By setting a target to provide land for all (minimum plot);
 - (iii) By setting a target to eliminate the world housing deficit by the year 2020;
 - (iv) By harmonizing human settlements policies with population and urbanization policies;
- (e) That such targets, as may be set to supply adequate shelter and related infrastructure, be credible in order both to mobilize public interest and support and to monitor, measure and promote progress in meeting them.
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PREPARATORY COMMITTEE FOR THE UNITED NATIONS
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PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND
DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY RESOLUTION 44/228 AND
TAKING INTO ACCOUNT OTHER RELEVANT GENERAL ASSEMBLY RESOLUTIONS:
CROSS SECTORAL ISSUES

Human settlements - Coordinator's draft text

The Preparatory Committee:

Recalling General Assembly resolution 44/228 which specifies the improvement of the living and working environments of the poor in urban slums and rural areas as a priority area to be addressed by the Conference;

Having considered the report of the Secretary-General on Human Settlements contained in document A/CONF.151/PC/43, as well as the documentation transmitted by the United Nations Commission on Human Settlements in accordance with decision 1/28 of the Preparatory Committee;

Taking note of the many (several) statements which have stressed the importance of Human Settlements planning and management for facilitating economic growth, satisfying essential human needs and protecting the human resources development environment;

Recognizing that Human Settlements activities can considerably strengthen the development component of the Conference agenda through their contribution to employment generation, growth, and the alleviation of poverty;

Aware that several existing global programmes on Human Settlements, such as the Global Strategy for Shelter to the Year 2000 will need to be strengthened, while new programmes and initiatives will need to be identified and also reflected in "Agenda 21", as recommended in the report of the Secretary-General of the Conference;

Also aware that the sustainable planning and management of Human Settlements is the integrated dimension which can both satisfy growing needs for shelter, infrastructure and services and contribute to minimizing adverse environmental impacts under most of the major issues addressed in resolution 44/228;

Decides that Human Settlements should be treated as a distinct area of Agenda 21, and that its programme areas should include both specific Human Settlements issues and cross-linkages to sectoral issues such as atmosphere, land, coastal areas and freshwater;

Requests the Secretary-General of the Conference to develop the above programme area proposal for Human Settlements as an integral part of the final Agenda 21 document to be presented at the fourth session of the Preparatory Committee in March 1992 in the light of the decision ... on Agenda 21 and take into account the proposals contained in PC/43 and the attached Annex.

Annex

1. Human Settlements should form a distinct programme of Agenda 21.
2. The urban environment should be accorded highest priority.
3. Human Settlements issues should be integrated in all programme areas of Agenda 21 while avoiding overlapping between activities proposed in the Human Settlements and other sectoral programmes such as land and energy.
4. The Human Settlements programme of activities should be enlarged to include:
 - (a) A new programme related to Human Settlements planning in disaster-prone areas.
 - (b) The non-physical aspects of Human Settlements which relate to:
 - the no-income groups of the population;
 - the generation of employment in Human Settlements;
 - and the promotion of health in settlements.
 - (c) The transfer of technology in Human Settlements infrastructure; the exchange and dissemination of data between cities; and international cooperation for financing the upgrading of informal settlements and urban infrastructure.
 - (d) The use of new Human Settlements strategies aimed at facilitating access to shelter through:
 - adaptation of codes and regulations to the needs of the poor;
 - adoption of innovative city planning strategies for adequate sharing of resources (cross-subsidies);
 - adoption of land-use planning techniques for a more efficient use of limited land resources;
 - adoption of new programmes to slow down the growth of megacities through the creation of intermediate cities and the industrialization of rural areas.
5. Certain programme targets should be more clearly defined for example:
 - by setting a target for providing drinking water for all by the year 2000;
 - by setting a target to provide land for all (minimum plot) by the year 2000;
 - by harmonizing Human Settlements policies with population and urbanization policies.

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