

Transboundary Movements of Hazardous Wastes and Their Disposal, 1989", so that they can enter into force as soon as possible.

- Decides to convene an inter-sessional meeting, at the ministerial level, of the Committee to consider subject matters relating to the United Nations Conference on Environment and Development scheduled to be held in Brazil in June 1992.
- Further requests the Secretary-General to continue to monitor the progress of work of the UN and its Specialized Agencies as well as the PREPCOM of the UNCED and to cooperate with them.

Decides to include the item "United Nations Conference on Environment and Development" on the Agenda of the 31st Session of the Committee.

(iii) Secretariat Reports

(a) The United Nations Conference on Environment and Development : Note of the Secretary-General

The General Assembly by its resolution 44/228, entitled "United Nations Conference on Environment and Development" *inter alia* decided to convene a United Nations Conference on Environment and Development in Brazil in June 1992. That resolution had enumerated no less than nine issues which, the General Assembly affirmed, are of major concern in maintaining the quality of the Earth's environment and especially in achieving environmentally sound and sustainable development in all countries. The issues listed in the aforementioned resolution were : (i) the protection of the atmosphere by combating climate change, depletion of the Ozone layer and transboundary air pollution; (ii) the protection of the quality and supply of freshwater resources; (iii) the protection of the oceans and all kinds of seas, including enclosed and semi-enclosed seas, and of coastal areas and the protection, rational use and development of their living resources ; (iv) the protection and management of land based resources by combating deforestation, desertification and drought; (v) the conservation of biological diversity; (vi) the environmentally sound management of bio-technology; (vii) the environmentally sound management of wastes, particularly hazardous wastes, and of toxic chemicals, as well as prevention of illegal international traffic in toxic and dangerous products and wastes; (viii) the improvement of the poor in urban slums and rural areas, through eradicating 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; and (ix) the protection of human health conditions and improvement of the quality of life.

The General Assembly emphasizing the need for strengthening international cooperation for the management of the environment to ensure its protection and enhancement and the need to explore the issue of benefits derived from activities related to the protection and development of biological diversity, reaffirmed the need to strengthen cooperation between the developed and developing countries both in research and development as well as the utilization of environmentally sound technologies. The Assembly decided that in addressing environmental issues in the development context the objectives of the Conference should *inter alia* include :

- (i) the examination of the State of the environment and the changes that have occurred since the 1972 United Nations Conference on the Human Environment and since the adoption of such international agreements as the Plan of Action to Combat Desertification, the Vienna Convention for the Protection of the Ozone Layer, 1987 taking into account the action taken by all countries and intergovernmental organizations to protect and enhance the environment; and
- (ii) the promotion of development of international environmental law, taking into account the Declaration of the United Nations Conference on Human Environment as well as the special needs and concerns of the developing countries, and to examine, in this context, the feasibility of elaborating general rights and obligations of States, as appropriate, in the field of environment, also taking into account relevant existing international legal instruments.

The Conference is also to recommend measures to be taken at the national and international levels to protect and enhance the environment taking into account the specific needs of the developing countries, through the development and implementation of policies for sustainable and environmentally sound development as well as to examine strategies for national and international action with a view to arriving at specific agreements and commitments by Governments for defined activities to deal with major environmental issues in order to restore the global ecological balance and to prevent further deterioration of the environment.

The Preparatory Committee of the United Nations Conference on Environment and Development established by resolution 44/228 held its organizational session at the United Nations Headquarters in New York in March 1990 during the course of which it established two open-ended Working Groups to assist it in fulfilling its mandate. During that session the United Nations Conference on Preparatory Committee on Environment and Development (the Prepcom on UNCED) also adopted the provisional agenda for its first substantive Session.

The Prepcom on UNCED thereafter held its first substantive Session in Nairobi in August 1990. At that Session some progress was made in the preparation of programmes and policies of the United Nations system and other international organizations engaged in the preparatory work. There was however no deliberations on legal issues to be addressed by the proposed United Nations Conference to be held in Brazil in 1992¹. It was expected that in the course of the Second Session held in Geneva from March 18 to April 5, 1991 the Prepcom on UNCED would establish a third Working Group to deal with Legal, Institutional and Related Matters and that Working Group will commence its complex task of codifying existing international environmental law as well and to develop principles bearing in mind the needs and aspiration of both the present and future generations.

At a meeting of the Legal Advisers of the Member States of the Asian-African Legal Consultative Committee held in New York in October 1990 the matters concerning the preparation for the United Nations Conference on Environment and Development and the inputs and contribution of the AALCC thereto were discussed. A number of Legal Advisers emphasized that the Secretariat of the AALCC can and should assist the member States of the Committee, in the preparatory phase since such consultations would enable them to participate actively and effectively in the proposed UN Conference. Several representatives of Member States of the Committee also expressed the view that such assistance would be particularly useful in the context of legal, institutional and related matters before the Prepcom of the UNCED. In partial fulfilment of these and other recommendations of the meeting of the Legal Advisers of Member States of the AALCC held in New York and the decision of the

1. For a brief account of the progress of work of the first substantive Session of the Prepcom of UNCED see Asian-African Legal Consultative Committee's Doc. No. AALCC/XXX/Cairo/91/12.

Twenty-ninth Session of the Committee held in Beijing in March 1990 the Secretariat had prepared this note.

The nexus between development and environment is now well recognised and accepted. Development or lack of it and environmental degradation bear a cause effect relationship which are a matter of concern for both—the developed and the developing countries alike. In the industrialized countries on the one hand, the major cause of the continuing deterioration of the global environment is the unsustainable pattern of production and consumption. On the other hand the developing countries are faced with the gordian knot of poverty, contributing to the severe degradation of the environment. On Spaceship Earth a clean and salubrious environment is the life sustaining cocoon which the people and living organisms—both plants and animals—of the developed North require as well as those of the developing South. The United Nations Conference on Human Environment held at Stockholm in 1972 had proclaimed *inter alia* that

“In the long and tortuous evolution of the human race on this planet a stage has been reached when, through the rapid acceleration of science and technology, man has acquired the power to transform his environment in countless ways and on an unprecedented scale. Both aspects of man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights—even the right to life itself.”²

The Stockholm Conference had also recognised that

“The protection and improvement of the human environment is a major issue which affects the well being of peoples and economic development throughout the world...”

The Stockholm Declaration explicitly recognised the nexus between environment and development. The latter has been recognised and declared to be “an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized”.³

2. See the Declaration of the United Nations Conference of Human Environment in UN Doc. A/CONF.48/14 & Corr.1. Reproduced in International Legal Materials Vol. (1972) p. 1416 et. seq.

3. See the Declaration on the Development. General Assembly Resolution 41/128.

The General Assembly having recognised the right to development to be an “inalienable human right” in its Declaration on the Right to Development went on to stipulate that

“States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom”.⁴

The declaration further affirms that States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development and that the States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development.

The question of development and the concept of the right to development were given a new dimension by the World Commission on Environment and Development (the Brundtland Report) which underscored the complex relationship between development and environment by recommending that States should reformulate their national policies so as to ensure sustainable development. The World Commission on Environment and Development defined sustainable development as “development that meets the needs of the present without comprising the ability of future generations to meet their own needs. It contains within two key concepts :

- the concept of ‘needs’ in particular the essential needs of the world's poor, to which overriding priority should be given; and
- the idea of limitations imposed by the state of technology and social organization on the environment's ability to meet present and future needs”.

Thereafter the World Commission on Environment and Development went on to observe *inter alia* that sustainability “requires the enforcement of wider responsibilities for the impacts of decisions” and that this requires “changes in the legal and institutional frameworks that will enforce the common interest”.

The term “common interests” refers to a shared interest in both economic development and a clean and salubrious environment. With regard to the latter the depletion of the ozone layer surrounding the Earth by such greenhouse gases as carbon dioxide,

4. *Ibid.*, Article 2 Paragraph 3.