

# GENERAL AGREEMENT ON

RESTRICTED

L/6892

5 August 1991

# TARIFFS AND TRADE

Limited Distribution

---

NOTE ON THE FIRST AND SECOND SESSIONS OF THE  
PREPARATORY COMMITTEE OF THE UNITED NATIONS  
CONFERENCE ON ENVIRONMENT AND DEVELOPMENT (UNCED)

## Introduction

This note is prepared as a result of the request by the GATT Council for documentation on the discussion in the Preparatory Committee (PrepCom) of the UNCED as it relates to GATT provisions and principles. It contains an organizational overview of the UNCED process and detailed discussions of the proceedings on each subject, and, where appropriate, highlights any reference to or discussion of trade issues. Trade issues arose in the discussions of deforestation, biological diversity, protection of the oceans and seas, environmentally sound management of hazardous wastes and toxic chemicals, and prevention of illegal international traffic in toxic and dangerous products and wastes.

It is expected that more substantive and detailed discussion of trade issues related to these subjects as well as on linkages between environmental policy measures and trade would take place in the third Session of the Preparatory Committee to be held in Geneva from 12 August to 4 September 1991. A summary of the proceedings of that meeting will be issued as an addendum to this document.

### Establishment

1. In Resolution 44/228, the United Nations General Assembly convened the United Nations Conference on Environment and Development (UNCED) from 1 to 12 June 1992 in Rio de Janeiro, Brazil, and established the Preparatory Committee (PrepCom) for the Conference. The goals of the Conference are articulated in that Resolution (see attachment). The task of the PrepCom is to recommend the programmes and the actions required to reach those goals. The PrepCom held its first Session in Nairobi from 6 to 31 August 1990 and its second Session in Geneva from 18 March to 5 April 1991; a summary of the proceedings of those meetings is contained in this document. The third Session will be held in Geneva from 12 August to 4 September 1991 and the fourth Session will be held in New York in February/March 1992.

### Work process

2. Three Working Groups have been set up by the PrepCom to develop proposals for action.

#### Working Group I:

- (a) Protection of the atmosphere by combating climate change, depletion of the ozone layer and transboundary air pollution;
- (b) protection and management of land resources by, inter alia, combating deforestation, desertification and drought;
- (c) conservation of biological diversity;
- (d) environmentally sound management of biotechnology.

#### Working Group II:

- (a) 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;
- (b) protection of the quality and supply of freshwater resources;
- (c) 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.

Working Group III is dealing with legal, institutional and all related matters. It is considering such issues referred to it by Working Groups I and II and the PrepCom, and reviewing the rôle and functioning of the United Nations system in the field of environment and

development to make recommendations on ways to further enhance co-ordination and co-operation and for the effective implementation of the conclusions of the UNCED.

3. The Working Groups meet in conjunction with the substantive sessions of the PrepCom and submit progress reports to the PrepCom on their work.

4. The PrepCom, in its Plenary Sessions, is also studying several cross-sectoral issues. The UNCED Secretary-General provided reports to the second Session, prepared in collaboration with the relevant organs, organizations and bodies of the United Nations system, on the following issues:

- (a) financial resources;
- (b) transfer of technology;
- (c) poverty and environmental degradation;
- (d) progress report on studies relating to environment and development;
- (e) environmental health aspects of development;
- (f) environmental and development education and public awareness.

#### Potential output of the 1992 Conference

5. The possible outputs of the 1992 Conference have been outlined in statements by the Secretary-General and endorsed by the PrepCom. It would consist of six elements.

- (i) The "Earth Charter": It is envisaged that the Conference would elaborate a statement or declaration of fundamental principles, called the "Earth Charter", to govern the relationships of people and nations with each other and with the earth to ensure a global future in environmental and developmental terms. The UNCED Secretariat is preparing a list of elements that could be considered by the PrepCom for inclusion in the charter, and an annotation giving the existing instruments that refer to those matters.
- (ii) "Agenda 21": It is envisaged that a framework of action for the implementation of the principles contained in the Earth Charter, with objectives, strategies and action programmes, as well as costing and allocation of institutional rôles, termed "Agenda 21", would also be elaborated. The results of the discussions on sectoral and cross-sectoral issues in the PrepCom would identify the areas where specific programmatic action would be required.
- (iii) Financial resources: Measures will be elaborated for financing the actions in "Agenda 21" and for ensuring access by developing countries to the additional financial resources they will require to integrate environmental

concerns into their development policies and practices, as well as the incremental costs that will be incurred by complying with international environmental conventions and protocols.

- (iv) Technology transfers: Mechanisms are also to be developed to ensure that all countries, particularly developing countries, have access to environmentally sound technologies on an equitable and affordable basis, as well as the capacity to make effective use of them.
- (v) Strengthening existing institutions: Measures will be elaborated to strengthen existing institutions, notably UNEP, the environmental capacities of development agencies and organizations, processes of collaboration and co-ordination amongst them, and the machinery to enable environment and development issues to be examined at the policy level. These matters will be resolved in the light of the decisions taken by the PrepCom with regard to the substantive and cross-sectoral issues to which they relate.
- (vi) Global conventions on climate change and conservation of biodiversity. The negotiating processes parallel the PrepCom and may result in conventions being finalized and opened for signature at the 1992 Conference. Progress in these negotiations is outlined below.

#### Proceedings of the first and second Sessions of the PrepCom

##### I. Working Group I

6. During the second Session, this Group addressed the subjects of climate change, land resources (deforestation, soil loss) and biological diversity. It is expected that substantive discussion of the subjects of ozone depletion, transboundary air pollution, desertification and drought, and environmentally sound management of biotechnology will take place at the third session of the PrepCom.

##### (a) Climate change

7. The PrepCom adopted the Decision contained in A/CONF.151/PC/WG.I/L.12/Rev.1 on Climate Change to guide its further work. It noted that a single intergovernmental negotiating process for preparation by an Intergovernmental Negotiating Committee (INC) of a framework convention on climate change has been established by U.N. General Assembly Resolution 45/212. Working Group I is monitoring the process and giving guidance, including on issues related to development and finance and technology needs. The Decision requests the Secretary-General of UNCED to continue to follow the work of the INC to estimate the cost, in particular to developing countries, of adopting the necessary measures and to identify ways and means for ensuring

funding and technology. It further requests him to investigate the interconnections between the issue of climate and environmental and developmental issues covering, inter alia, agriculture, biodiversity, forests, industry and cross-sectoral issues.

8. The INC is preparing draft texts for inclusion in a framework convention on the following issues:

- commitments to limit greenhouse gas emissions, protect sinks and reservoirs, and support measures to counter the adverse effects of climate change, with commitments to be equitably differentiated according to countries' responsibilities and their level of development;
- commitments on financial transfers to enable developing countries to meet the costs of avoiding the use of polluting technologies and on the transfer of environmentally sound technology on a fair and most favourable basis;
- commitments addressing the special situation of developing countries, taking into account their development needs, including the problems of small island developing countries, low-lying coastal areas and areas threatened by erosion, flooding, desertification and high urban atmospheric pollution; also taking into account the problems of economies in transition;
- legal and institutional mechanisms.

9. Since the first INC Session on Climate Change was devoted almost entirely to organizational matters, no substantive discussion of its work took place at the second PrepCom Session. At the second INC Session in June, there was an examination of draft texts submitted by national delegations on the main elements of a Framework Convention on Climate Change. For the time being, the only trade provision under consideration is contained in a draft text prepared by the United Kingdom, one part of which reads "Parties will ensure that the measures they take ... are consistent with the obligations of other relevant international instruments and do not serve to introduce trade barriers between Parties to this Convention." The proceedings of the second INC Session will be considered at the third PrepCom Session in August.

(b) Land resources

(i) Deforestation

10. The PrepCom adopted the Decision in A/CONF.151/PC/WG.I/L.18/Rev.1 on Deforestation, to guide its further work. It requests the UNCED Secretary-General to comprehensively analyze and address issues related to the loss of forests over time, causes of this loss, its contribution to global environmental degradation, initiatives in management, the

socio-economic and ecological rôle of forests, and funding, to be submitted to the third Session of the PrepCom. It also requests the PrepCom to consider, at its third Session, several principles in the context of forests, among which the reaffirmation of Principle 21 of the Stockholm Declaration was cited, which reads:

"States have ... the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction."  
(A/CONF.48/14/Rev.1).

An ad hoc Sub-Group on Forests was established to examine in depth forestry-related issues and submit proposals and recommendations to Working Group I.

11. The UNCED Secretary-General, in his report to the second Session (A/CONF.151/PC/27), said that issues surrounding measures towards controlling or restricting trade of forest resources "would be better considered in a case-by-case approach". This was because "the local social, economic and environmental aspects are often hidden when global and very often incomplete statistics which do not reflect complex local realities are used". He added that "a broader approach oriented to promote better management and conservation of forests geared towards sustainable management may be more acceptable to all parties involved". He also stated that "the result of the discussions on trade restrictions under GATT may have a significant effect on the approaches to be taken in the future".

12. Regarding the further work of the PrepCom, the Decision on Deforestation requests the Secretary-General to analyze and address the current levels and structure of world trade in timber and timber products. The Sub-Group on Forests recommended to the Working Group that the Secretary-General be requested, inter alia, to analyze and provide quantitative information on the value of forests in the context of trade and environment issues; on the characteristics of a trade régime in temperate and tropical timber and timber products; on the socio-economic impact on timber exporting countries of trade restrictions, including bans on imports of timber and timber products, taking into account the issue of stable and fair prices for timber; to perhaps develop a framework convention on forests in which integration of forest conservation and sustainable use policy, economic and trade policies, and harnessing market forces could appear. The Decision also requests the PrepCom to address, at its third Session, the need for a supportive international economic environment which promotes growth and development through various ways such as market access, terms of trade, addressing efficiently and urgently debt problems and alleviation of poverty.

(ii) Soil loss

13. The PrepCom adopted the Decision in A/CONF.151/PC/WG.I/L.16/Rev.1 on Soil Loss to guide its further work. It requests the Secretary-General to develop proposals for the development of an integrated approach to the protection and management of land resources and for alternative sustainable systems of production, for the third Session of the PrepCom, paying particular attention: to developmental aspects; economic and social dimensions including land tenure; resources and financial aspects; and popular participation and, in particular, the participation of women. It also requests the Secretary-General to present the results of the FAO/Netherlands Conference on Agriculture and Environment to the PrepCom at its third Session, and to report on the rôle of financing institutions in the development of sustainable agriculture.

(c) Biological diversity

14. The PrepCom adopted the Decision in A/CONF.151/PC/WG.I/L.14/Rev.1 on Conservation of Biological Diversity to guide its further work. It suggests that potential areas for action should include the conservation and the rational and sustainable use of biodiversity, on the basis of the sovereign rights of States. The Secretary-General of UNCED will report to the third Session of the PrepCom on the operational requirements for such action.

15. The Secretary-General reported to the second Session of the PrepCom (A/CONF.151/PC/28) that areas of action in this area should include development of "intellectual property régimes, funding mechanisms, and technologies that will provide effective incentives for ... justly compensating the custodians of the world's genetic resources". Furthermore, "it needs to be recognized that nations have a right to consider [these resources] as sovereign resources". In this regard, the Secretary-General suggested that:

- mechanisms should be developed "to enable governments to exercise flexibility over the choice of schemes for intellectual property protection at the same time as meeting their needs for economic development, technology transfer, and public health and nutrition; the issue of whether or not to include biological materials in trade-related discussions of intellectual property rights needs to be resolved;
- farmers' rights need to be maintained and support provided to enable them to maintain the diversity of their crops and their cropping systems; greater effort should also be made to enable them to do their own research and to enable national research capacities to be developed to stimulate greater production and international trade;
- breeders need to pay a fair price for their "rights", which are often built on wild resources or on genetic diversity maintained by farmers; methods need to be developed to

avoid monopoly and ensure that the food production capacity of the world's farmers is expanded, not restricted ...".

16. An Intergovernmental Negotiating Committee (INC) has been established to prepare a framework convention on biological diversity. At the third INC Session in June-July, further negotiations took place on parts of the draft convention, notably those dealing with Objectives and Fundamental Principles, General Obligations, Access to Biological Diversity, Access to and Transfer of Technology, and Financial Needs and Means and Mechanisms. For the time being, no explicit trade provisions are under consideration. The draft convention contains the following reference to the GATT:

"In the context of Articles 14-16 [dealing with access to biological diversity and technology], decisions on intellectual property rights within the framework of other fora, such as WIPO and GATT, should be taken into consideration."  
(UNEP/Bio.Div/INC.3/L.3).

The proceedings of the third INC Session will be considered at the third PrepCom Session in August.

(d) Biotechnology

17. The PrepCom adopted the Decision in A/CONF.151/PC/WG.I/L.15/Rev.1 on Environmentally Sound Management of Biotechnology to guide its further work. It notes the linkages to the negotiation of a convention on biological diversity, and requests the Secretary-General to investigate further the potential areas for action in the light of the brief discussion at the second Session and transmit this to the negotiating process in the UNEP forum. The PrepCom would discuss this issue further at its third Session.

II. Working Group II

18. During the second Session, this Group discussed the issues of protection of the oceans and all kinds of seas, including global aspects of marine pollution; regional seas and coastal areas; and protection, rational use and development of living marine resources; protection of the quality and supply of freshwater resources; and environmentally sound management of wastes, particularly hazardous wastes; environmentally sound management of toxic chemicals; and prevention of illegal international traffic in toxic and dangerous products and wastes.

(a) Protection of the oceans and all kinds of seas

19. The PrepCom adopted the Decision in A/CONF.151/PC/WG.II/L.12 on Protection of Oceans, All Kinds of Seas Including Enclosed and Semi-Enclosed Seas, Coastal Areas and the Protection, Rational Use and Development of Their Living Resources Global Aspects of Marine

Pollution; Regional Seas and Coastal Areas; Protection, Rational Use and Development of Living Marine Resources to guide its further work. The Decision requests the Secretary-General "to articulate the linkages between environment and development" in which "there is a need to explore the relationship between trade and protection of living marine resources, taking into account regional ecological specificities and differences ...". The UNCED Secretary-General prepared a report for the second Session (A/CONF.151/PC/30) which focused on the following themes:

- (a) mechanisms for building capacity for marine and coastal environmental management at the local, national and regional levels, both internally and internationally;
- (b) management and conservation of coastal areas and enclosed seas;
- (c) marine pollution control strategies;
- (d) living marine resources including pollution-related problems and impact of new fishing technologies incompatible with the sustainable management, taking into account General Assembly Resolution 44/225 on large-scale pelagic drift-net fishing;
- (e) linkages between oceans and seas and the issues of possible climate change and biological diversity;
- (f) the effectiveness and feasible strengthening of existing international institutions and legal instruments;
- (g) strengthening of the the London Dumping Convention;
- (h) strengthening observation systems to protect oceans;
- (i) protection of the marine environment from land-based sources of pollution.

20. The Decision requests the Secretary-General, in his report to the third Session, to also take into account the need to study the linkages between the coastal zones, and the marine and coastal sector issues with poverty, demographic change and human settlements; the need to examine the precarious ecological conditions, in relation to economic activities; the need to assess the costs, particularly for developing countries, of protection and environmentally sound management of marine and coastal areas and the protection and rational use of their living resources; the need to to address the particular problems of low-lying coastal areas.

- (b) Protection of the quality and supply of freshwater resources

21. Working Group II formulated the Decision in A/CONF.151/PC/WG.II/L.14 on Protection of the Quality and Supply of Freshwater Resources; Application of Integrated Approaches to the

Development, Management and Use of Water Resources to guide the further work of the PrepCom. This Decision notes that an International Conference on Water and the Environment will be held in Dublin in January 1992, under the aegis of UNCED. It requests the UNCED Secretary-General to prepare, for its third Session, a report on progress achieved in the preparations for this Conference and to identify the main elements of an action programme which can be reviewed for use as a basis for "Agenda 21". In preparing the report, he should take into account the issues listed in the Decision including, inter alia, "the need to consider water as an economic good and to apply rational pricing and charging policies and other sound economic measures in its management ..."; "the need to protect water quality and to prevent the degradation of water resources through effective pollution control ..."; "the need to reinforce international, regional, national and local action ..."; "the need to take into account the work of the International Law Commission of the U.N. in developing legal instruments for the management of transboundary water resources, particularly in international rivers and lakes and refers the question of legal principles for the protection of transboundary rivers and lakes to Working Group III ..."; "and the need to strengthen institutional capabilities and technology transfer, financial assistance and technical co-operation ...".

(c) Environmentally sound management of wastes

(i) Hazardous wastes

22. The PrepCom adopted the Decision in A/CONF.151/PC/WG.II/L.8 on 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, Environmentally Sound Management of Wastes, Particularly Hazardous Wastes, to guide its further work. The Decision requests the Secretary-General to consider "the need for exporting countries to fully assume their responsibilities towards transit and recipient countries with a view to ensuring the environmentally sound management of hazardous wastes and the need to adopt normative measures to protect the interests of all countries, particularly developing countries, against illegal or unwarranted export of hazardous wastes". It was noted that a number of initiatives, both regional and international, have been taken in this area, among them the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal administered by UNEP; provisions in the Fourth ACP-EEC Convention; activities by the WHO; the Council Decision-Recommendation on the Reduction of Transfrontier Movements of Wastes administered by the OECD; the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement of Hazardous Wastes with Africa administered by the Organization of the African Unity; and various international non-governmental activities. The Decision supports this on-going work and requests the UNCED Secretary-General to prepare a report for the third Session on areas to be elaborated for the formulation of an International Strategy for Environmentally Sound

Management of Hazardous Waste, using the recommendations and experiences of this on-going work.

23. Based on information presented to the second Session, (A/CONF.151/PC/34) the principles of this Strategy could include:

- preventing the formation of wastes, particularly hazardous wastes by the adoption of cleaner production techniques, recycling, etc;
- reducing the generation of wastes at their source;
- converting waste to recyclable or reusable materials and energy;
- treatment, destruction and disposal of wastes at or as near to the generating source as possible, known as the "proximity principle";
- strengthening "self-sufficiency" capabilities at the national level to manage wastes;
- reducing transboundary movement of hazardous wastes to a minimum consistent with the environmentally sound management of those wastes.

Policy objectives and goals of this Strategy could include, inter alia:

- promoting international co-operation amongst governments, industry, non-governmental organizations and the public;
- harmonizing international and national procedures;
- managing hazardous waste in a way that human health and the environment will be protected while contributing to cleaner production and sustainable forms of development;
- developing information exchange mechanisms, and technology transfer to developing countries;
- establishing linkages with international and national strategies for the environmentally sound management of toxic chemicals.

Also needed is an international classification of hazardous waste.

24. The Decision requests the UNCED Secretary-General to provide further information to the third Session, taking into account, inter alia, "the need to develop guidelines for distinguishing recyclables from wastes destined for disposal ... ; the need to achieve an increased flow of information ...; the need for harmonization of

criteria ...; and the need to assess the costs, particularly for developing countries ... and to identify ways and means for ensuring funding and technological transfer ...".

25. The UNCED Secretary-General, in his report, also noted the necessity to "elaborate procedures for assessing the economic and societal benefits, and the need to internalize the costs of hazardous waste management, as well as consequences of hazardous waste regulations on international trade".

(ii) Environmentally sound management of solid waste and sewage-related issues

26. The PrepCom adopted the Decision in A/CONF.151/PC/WG.II/L.10 on 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 Environmentally Sound Management of Wastes, Particularly Hazardous Wastes to guide its further work. The Decision requests the Secretary-General to elaborate on areas for action, in a report for the third Session, to be incorporated into an International Strategy for the Environmentally Sound Management of Solid Wastes and Sewage. In preparing this report, he should take into account, *inter alia*, the need to integrate environmentally sound management of solid wastes and sewage-related issues into national, local and regional development policies; to elaborate the linkage between human settlements and environmentally sound management of solid wastes and sewage-related issues, particularly in developing countries; for clean technologies in the context of full-cycle production strategies; to promote information exchange; to assess the costs and identify ways and means of financing; and for capacity building and technical assistance at the local level. The Secretary-General should submit a report with recommendations relating to a comprehensive review of existing difficulties encountered by developing countries in funding human-waste treatment facilities and suggestions regarding ways and means of overcoming them.

(iii) Environmentally sound management of toxic chemicals

27. The PrepCom adopted the Decision in A/CONF.151/PC/WG.II/L.11 on 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 Environmentally Sound Management of Toxic Chemicals to guide its further work. It requests the Secretary-General to continue his work in elaborating the areas for action in order to form the framework for an International Strategy for Environmentally Sound Management of Toxic Chemicals. In doing so, he should take into account, *inter alia*, the need to build upon and strengthen the International Program on Chemical Safety administered by WHO/ILO/UNEP; to promote sustainable agricultural systems, including integrated and environmentally sound pest-management methods; to encourage the full life-cycle approach and the precautionary principle to toxic chemical management; for improved

management, including stock controls, methods of transport and storage; for improvement and harmonization of control standards, assessment methodologies and of testing, evaluation, classification and labelling criteria; to strengthen national regulatory infrastructure; to strengthen procedures, particularly at the local level, for monitoring, assessment, preparedness, prevention, mitigation and emergency response to address chemical accidents; to assess costs and identify ways and means of financing; and to ensure through appropriate international co-operation, the promotion of human resources from developing countries.

28. The Decision further requests that in its report to the third Session, the UNCED Secretary-General should recommend expedition of the work by the UNEP on the Implementation of the London Guidelines for the Exchange of Information on Chemicals in International Trade and "on ways and means to fully implement the principle of prior informed consent, including work on strengthening its legal basis"; examination of the "feasibility of establishing an international mechanism to regulate and, as appropriate, prohibit the trade in, or dumping of, hazardous substances, products, processes and technologies which, having been considered harmful for health and environment, have been prohibited or seriously restricted in their country of origin"; and "the need to study possible linkages between environmentally sound management of toxic chemicals, trade and sustainable development". The report prepared by the UNCED Secretary-General for the second Session (A/CONF.151/PC/35) made reference to the recommendation by the Working Group for Implementation of the London Guidelines to further strengthen collaboration with, participation in, and support for the on-going GATT activities in the Working Group on Export of Domestically Prohibited Goods and Other Hazardous Substances.

(iv) Prevention of illegal international traffic in toxic and dangerous products and wastes.

29. The PrepCom adopted the Decision in A/CONF.151/PC/WG.II/L.9 on 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, to guide its further work. This Decision takes note of the decision taken at the first PrepCom to request UNEP and the Regional Economic Commissions to update a report on the implementation of General Assembly Resolution 44/226 concerning the monitoring and control at the regional and international levels of the international traffic in toxic and dangerous products and wastes. UNEP reported that it was awaiting replies from governments to update its report. The Decision requests the UNCED Secretary-General to bring to its attention any further

information on the subject which may become available from UNEP and the regional commissions, as set forth in General Assembly Resolution 44/226.<sup>1</sup>

### III. Working Group III

30. The terms of reference of this Group were adopted at the second Session of the PrepCom. This Group is to "prepare an annotated list of existing international agreements and legal instruments in the environmental field and examine possible areas for the further development of international environmental law ...; examine the feasibility of elaborating principles on general rights and obligations of States and regional economic integration organizations in the field of environment and development, and consider the feasibility of incorporating such principles in an appropriate instrument/charter/statement/declaration ...; consider the legal and institutional issues referred to it by Working Group I and II and the PrepCom ...; review ways and means of strengthening the co-operation and co-ordination between the United Nations system and other inter-governmental and non-governmental, regional and global institutions in the field of environment and development; review the rôle and functioning of the United Nations system in the field of environment and development ...; and examine and consider strengthening institutional arrangements required for the effective implementation of the conclusions of the Conference on Environment and Development in the United Nations system" (A/CONF.151/PC/WG.III/1).

---

<sup>1</sup>General Assembly Resolution 44/226 of 22 December 1989, entitled Traffic in and Disposal, Control and Transboundary Movements of Toxic and Dangerous Products and Wastes, requests each regional commission to contribute to the prevention of the illegal traffic in toxic and dangerous products and wastes by monitoring and making regional assessments of this illegal traffic and its environmental and health implications, on a continuing basis, in each region, and in co-operation with and relying upon expert support and advice from the UNEP, IRPTC, Working group of Experts on the London Guidelines, and the Secretariat of the Basel Convention. In Section II entitled, Protection Against Products Harmful to Health and the Environment, this resolution notes the need to utilize also the work being done by the Working Group on Export of Domestically Prohibited Goods and Other Hazardous Substances established by the GATT and those activities which are currently underway within the framework of the UNEP and the FAO in connection with implementation of prior informed consent schemes for chemicals and pesticides in international trade, as well as the work being done under international agreements and conventions in related areas.

31. The Group held its first meeting during the second Session. The UNCED Secretary-General provided background information on legal matters, including a provisional list of agreements and instruments in the environmental field; criteria for their evaluation; and a check-list of elements for the elaboration of principles to be contained in the "Earth Charter" such as basic duties, principles of decision-making, and principles of transnational relations. The UNCED Secretary-General also provided information regarding institutional matters (A/CONF.151/PC/36) which stated that because "recommendations of the PrepCom in respect of institutional arrangements will arise primarily from the needs identified in consideration of the substantive issues and related financial and other cross-sectoral measures, such recommendations should follow consideration of these other matters". Some of the principal institutional issues which are likely to require consideration by the PrepCom are the rôle of the UNEP; the integration of environment and development at all levels of policy and decision-making and their implementation in programme and projects and the institutional arrangements required to give effect to this; the possibility of establishing a global environmental authority or a high-level forum for policy overview and integration; institutional implications of international agreements; rôle of non-governmental organizations; rôle of multilateral financial institutions and multilateral and bilateral development assistance agencies such as the World Bank, the IMF, the UNDP and the regional development banks; examination of regional institutions and arrangements and requirements for adding to and/or strengthening them; and the broader needs for organizational change and strengthening within the U.N. system as a whole, in particular the relationship between the U.N. and its specialized agencies, co-operation and co-ordination with other intergovernmental and non-governmental organizations, and the rôle of the Administrative Committee for Coordination.

32. At the request of the Group of 77, only a preliminary exchange of views on general matters pertaining to the terms of reference took place. These views will be taken into account in the elaboration of the report by the Secretary-General for the next Sessions of the PrepCom. A proposal circulated by the CANZ Group (Canada, Australia, and New Zealand) recommends that, in the elaboration of principles on general rights and obligations in the field of environment and development, the principles of polluter pays and user pays, the question of consistency between international trade and environmental obligations, and the issue of proportionality and the importance of the least possibility of trade distortion, should be examined. This proposal also called for examination of the "ways and means of further enhancing integration, co-ordination and co-operation in environment development issues in the U.N. system, with particular attention to the work of institutions dealing with development co-operation, finance, trade and the environment."

ATTACHMENT

44/228. United Nations Conference on Environment and Development

Date: 22 December 1989  
Adopted without a vote

Meeting: 85  
Report: A/44/746/Add.7

The General Assembly,

Recalling its Resolution 43/196 of 20 December 1988 on a United Nations conference on environment and development,

Taking note of Decision 15/3 of 25 May 1989 of the Governing Council of the United Nations Environment Programme 161/ on a United Nations conference on environment and development,

Taking note also of Economic and Social Council Resolution 1989/87 of 26 July 1989 on the convening of a United Nations conference on environment and development,

Taking note of Economic and Social Council Resolution 1989/101 of 27 July 1989 entitled "Strengthening international co-operation on environment: provision of additional financial resources to developing countries",

Recalling also General Assembly Resolution 42/186 of 11 December 1987 on the Environmental Perspective to the Year 2000 and Beyond and Resolution 42/187 of 11 December 1987 on the report of the World Commission on Environment and Development, 162/

Taking note of the report of the Secretary-General on the question of the convening of a United Nations conference on environment and development, 163/

Mindful of the views expressed by Governments in the plenary debate held at its forty-fourth session on the convening of a United Nations conference on environment and development,

Recalling the Declaration of the United Nations Conference on the Human Environment, 164/

---

161/See Official Records of the General Assembly, Forty-fourth Session, Supplement No. 25 (A/44/25), Annex I.

162/A/42/427

163/A/44/256-E/1989/66 and Corr.1 and Add.1 and 2

164/See Report of the United Nations Conference on the Human Environment (United Nations publication, Sales No. E.73.II.A.14 and corrigendum).

Deeply concerned by the continuing deterioration of the state of the environment and the serious degradation of the global life-support systems, as well as by trends that, if allowed to continue, could disrupt the global ecological balance, jeopardize the life-sustaining qualities of the earth and lead to an ecological catastrophe, and recognizing that decisive, urgent and global action is vital to protecting the ecological balance of the earth,

Recognizing the importance for all countries of the protection and enhancement of the environment,

Recognizing also that the global character of environmental problems, including climate change, depletion of the ozone layer, transboundary air and water pollution, the contamination of the oceans and seas and degradation of land resources, including drought and desertification requires actions at all levels, including the global, regional and national levels and involving the commitment and participation of all countries,

Gravely concerned that the major cause of the continuing deterioration of the global environment is the unsustainable pattern of production and consumption, particularly in industrialized countries,

Stressing that poverty and environmental degradation are closely interrelated and that environmental protection in developing countries must, in this context, be viewed as an integral part of the development process and cannot be considered in isolation from it,

Recognizing that measures to be undertaken at the international level for the protection and enhancement of the environment must take fully into account the current imbalances in global patterns of production and consumption,

Affirming that the responsibility for containing, reducing and eliminating global environmental damage must be borne by the countries causing such damage, must be in relation to the damage caused and must be in accordance with their respective capabilities and responsibilities,

Recognizing the environmental impact of material remnants of war and the need for further international co-operation for their removal,

Stressing the importance for all countries to take effective measures for the protection, restoration and enhancement of the environment in accordance, inter alia, with their respective capabilities, while at the same time acknowledging the efforts being made in all countries in this regard, including international co-operation between developed and developing countries,

Stressing the need for effective international co-operation in the area of research, development and application of environmentally-sound technologies,

Conscious of the crucial rôle of science and technology in the field of environmental protection and of the need of developing countries, in particular, concerning favourable access to environmentally-sound technologies, processes, equipment and related research and expertise through international co-operation designed to further global efforts for environmental protection, including the use of innovative and effective means,

Recognizing that new and additional financial resources will have to be channelled to developing countries in order to ensure their full participation in global efforts for environmental protection,

I

1. Decides to convene a United Nations Conference on Environment and Development of two weeks' duration and at the highest possible level of participation to coincide with World Environment Day, 5 June, in 1992;
2. Accepts with deep appreciation the generous offer of the Government of Brazil to host the Conference;
3. Affirms that the Conference should elaborate strategies and measures to halt and reverse the effects of environmental degradation in the context of strengthened national and international efforts to promote sustainable and environmentally-sound development in all countries;
4. Affirms that the protection and enhancement of the environment are major issues that affect the well-being of peoples and economic development throughout the world;
5. Also affirms that the promotion of economic growth in developing countries is essential to address problems of environmental degradation;
6. Further affirms the importance of a supportive international economic environment that would result in sustained economic growth and development in all countries for protection and sound management of the environment;
7. Reaffirms that States have, in accordance with the Charter of the United Nations and the applicable principles of international law, the sovereign right to exploit their own resources pursuant to their environmental policies, and also reaffirms their responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction and the need for States to play their due rôle in preserving and protecting the global and regional environment in accordance with their capacities and specific responsibilities;
8. Affirms the responsibility of States for the damage to the environment and natural resources caused by activities within their jurisdiction or control through transboundary interference, in accordance with national legislation and applicable international law;

9. Notes that the largest part of the current emission of pollutants into the environment, including toxic and hazardous wastes, originates in developed countries, and therefore recognizes that those countries have the main responsibility for combating such pollution;

10. Stresses that large industrial enterprises, including transnational corporations, are frequently the repositories of scarce technical skills for the preservation and enhancement of the environment, conduct activities in sectors that have an impact on the environment and, to that extent, have specific responsibilities and that, in this context, efforts need to be encouraged and mobilized to protect and enhance the environment in all countries;

11. Reaffirms that the serious external indebtedness of developing countries, and other countries with serious debt-servicing problems, has to be addressed efficiently and urgently in order to enable those countries to contribute fully and in accordance with their capacities and responsibilities to global efforts to protect and enhance the environment;

12. Affirms that in the light of the above, the following environmental issues, which are not listed in any particular order of priority, are among those of major concern in maintaining the quality of the earth's environment and especially in achieving environmentally sound and sustainable development in all countries:

(a) Protection of the atmosphere by combating climate change, depletion of the ozone layer and transboundary air pollution;

(b) Protection of the quality and supply of freshwater resources;

(c) 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;

(d) Protection and management of land resources by, inter alia, combating deforestation, desertification and drought;

(e) Conservation of biological diversity;

(f) Environmentally-sound management of biotechnology;

(g) 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;

(h) Improvement of the living and working environment 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;

(i) Protection of human health conditions and improvement of the quality of life;

13. Emphasizes the need for strengthening international co-operation for the management of the environment to ensure its protection and enhancement and the need to explore the issue of benefits derived from activities, including research and development, related to the protection and development of biological diversity;

14. Reaffirms the need to strengthen international co-operation, particularly between developed and developing countries, in research and development and the utilization of environmentally-sound technologies;

15. Decides that the Conference, in addressing environmental issues in the developmental context, should have the following objectives:

(a) To examine the state of the environment and 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<sup>165</sup>, the Vienna Convention for the Protection of the Ozone Layer, adopted on 22 March 1985, and the Montreal Protocol on Substances that Deplete the Ozone Layer, adopted on 16 September 1987, taking into account the actions taken by all countries and intergovernmental organizations to protect and enhance the environment;

(b) To identify strategies to be co-ordinated regionally and globally, as appropriate, for concerted action to deal with major environmental issues in the socio-economic development processes of all countries within a particular time-frame;

(c) 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 developing countries, through the development and implementation of policies for sustainable and environmentally sound development with special emphasis on incorporating environmental concerns in the economic and social development process, and of various sectoral policies and through, inter alia, preventive action at the sources of environmental degradation, clearly identifying the sources of such degradation and appropriate remedial measures, in all countries;

(d) To promote the further development of international environmental law, taking into account the Declaration of the United Nations Conference on Human Environment<sup>166</sup>, as well as the special needs and concerns of the

---

<sup>165</sup>Report of the United Nations Conference on Desertification, Nairobi, 29 August-9 September 1977 (A/CONF.74/36), chap.I.

<sup>166</sup>See Report of the United Nations Conference on the Human Environment (United Nations publication, Sales No. E.73.II.A.14 and corrigendum).

developing countries, and to examine, in this context, the feasibility of elaborating general rights and obligations of States, as appropriate, in the field of the environment, also taking into account relevant existing international legal instruments;

(e) To examine ways and means further to improve co-operation in the field of protection and enhancement of the environment between neighbouring countries with a view to eliminating adverse environmental effects;

(f) 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, taking into account the fact that the largest part of the current emission of pollutants into the environment, including toxic and hazardous wastes, originates in developed countries, and therefore recognizing that those countries have the main responsibility for combating such pollution;

(g) To accord high priority to drought and desertification control and to consider all means necessary, including financial, scientific and technological resources, to halt and reverse the process of desertification with a view to preserving the ecological balance of the planet;

(h) To examine the relationship between environmental degradation and the structure of the international economic environment, with a view to ensuring a more integrated approach to environment-and-development problems in relevant international forums without introducing new forms of conditionality;

(i) To examine strategies for national and international action with a view to arriving at specific agreements and commitments by Governments and by intergovernmental organizations for defined activities to promote a supportive international economic environment that would result in sustained and environmentally sound development in all countries, with a view to combating poverty and improving the quality of life, and bearing in mind that the incorporation of environmental concerns and considerations in development planning and policies should not be used to introduce new forms of conditionality in aid or in development financing and should not serve as a pretext for creating unjustified barriers to trade;

(j) To identify ways and means to provide new and additional financial resources, particularly to developing countries, for environmentally sound development programmes and projects in accordance with national development objectives, priorities and plans and to consider ways of establishing effective monitoring of the implementation of the provision of such new and additional financial resources, particularly to developing countries, so as to enable the international community to take further appropriate action on the basis of accurate and reliable data;

(k) To identify ways and means to provide additional financial resources for measures directed towards solving major environmental problems of global concern and especially to support those countries, in particular developing countries, for whom the implementation of such measures would entail a special or abnormal burden, in particular owing to their lack of financial resources, expertise or technical capacity;

(l) To consider various funding mechanisms, including voluntary ones, and to examine the possibility of a special international fund and other innovative approaches, with a view to ensuring the carrying out, on a favourable basis, of the most effective and expeditious transfer of environmentally sound technologies to developing countries;

(m) To examine with the view to recommending effective modalities for favourable access to, and transfer of, environmentally sound technologies, in particular to the developing countries, including on concessional and preferential terms, and for supporting all countries in their efforts to create and develop their endogenous technological capacities in scientific research and development, as well as in the acquisition of relevant information, and, in this context, to explore the concept of assured access for developing countries to environmentally sound technologies in its relation to proprietary rights with a view to developing effective responses to the needs of developing countries in this area;

(n) To promote the development of human resources, particularly in developing countries, for the protection and enhancement of the environment;

(o) To recommend measures to Governments and the relevant bodies of the United Nations system, with a view to strengthening technical co-operation with the developing countries to enable them to develop and strengthen their capacity for identifying, analysing, monitoring, managing or preventing environmental problems in accordance with their national development plans, objectives and priorities;

(p) To promote open and timely exchange of information on national environmental policies, situations and accidents;

(q) To review and examine the rôle of the United Nations system in dealing with the environment and possible ways of improving it;

(r) To promote the development or strengthening of appropriate institutions at the national, regional and global levels to address environmental matters in the context of the socio-economic development processes of all countries;

(s) To promote environmental education, especially of the younger generation, as well as other measures to increase awareness of the value of the environment;

(t) To promote international co-operation within the United Nations system in monitoring, assessing and anticipating environmental threats and in rendering assistance in cases of environmental emergency;

(u) To specify the respective responsibilities of and support to be given by the organs, organizations and programmes of the United Nations system for the implementation of the conclusion of the Conference;

(v) To quantify the financial requirements for the successful implementation of conference decisions and recommendations and to identify possible sources, including innovative ones, of additional resources;

(w) To assess the capacity of the United Nations system to assist in the prevention and settlement of disputes in the environmental sphere and to recommend measures in this field, while respecting existing bilateral and international agreements that provide for the settlement of such disputes;

II

1. Decides to establish a Preparatory Committee of the General Assembly open to all States Members of the United Nations or members of the specialized agencies, with the participation of observers in accordance with the established practice of the General Assembly;
2. Decides that the Preparatory Committee shall hold an organizational session of two weeks' duration in March 1990 and a final session, both at United Nations headquarters, in New York, and three additional substantive sessions, the first in Nairobi and the following two in Geneva, the timing and duration of which shall be determined by the Preparatory Committee at its organizational session;
3. Decides that the Preparatory Committee, at its organizational session, shall elect, with due regard to equitable geographic representation, the Chairman and other members of its bureau, comprising a substantial number of vice-chairmen and a rapporteur;
4. Decides that the host country of the Conference, Brazil, shall be ex officio a member of the Bureau;
5. Requests the Secretary-General of the United Nations, following the organizational session of the Preparatory Committee, to establish an appropriate ad hoc secretariat in Geneva, with a unit in New York and another unit in Nairobi, taking into account the decisions to be made by the Preparatory Committee regarding the preparatory process for the Conference and based on the principle of equitable geographic distribution;
6. Decides that the ad hoc secretariat will be headed by a Secretary-General of the Conference to be appointed by the Secretary-General of the United Nations;
7. Requests the Secretary-General of the United Nations to prepare a report for the organizational session of the Preparatory Committee containing recommendations on an adequate preparatory process, taking into account the provisions of the present resolution and the views expressed by Governments in the plenary debate at the forty-fourth session of the General Assembly;
8. Decides that the preparatory Committee shall:
  - (a) Draft the provisional agenda of the Conference, in accordance with the provisions of the present resolution;
  - (b) Adopt guidelines to enable States to take a harmonized approach in their preparations and reporting;
  - (c) Prepare draft decisions for the Conference and submit them to the Conference for consideration and adoption;

9. Requests the United Nations Environment Programme, as the main organ for the environment, and requests the other organs, organizations and programmes of the United Nations system, as well as other relevant intergovernmental organizations, to contribute fully to the preparations of the Conference on the basis of guidelines and requirements to be established by the Preparatory Committee;
10. Requests the Secretary-General of the United Nations to ensure the co-ordination of contributions from the United Nations system, through the Administrative Committee on Co-ordination;
11. Invites all States to take an active part in the preparations for the Conference, to prepare national reports, as appropriate, to be submitted to the Preparatory Committee in a timely manner and to promote international co-operation and broad-based national preparatory processes involving the scientific community, industry, trade unions and concerned non-governmental organizations;
12. Requests relevant non-governmental organizations in consultative status with the Economic and Social Council to contribute to the Conference, as appropriate;
13. Stresses the importance of holding regional conferences on environment and development with the full co-operation of the regional commissions, and recommends that the results of such regional conferences be introduced into the preparatory process for the 1992 Conference, bearing in mind that regional conferences should make important substantive contributions to the Conference;
14. Decides that the preparatory process and the conference itself should be funded through the regular budget of the United Nations without adversely affecting other, ongoing activities and without prejudice to the provision of sources of extrabudgetary resources;
15. Decides to establish a voluntary fund for the purpose of supporting developing countries, in particular the least developed among them, in participating fully and effectively in the Conference and in its preparatory process, and invites Governments to contribute to the fund;
16. Requests the Chairman of the Preparatory Committee to report to the General Assembly at its forty-fifth and forty-sixth sessions on the progress of the work of the Committee;
17. Decides to include in the provisional agenda of its forty-fifth and forty-sixth sessions an item entitled "United Nations Conference on Environment and Development".