

Discussion on the Declaration on the Human Environment

At its 7th plenary meeting, the Conference established a Working Group on the Declaration on the Human Environment.⁵ The basis for discussion in the Working Group was the Draft Declaration on the Human Environment prepared by the Inter-governmental Working Group.⁶

The Working Group held a series of meetings from 9 to 15 June 1971. A number of proposals and amendments were submitted for its consideration. Although the Working Group succeeded in achieving a general consensus, certain reservations were expressed by some delegations. South Africa expressed reservations in respect to Principle 1, Uruguay to Principle 2, Portugal and the United States to Principle 15, Turkey to Principle 21 and China to Principle 24. The Working Group could not reach any agreement on the text of Principle 20. However, it was decided, on the proposal of Uruguay, that the Working Group should recommend to the Plenary Conference the referral of the Principle to the United Nations General Assembly for consideration. With regard to another controversial Principle 21 of the text, a new formulation was referred to the Plenary Conference for action. The new text read as follows:

"Man and his environment must be spared the effects of nuclear weapons and all other means of mass destruction.

5. The initiative to establish the Working Group came from the delegate of China. In his view, the preliminary work of the Preparatory Committee did not reflect the views of all the States participating in the Conference. Since the Declaration was considered to be the main document of the Conference, the delegate of China felt that it required much more serious and thorough discussion. He, therefore, submitted a draft resolution which *inter-alia* provided for the establishment of an *ad-hoc* Committee. The delegate of Iran proposed an amendment to the Chinese draft resolution suggesting replacement of the words "*ad-hoc committee*" at the end of the operative paragraph by the words "a Working Group open to all States participating in the Conference." The Chinese draft resolution, as amended by Iran, was approved and accordingly a Working Group on the Declaration on the Human Environment was set up.

6. See Document A/Conf. 48/4

States must strive to reach prompt agreement, in the relevant international organs, on the elimination and complete destruction of such weapons."

The Report of the Working Group was submitted to the plenary meeting of the Conference. Several delegations again took the floor to express their views.

Views expressed by Asian-African States

The Delegate of *Algeria* expressed his concern over the environmental despoliation of colonialism and of the oppression that were still going on in the world. He, however, appreciated the considerable evolution of the concept of environment that had occurred during the Conference, especially among the developed countries. He felt that certain principles that ought to have been reflected in the Declaration were missing. One was the need to end the misuse of natural resources by certain powers. Another was the need to maintain certain necessary balance in human affairs for the sake of ecological balance. He stressed the need to ensure a balance in the use of resources and not to commit vast resources to weapons of destruction.

The Delegate of *Arab Republic of Egypt* expressed his satisfaction that the Declaration included all the ideas and principles identifying the major problems affecting man and his environment, with special emphasis on the situation of the developing countries. He stressed that the control of the production of all kinds of weapons of mass destruction and their use should be on the top of the list of activities that carried the greatest threat to the human environment. In his view, Principle 26 should make reference to the fact that man must be spared the effects of nuclear and other mass destruction weapons including, *inter-alia*, the effects of the use of such weapons.

The Delegate of *China* stressed that the Declaration was an international document of concern to people of all countries and it should be discussed fully through careful consultation. He was not satisfied with the formulation of Principle 21 of the

draft. He suggested that Principle 21 should be rewritten as follows:

"In order to protect mankind and the human environment, it is imperative to firmly prohibit the use and thoroughly destroy the inhuman biological and chemical weapons which seriously pollute and damage the environment, to completely prohibit and thoroughly destroy nuclear weapons and, as the first step, to reach an agreement by the nuclear States on the non-use of nuclear weapons at no time and in no circumstances."

The Delegate of *India*, considered that the Declaration represented an important mile-stone in the history of human race. The draft declaration, as he thought, was not perfect but reflected a number of compromises and points of view.

The Delegate of *Japan* recalled his country's passionate devotion to the cause of prevention of an atomic war. He was, therefore, particularly interested in Principle 26. In his view, Principle 26 definitely implied prohibition of testing of nuclear weapons since dangers to the human environment arose particularly from atmospheric testing. Without such a principle, he warned, the declaration would be meaningless.

The Delegate of *Kenya* expressed his concern at the emphasis which the Conference had given to the physical as opposed to the social environment of man. He regretted that this latter aspect of the environment was not adequately reflected in the Declaration. He also regretted that the preamble to the Declaration made no explicit reference to the pollution of the minds of men which resulted in policies such as that of *apartheid*.

The Delegate of *Pakistan* while recognising the contribution made by the delegate of China in elaborating the new text of the Declaration, also appreciated the attitude of the developed countries, which had accepted the changes that had been introduced in the earlier draft.

According to the delegation of the *Philippines*, the three basic principles of any declaration were: (a) the primacy of

human over physical factors; (b) the needs of developing countries and the necessity for them to have resources to cope with additional environmental concerns; poverty was the worst polluter; and (c) nuclear weapons and stockpiles should be destroyed and nuclear warfare banned. The draft declaration, in his view, did not measure upto those principles. He reiterated that the Declaration constituted an adequate basis for mankind's concern not only for a clean earth but for a better life.

The representative of *Sudan* echoing the views of the African group underlined the five essential elements of the Declaration: rejection of segregation, racism, *apartheid* and expansionism; rejection of colonialism and foreign dominations having a strong adverse effect on the environment of the oppressed; emphasis on the fact that the terms of trade in primary produce had a direct connection with the management of water, soil and other natural resources; emphasis on sovereign right of every country to exploit its own natural resources; and strong condemnation of the development, testing and use of nuclear, biological and chemical weapons as the most destructive of all environmental threats.

The Delegate of *Thailand* appreciated the tremendous effort and constructive spirit shown in the drafting of the Declaration. He expressed his Government's willingness to support the Declaration.

The Delegate of *South Africa*, while agreeing with the provisions of original draft, particularly appreciated the new ideas incorporated in it regarding the need for rapid development, protection of nature, and control of marine pollution. He, however, expressed his country's reservation that the Conference was not competent to include the new draft of Principle 1 of the Declaration as that principle clearly constituted interference in the internal affairs of a member State, in direct conflict with the Charter of the United Nations.

The Delegate of *United Republic of Tanzania* explained the position of his country on Principle 21 and strongly denounced the continued use of chemical and biological weapons

in certain parts of the world. He was not satisfied with the formulation contained in the draft declaration.

The Delegate of *Zambia* regretted that no decision could be reached on Principle 20.

Views expressed by Latin American States

The representative of *Chile* stressed the great importance of the work that would have to follow in the wake of the Declaration. In his view, while the Declaration was satisfactory as a first step, it, however, failed to include a number of important ideas. He was, nevertheless, prepared to approve the Declaration so long as it was considered to be a provisional document that might be improved in the future.

The Delegate of *Peru* stressed that the Declaration must establish a clear condemnation of all weapons of mass destruction.

The representative of *Uruguay* had some reservations in respect of Principle 2. In his view, instead of safeguarding the "representative samples" of ecosystems, it was essential to preserve and maintain the balance and ensure the rational exploitation of ecosystem as a whole.

Views expressed by other States

The Delegate of *Canada* viewed the draft as a first step towards the development of international environmental law. In his opinion, Principle 21 reflected the existing international law relating to the duty of States to inform one another of the environmental effects of their activities.

The delegation of *Holy See* regretted that some basic principles such as that of "the polluter must pay", and the concept of moral or ecological justice had not found a place in the Declaration. While agreeing that it would be rather ideal to think the Declaration as a fundamental document, a kind of Magna Carta, he was ready to support the Declaration, in a spirit of co-operation.

The Delegate of *Sweden* recognised that the Working Group had strengthened its scope. He, however, wanted a stronger condemnation of nuclear testing and of the use of means of mass destruction. The delegate attached decisive importance to the general principle that States should accept responsibility for damage caused beyond their jurisdiction and to the vital relationship between environmental protection and the economic development process. He proposed an amendment to the first sentence of paragraph 5 of the Preamble, dealing with population. The amendment read as follows:

"The natural growth of population continuously presents problems on the preservation of the environment and adequate policies and measures should be adopted, as appropriate, to face these problems."

The Delegate of *United Kingdom* considered that certain references to highly political matters contained in the Declaration were out of place. The real task, in his view, was not to discuss strategic issues but to look for a consensus on priorities for action.

The representative of the *United States of America* submitted the following statement of interpretation on Principles 2, 12, 21 and 26:

"*Principle 2.* The United States of America places emphasis on the word 'representative' which, in our view, ensures that the phrase means retention of a complete system with all of the complex inter-relationships intact, not a portion thereof. Moreover, the size of the sample must be sufficient to represent the size of the whole.

Principle 12. The United States of America does not regard the text of this principle, or any other language contained in the Declaration, requiring it to change its aid policies or increase the amounts thereof. The United States of America accepts the idea that added costs in specific national projects or activities for environmental protection reasons should be taken into account.

Principle 21. The United States of America considers it obvious that nothing contained in this principle or elsewhere in the Declaration, diminishes in any way the obligation of States to prevent environmental damage or gives rise to any right on the part of the States to take actions in derogation of the rights of other States or of the community of nations. The statement on the responsibility of States for damage caused to the environment of other States or of areas beyond the limits of national jurisdiction is not in any way a limitation on the above obligation, but an affirmation of existing rules concerning liability in the event of default on the obligations.

Principle 26. The United States of America fully supports the purpose, aspirations and ultimate goals contained in this paragraph. We are constantly striving to meet such goals in all relevant fora including for example SALT, which has recently achieved such success. We regard our commitment under this principle as identical to the treaty obligation we have assumed in connection with the Treaty on the Non-proliferation of Nuclear Weapons specifically Article VI, including the requirement of 'strict and effective international control'. We believe it obvious that agreements called for in the principle must be adequately verifiable or they will not be soundly enough based to achieve the purposes of this principle."

The Delegate of *Yugoslavia* felt that the Conference and, more specifically, the Declaration was the first step in many international and bilateral consultations to define the responsibilities of the international community. The absence of Principle 21, however, made it fall short of the expectations of humanity.

The results of the two weeks of intensive work at the Conference were set out in three documents:

- (i) Recommendations for an Action Plan;
- (ii) A Resolution outlining a scheme for new United Nations machinery, including an Environmental Fund to meet the cost of new environmental activities; and

(iii) A Declaration on the Human Environment.

The Action Plan for the Human Environment consisted of 109 recommendations. These recommendations besides, identifying international programmes and activities, provided the broad framework for environmental action. The recommendations were grouped in three categories:

- (a) The global environmental assessment programme (Earthwatch);
- (b) Environmental management activities; and
- (c) International measures to support the national and international actions of assessment and management.

The Conference at its plenary meeting held on 16 June 1972 commended the recommendations to the attention of the Governments for their consideration and for such action as they might deem appropriate.

The Resolution on the establishment of a new international machinery was adopted without a vote. It was recommended that the central organ of the new machinery would be a Governing Council for Environmental Programme composed of 54 members, elected every three years by the General Assembly on the basis of equitable geographical distribution. The main functions of the Governing Council would be to promote environmental co-operation among Governments; provide general policy guidance for the direction and co-ordination of environmental programmes within the United Nations system; review the periodic reports of the Executive Director on the implementation of environmental programmes within the United Nations system so as to ensure that Governments give adequate consideration to problems of wide international significance; promote the contribution which the world's scientists can make to the collection and exchange of information on the environment; review the impact of environmental policies on the developing countries and the problem of additional costs which those countries might incur in implementing programmes; review and approve annually the programme financed by

Environment Fund and report annually to the General Assembly through the Economic and Social Council the progress of its work.

It was recommended that for the performance of day-to-day work, a small *Environment Secretariat* would be established. It would "serve as a focal point for environmental actions and co-ordination within the United Nations system in such a way as to ensure a high degree of effective management". The Secretariat would be headed by a Executive Director, elected by the General Assembly on the nomination of the United Nations Secretary-General. The functions of the Secretariat would be to give substantive support to the Council; co-ordinate environmental programmes within the United Nations system; advise inter-governmental bodies in the United Nations system on environmental programme; secure the co-operation of the world scientists; give advice on the promotion of international co-operation; submit medium and long-range plans for United Nations activities; bring to the attention of the Council any matter which he deems to require consideration by it; administer the Environment Fund; report to the Council on environment matters and perform such other functions which the Council might entrust.

In order to provide for additional financing for environmental programmes, establishment of an *Environment Fund* was also recommended. It was envisaged that Governments would contribute on a voluntary basis. The fund would meet all or part of the costs of new environmental activities undertaken by the United Nations and its agencies. Organisations outside the United Nations system could also be assisted in carrying out programmes financed by the fund. The general procedure for the operation of the fund would be determined by the Council.

Finally, it was recommended that, in order to provide for the efficient co-ordination of the United Nations environmental programmes, an *Environmental Co-ordination Board*, be established under the auspices and within the framework of the Administrative Committee on Co-ordination (the inter-Secretariat body responsible for general co-ordination of the work of the

United Nations agencies). The Board would meet periodically and report annually to the Governing Council.

The Conference adopted by acclamation the Declaration as a whole, including the new Principle 26, while noting the statements that had been made with regard to that Principle.

It referred to the General Assembly for consideration on the text of Principle 20 as contained in document A/Conf. 48/4:

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

together with the following amendments:

(a) An amendment proposed by Brazil, calling for the addition of the following sentence after the existing text:

"No State is obliged to supply information under conditions that, in its sound judgement may jeopardise its national security, economic development or its national efforts to improve environment";

(b) An amendment proposed by Algeria, Burundi, Cameroon, Congo, Egypt, Guinea, Kenya, Libya, Mauritius, Senegal, Sudan, United Republic of Tanzania and Zambia calling for the deletion of the words:

"they believe, or have reason to believe that" and of the word "significant".

The Report of the Conference was finally submitted to the General Assembly at its twenty-seventh session.

III. ESTABLISHMENT AND THE WORK OF THE UNITED NATIONS ENVIRONMENT PROGRAMME

Establishment of the U.N.E.P.

By its resolution 2994 (XXVII) adopted at its 2112th plenary meeting, the U.N. General Assembly welcomed the success achieved by the United Nations Conference on the Human Environment in focusing the attention of the Governments and public opinion on the need for prompt action in the field of the human environment¹. While considering the text of Principle 20 of the Declaration of the Conference, referred to it by the Stockholm Conference on Human Environment, the General Assembly emphasised that, in the exploration, exploitation and development of the natural resources, States must not produce significant harmful effects in zones situated outside their national jurisdiction; further, it was recognized that co-operation between States in the field of the environment, including co-operation towards the implementation of Principles 21 and 22 of the Declaration of the United Nations Conference on the Human Environment, would be effectively achieved if official and public knowledge was provided of the technical data relating to the work to be carried out by the States within their national jurisdiction with a view to avoiding significant harm that might occur in the human environment of the adjacent area².

At the same meeting the Assembly adopted another resolution concerning "Institutional and financial arrangements for international environment co-operation." The Assembly decided to establish a "Governing Council of the United Nations Environment Programme" composed of fifty-eight

1. See Resolution 2994 (XXVII) adopted on 15 December, 1972.

2. See Resolution 2995 (XXVII) adopted on 15 December, 1972.

members, and defined the functions and responsibilities of the Governing Council. Also, the Assembly decided to set up an Environmental Secretariat, headed by the Executive Director of UNEP, and defined the scope of the duties of the Executive Director. In addition, by the same resolution, the Assembly outlined the provisions concerning the establishment and administration of an "Environment Fund". Lastly, the Assembly decided to establish an "Environment Co-ordination Board" under the auspices and within the framework of the Administrative Committee on Co-ordination.³

Another significant resolution on environmental matters related to the decision of the General Assembly to hold a conference — Exposition on Human Settlements. The underlying object of the conference was well stated in the preamble to the resolution as follows:

"Desiring to maintain the momentum of the United Nations Conference on the Human Environment in this area through a conference — exposition on human settlements — the preparation for which should generate a review of policies and programmes for human settlement, national and international, and should result in the selection and support of a series of demonstration projects on human settlements sponsored by individual countries and the United Nations."⁴

First Session of the UNEP

With the establishment of "Environmental Machinery" by the General Assembly, a beginning was made towards the process of implementation of the Stockholm recommendations. The first session of the Governing Council of the United Nations Environment Programme was convened in Geneva from 12 to 22 June 1973. Apart from the consideration of certain organisational matters, such as, the adoption of rules of procedure, the discussion generally centred around subjects, such as, objectives of Environment Programme and the consequent

3. See Resolution 2997 (XXVII) adopted on 15 December 1972.

4. See Resolution 3001 (XXVII) of December 1972.

priorities within it, the procedure to govern the operation of the Environment Fund and the Fund Programme for 1973-74.

The Governing Council adopted a decision concerning "Action Plan for the Human Environment: programme, development and priorities." The decision spelt out general policy, objectives, particular policy objectives and programme priorities for action by UNEP. It stressed that "the quality of human life must constitute the central concern of this programme and that, therefore, the enhancement of the total human habitat and the study of environmental problems having an immediate impact on man should be given the highest priority in the over-all programme."

The suggested programme objectives (which were not listed in accordance with importance or suggested priority) were the following:

(a) *General objectives*

- (i) To provide, through inter-disciplinary study of natural and man-made ecological systems, improved knowledge for an integrated and rational management of the resources of the biosphere;
- (ii) To encourage and support an integrated approach to the planning and management of natural resources so as to take account of environmental consequences to achieve maximum social, economic and environmental benefits;
- (iii) To assist all countries, especially developing countries, to deal with their environmental problems and to help mobilize additional financial assistance with a view to promoting the full participation of developing countries in international activities for the preservation and enhancement of the environment.

(b) *Particular objectives*

- (iv) To anticipate and prevent threats of human health and well-being posed by contamination of food, air or water;

- (v) To detect and prevent serious threats to the health of the oceans through controlling both ocean-based and land-based sources of pollution, and to assure the continuing vitality of marine stocks;
- (vi) To improve the quality of water for human use, in order that all persons may have access to water of a quality compatible with requirements of human health;
- (vii) To help governments in improving the quality of life in rural and urban settlements;
- (viii) To prevent the loss of productive soil through erosion, salination or contamination; to arrest the process of desertification and to restore the productivity of desiccated soil;
- (ix) To help governments in managing forest resources so as to meet present and future needs;
- (x) To anticipate natural disasters and to help governments in mitigating their consequences;
- (xi) To assist governments in anticipating and in preventing adverse effects of man-induced modifications of climate and weather;
- (xii) To encourage and support the development of sources and uses of energy which assure future levels of energy adequate to the needs of economic and social development, while minimizing deleterious effects on the environment;
- (xiii) To help to ensure that environmental measures taken by industrialized countries do not have adverse effects on international trade, especially the economic, trade or other interests of developing countries, and to help developing countries maximize opportunities which may arise from them as a result of changes in comparative advantages induced by environmental concerns;