

RECOMMENDATIONS

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RECOMMENDATION N°1

THE PRINCIPLE OF NON-REGRESSION OF ENVIRONMENTAL LAW

The international meeting of jurists and environmental law associations, having met in Limoges (France) from 29 September to 1 October 2011, and with a view to contributing to the advancement of environmental law,

1. Noting that all current international environmental conventions, whether universal or regional, provide that an objective of States is the continuous improvement of the environment along with social progress and combatting poverty,
2. Observing therefore that an international consensus exists on the need for legal measures to attain a higher level of environmental protection and improvement in environmental quality, including progressive reduction of pollution affecting health and greater preservation of biodiversity which is essential for harmony between humans and nature,
3. Affirming that legal measures preventing regression of environmental protection are an essential component of the commitment to continuous improvement of environmental protection,
4. Considering that sound environmental policy is a reflection of societal progress,
5. Taking into account that a healthy environment is henceforth recognized as a human right at the international level as well as in the majority of national Constitutions,
6. Acknowledging that the United Nations Human Rights Agreements of 1966 aim for the continual advancement of protected rights and are interpreted as prohibiting regression of fundamental rights,
7. Underscoring that the right to a healthy environment is an essential element of sustainable development,
8. Considering that human society has a collective responsibility not to harm the rights of future generations to life, health and a sound environment and to pass on the environment in the best possible condition,
9. Mindful of the multiple threats that weigh on environmental policies and that, either explicitly or by stealth, may lead to reduced protection of biodiversity and increased risks of pollution and ecological distress,
10. Convinced of the need for measures that prevent all backsliding or regression of the level of environmental protection attained by each State according to its development status,
11. Considering that non-regression may be based on an express provision in the Constitution or laws of a State, as well as on judicial jurisprudence founded on the principle underlying the human right to a healthy environment, which necessarily

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calls for the prohibition of all measures having the effect of reducing biodiversity or increasing pollution levels,

12. Taking note of the European Parliament resolution of 29 September 2011 on developing a common EU position ahead of the United Nations Conference on Sustainable Development (Rio+20) which in the paragraph 97 calls for the recognition of the principle of non-regression in the context of environmental protection as well as fundamental rights;

HEREBY solemnly asks the Heads of State and of Government who will assemble in Rio de Janeiro in June 2012 for the 20th anniversary of the Rio Declaration to proclaim officially in the final declaration, as a new principle of environmental law complementing the principles already proclaimed in Rio in 1992, that :

« To prevent any weakening of environmental protection, States shall, in the common interest of humanity, recognize and adopt the principle of non-regression. To this end, States shall take the steps necessary to guarantee that no measure may diminish the existing level of environmental protection. »

RECOMMENDATION N°2
ENVIRONMENTAL JUSTICE

Considering the right to life and to a clean and balanced environment for all,

Considering that environmental justice allows for priority protection of vulnerable populations, communities and individuals who are exposed to environmental risks or subjected to an unfavourable ecological situation,

Considering the principle of non-discrimination,

Considering the general interest of humanity to live in a clean environment and in peace,

Considering intergenerational equity and the rights of future generations,

Considering that environmental injustice contributes to increase poverty,

Considering that the imperatives of social justice and environmental equity are part of the rules recognized by the international community based on mutual respect of States, peoples and individuals participating in community life,

Considering the objectives of sustainable development,

Considering the responsibility of States to protect populations and individuals without discrimination,

Considering the responsibility of the international community to assure respect of equity in international relations,

Considering the need to ensure international security by avoiding environmental imbalance and instability,

Considering the principles of the sovereignty, independence and territorial integrity of States,

Considering peoples' right to environmental independence to improve environmental protection,

Considering the authority of each States over its territory and its right not to be subjected to hram caused by activities outside of its jurisdiction,

Considering that each State is primarily responsible for its own sustainable development,

The world meeting of enviornmental lawyers at Limoges recommends the adoption of a declaration of principles as follows :

- 1) Environmental justice is the expression of humanity's general interest and duty of respect with regard to nature ;
- 2) States commit to developing modes of production and consumption compatible with respect for the general interest of humanity and protection of the rights of future generations ;

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- 3) States shall refrain from directly or indirectly promoting through their trade policies all forms of overexploitation of natural resources on their territory or the territory of another State ;
- 4) States recognize a principle of international solidarity in confronting ecological disasters and commit to provide material and financial support to those who are affected by such catastrophes ;
- 5) States commit to taking responsibility for their contribution to the global « ecological debt » by applying the polluter-payer principle and the principle of common but differentiated responsibility ;
- 6) States shall ensure control on all territory under their jurisdiction of all economic and/or commercial practices that may threaten environmental justice on their territory or the territory of another States. They shall put in place significant sanctions for enterprises that contravene the principle of environmental justice through their practices or activities. In case of environmental harm, they commit to using and applying the laws of the State in which the harmful act occurred.
- 7) Principles of environmental justice guide the acts of international cooperation in all areas. States accord these principles the highest legal value ;
- 8) Environmental justice requires States to elaborate policies that respect environmental integrity and security ;
- 9) Environmental justice is based on the following principles :
 - a. The right to a clean and balanced environment. Every person has a right to the preservation of conditions necessary for subsistence and conditions for life that respect the environment, regardless of economic, social, cultural, political or ethnic status, or nationality, age, gender, or place of permanent or temporary residence. Not physical or legal person or entity may subject another person to environmental risks through their actions or inactions and/or their ignorance of national or international law.
 - b. Equality regarding environmental security based on respect for international obligations, including prevention of environmental risks and the struggle against all forms of transboundary ecological pressure and aggression.
 - c. The right to environmental education for all, under conditions suited to social, economic and cultural conditions and taking into account existing environmental risks.
 - d. Access for all in equivalent conditions to remedies from domestic and/or international courts to protect the right to everyone to a balanced environment, favourable to human health.
 - e. Solidarity of States and peoples in terms of access to vital resources.
 - f. Prohibition of any activity likely to damage ecosystems and thus the control of its territory by the State.

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- g. Precaution and prevention especially for any human activity that may affect the equitable distribution of benefits of sustainable development.
 - h. The principle of non-regression in environmental Law.
 - i. The obligation of States to prevent and remedy environmental damages in accordance with their responsibility.
 - j. International cooperation "enlightened" in the field of environment based on exchange of information, capacity building action and management of environmental risks.
 - k. Mechanisms of international environmental governance to promote enlightened participation for all members of international society.
- 10) Instruments of environmental justice must be used in national policies to promote preservation and long-term protection of the right to a healthy environment for all. Population groups most vulnerable socially and economically should be given special attention. Women's rights of access and management of vital resources, and participation in environmental decisions should be primarily supported.
- 11) States undertake to use all legal instruments, human, material and financial resources to ensure implementation of environmental justice, including the following measures:
- a. Taxation;
 - b. Environmental impact assessment;
 - c. Monitoring and expertise in environmental regulation;
 - d. Procedural rights: the right to information, participation, access to justice to contest any action or decision that would threaten environmental justice;
 - e. Jurisdictional institutions.

RECOMMENDATION N°3

ECOLOGICAL DISASTERS AND HUMAN RIGHTS: CONSTRUCTING RESILIENCE BY AN ENVIRONMENTAL AND ETHICAL APPROACH

The International meeting of lawyers and environmental law associations, having met in Limoges (France) from 29 September to 1 October 2011, and considering that:

- Ecological disasters, with a natural or technological origin, are characterized by their collective dimension, by the incapacity of victims to rehabilitate without external assistance and by complex causes, as a result of different interrelated factors, in particular environmental and socio-economic vulnerability, which affect the ability to prevent, to react and to rehabilitate.
- A legal framework on ecological disasters should adopt a broader approach which considers all the aspects of the disaster cycle (prevention, assistance and reconstruction) and opts for a strategy of disaster management based on the promotion of sustainable development, the reduction of environmental and socio-economic vulnerabilities and the protection of human rights, which framework would replace a restrictive view of humanitarian assistance and rehabilitation.
- The complex and diffuse causes that are behind disasters and the growing intensity of their risks and their effects, like environmental pollution, poverty, socio-economic vulnerabilities, obstacles to sustainable development and human rights violations, gives rise to a need for a legal and institutional framework on disasters with an ethical and environmental approach, focusing on the promotion and protection of human rights and the environment in the context of measures for the prevention of such disasters as well as emergency measures and in reconstruction activities.
- The increase in disaster risks and in population movements due to climate change and ecosystems modification have consequences for human rights and requires the incorporation of disaster risk reduction measures and the protection of human rights into strategies for adaptation to climate change.
- There is a lack of regulation on this matter and most of the documents and legal international instruments on disasters are not binding and do not address the ethical approach to disaster management. Although the subject may have already been extensively explored in relation to prevention, preparedness and recovery, the protection of individuals and their human rights, the situation of displaced persons, the responsibilities of international, regional and national organizations needs to be developed and initiatives adopting the ethical and the environmental approach are required to cope with all aspects of ecological disasters.

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- The existing documents dealing with the protection of persons and their rights in disasters are not binding and prioritize natural disasters and apply, for the most part, exclusively during and after disasters.

Present the following recommendations:

- The relationship between the protection of human rights and disaster management must be addressed in a legal framework capable of integrating Environmental Law, International Human Rights Law, Humanitarian Law and specific norms applied to disasters, taking account of the different factors behind disaster risks, which affect resilience to them.
- The rights affected by disasters must be protected in a full and indivisible way, having regard to civil and political rights and economic, social and cultural rights. Economic, social and cultural rights have an important role in disaster prevention and reconstruction, having regard to their contribution in reinforcing resilience against risk and catastrophic consequences.
- **The adoption of an internationally binding text that defines the human rights to be protected and promoted in disaster prevention, response and reconstruction measures and dealing with actual and potential victims and rescue workers, with the aims of strengthening disaster resilience and reducing vulnerability.**
- This binding text should adopt an integrated approach to disaster management dealing with both natural and technological disasters, and dealing with the whole disaster cycle with an emphasis on **preventive measures**. It must consider the complex and diffuse causes behind disasters and which [contribute] to their effects, such as environmental pollution, poverty, socio-economic vulnerability, obstacles to sustainable development and breaches of human rights, which gives rise to a need for an ethical and environmental approach to a legal framework for disasters. The binding text must be based on five central themes:
 1. **Sustainable development** as the paradigm to construct and reinforce resilience in order to reduce and manage the risks and effects of disasters;
 2. Regarding **socio-economic and environmental vulnerabilities** as key factors in exposing people to disaster risks, especially poverty, which gives rise to a need to reduce vulnerability and the eradication of poverty, as measures to manage disaster in an ethical and environmental way;
 3. The impact of disasters on the enjoyment of **human rights** and the importance of strengthening their protection as a measure to reduce vulnerabilities, to promote sustainable development and, in this way, to strengthen resilience;
 4. The contribution of disaster risks and impacts on the increase of **displaced persons and migration** and the vulnerability of the displaced persons;
 5. The protection of the **environment** as a necessary measure to reduce the risks of disasters and to reinforce resilience and having regard to ecological

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services provided by ecosystems and the effects of environmental pollution on increasing disaster risks and their impacts.

- Considering the relationship between the quality of the environment, the level of exposure to disaster risks and communities' ability to cope with disasters, a **right to a healthy environment should be recognized**. The environmental services provided by ecosystems must also be recognized and valued as a means of reducing and preventing disaster risk and preserving natural resources as important means to reconstruction. **Measures should be taken to safeguard and rehabilitate the environment as soon as possible after the occurrence of disasters.**
- A **right to preventive measures** and disaster preparedness must be recognized, as to include education, training and awareness of disaster risks and rights to adequate information to create a culture of prevention and as means to strength resilience.
- Special preventive measures must be adopted for vulnerable persons. Individuals and communities are affected in different ways by the risks and effects of disasters and there will be different degrees of exposure depending upon vulnerabilities, which gives rise to the need for incorporation of **environmental justice** principles in the legal framework on disaster management. Vulnerable individuals and communities must benefit from disaster prevention measures, which are tailored to their vulnerability.
- The knowledge of **indigenous people and traditional communities** about their environment and their history can be a major contributor to risk reduction and to reconstruction after disasters and should be recognized and supported. Special attention must be given to indigenous people and traditional communities in disaster situations, having regard to their strong relationship with their environment, which is essential to the maintenance of their culture and way of life.
- Among such vulnerable people, those people forced to leave their home due to disaster risk or at risk of being displaced, should have particular attention in order to avoid displacement or if that has already happened, to have their rights protected having regard to their extreme vulnerability. This vulnerability is compounded by the lack of any international legal status for such **displaced persons**. Therefore, the human rights of displaced persons or persons exposed to the risk of displacement as a result of disaster, should have international recognition and protection.
- The **right to humanitarian assistance** should be recognized, considering that humanitarian assistance is not formally recognized in International Law. Humanitarian assistance should be provided fairly, impartially and without discrimination, having due regard to the vulnerability of victims and people's specific needs.
- All persons and communities affected by disasters shall be kept informed of and have the right to take part in decisions dealing with the response to disasters.

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- All persons who are actual or potential victims of disaster should have their right to dignity recognized and have access to all the conditions required to lead a dignified life, so as to protect their human dignity. **Human dignity** should be at the center of an ethical approach to a legal framework on disaster management.
- The rights of assistance and rescue workers must also be equally protected.
- States must continue to ensure the enjoyment and respect for human rights during and after disasters. **States** have **responsibility** to protect people in their territory by ensuring that despite a disaster, human rights both for their people and for the humanitarian and health and aid personnel will be enforced. Companies and other economic and humanitarian aid agencies involved in reconstruction must respect the human rights and dignity of all people involved in reconstruction operations as well as of the victims.
- The role of **international and regional courts** dealing with the protection of human rights in recognition and analysis of human rights violations arising from disasters should be recognized and reinforced, as well as the **access of victims to these courts**.

RECOMMENDATION N°4

THE EFFECTIVENESS OF INTERNATIONAL ENVIRONMENTAL LAW

Considering that the environment is a common good of Humanity,

Considering that a healthy environment is vital for human health,

Considering that given the environmental stakes, the use of legal tools can only be fully useful if the effectiveness of international environmental norms is guaranteed,

Considering that the effectiveness of law is crucial for “good” governance,

Considering that the effectiveness of international environmental norms depends on multiple factors that have to be viewed globally,

Considering that action to advance the effectiveness of international environmental norms implies international reform of the normative architecture and of measures to ensure compliance by States,

Considering that the effectiveness of international environmental norms also depends on the capacity of international society to institutionalize normative and jurisdictional processes, as well as recognising the role of civil society parties,

Reaffirming the role of the law, relevant actors, and compliance mechanisms at the domestic level to improve effectiveness of international environmental law,

The third world meeting of environmental lawyers and environmental law associations recommends States to:

- 1) Recognize that the right to the environment, as well as the main principles of environmental law, are part of international *jus cogens*, to be understood as a peremptory norm of general international law universally accepted and recognized by the international community;
- 2) Reinforce institutionalization of the environment within permanent and specialized UN bodies, as well as within conferences of the Parties of multilateral environmental agreements;
- 3) Recognize and implement the principle of equilibrium, according to which environmental law should be fully adequate to address the needs of environmental degradation, notably by integrating within international law, procedures to assess the impact of the international treaties on the environment;
- 4) Promote public participation in the formulation and implementation of international treaties ;
- 5) Make the law accessible, intelligible, predictable and transparent to all, simultaneously promote awareness of and disseminate international environmental law;
- 6) To improve in a global manner the implementation and enforcement of international environmental law;
- 7) Multiply and improve the non-compliance procedures in multilateral environmental agreements by using as an example the Aarhus Convention Compliance Committee and by providing access to these procedures to NGOs and to the public;
- 8) Encourage the creation of an International Court of the Environment open to non-state actors ;
- 9) Institutionalize dialogue among judges by creating preliminary ruling procedures between international jurisdictions and between international jurisdictions and domestic courts;
- 10) Encourage wider ratification of the Aarhus Convention to give it universal application; apply its article 3(7) in all Conferences of the Parties, in all non-compliance

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procedures and before all international jurisdictions in which environmental cases may be brought; and apply the three pillars of the Aarhus Convention at the national and regional levels.

RECOMMENDATIONS N°5

THE RIGHT TO FOOD AND SUSTAINABLE DEVELOPMENT

The environmental legal experts global meeting:

Conscious of the necessity to link the achievement of the right to food to a fair access to natural resources, in particular for the most vulnerable populations;

Conscious of the necessity to ensure legal safety of the rights to land, water, forest, fisheries;

Conscious of the threat to food safety and to the vital right to food of indigenous people and local communities, due on the one hand to irrational exploitation of natural resources; and on the other hand to unfair access to these resources;

Considering that the survival of humanity will be done through the achievement of the right to sufficient and adequate food, and through sustainable agriculture and integrated management of all the natural resources;

Considering the European Parliament Resolution of 29 September 2011 calling for an effective achievement of the right to food;

Recommends:

1. Regarding the conceptual basis:

- a) That by referring to the concept of *agroecology*, agriculture development and right to food should be linked so that food systems ensure food availability for all and that the supply satisfies the global needs;
- b) To make sure that agriculture development contributes to the increase of small-scale farmers, thus reducing hunger as well as poverty;
- c) That the concern for equity be associated with a requirement of sustainability, by ensuring that agriculture maintains its capacity to the needs of the present and future generations provided that agriculture biodiversity is safeguarded, that water and soil quality is preserved, and that desertification and drought, climate change and natural disasters are combated against.

2. Regarding the legal framework:

- d) To constitutionally recognize the right to adequate food to every human being so that he/she can access sound and nutritious food in sufficient quantity to fully enjoy his/her physical and mental capacities;
- e) To adopt a legal system- which may be in the form of a framework law- specifically focusing on the right to food that specifies its content and defines the resulting obligations as well as institutional, legal, educational, budgetary measures or any other measure aiming at strengthening its implementation;
- f) That States accede to the relevant regional and international right to food instruments;

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- g) The implementation of the orientations of the *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security* (2004);
- h) The implementation of the future *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of national food safety* (under negotiation).

3. Regarding land policies and legislations:

- i) To adopt, review and implement coherent national land policies which take into account the right to food;
- j) To reform land policies bearing in mind the right to food, in particular in terms of access to agricultural lands and to other related natural resources;
- k) To recognize the plurality of land tenures that exist, including customary rights, in order to better satisfy the needs of security of the different actors of the rural area;
- l) To regulate the land markets in order to fight against speculation, in particular on the urban land market, so as to mitigate the exclusion of the most vulnerable populations by the market mechanisms.

4. Regarding the natural resources management (land, forest, pasture, water, fisheries, plant genetic resources):

- m) To reform legislation related to natural resources management through seeking to bring coherence between the right to food and the local rules, practices and constraints;
- n) To grant specific attention to the appropriate mechanisms of local management of natural resources, giving priority to concertation/discussions between the different users (e.g. through consensual local conventions);
- o) To associate all stakeholders, including the local ones, to the elaboration process, implementation and follow up of legislation related to the management of natural resources.

5. Regarding the access to resources by specific groups (women, indigenous people, minorities):

- p) Ensure the respect of international instruments related to women, indigenous people and minorities rights, and to facilitate their access to appeal in case of infringement to their rights;
- q) To establish and ensure the effective implementation of appropriate, fair and non discriminatory legal mechanisms that guarantee women, indigenous populations and minorities access to land and other natural resources;

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- r) To associate women, indigenous populations and minorities to the management of land and other natural resources guaranteeing their right to food, and to the resulting benefit sharing and decision process.

6. *Regarding agriculture investments and land acquisition in rural area:*

- s) To promote public and private investment in favour of agriculture, including peasant agriculture, as well as agro-sylvo-pastoral and small-scale fisheries;
- t) To adopt a legal framework that guarantees the safety of investments in rural land sector, duly taking into account the environmental and social aspects;
- u) To realize the afore mentioned investments without jeopardizing the local and national food safety, respecting all individual and collective rights including the existing individual and collective land rights, and according to transparent participative procedures;
- v) To legally define the rural small and large scale land acquisitions by submitting the private transfers to the prior consent of the populations involved, by safeguarding the local land rights and by ensuring the effective payment of the real value of the transferred lands.

RECOMMENDATION N°6

PACT ON ENVIRONMENT AND DEVELOPMENT

Having examined the actual status and content of the draft for an « International Covenant on Environment and Development » which includes a large number of principles accepted by consensus since the Stockholm Conference,

Noting that the draft International Covenant on Environment and Development was introduced to the international community in 1995 on the occasion of the fiftieth anniversary of the United Nations,

Recognizing the contribution of the International Union for the Conservation of Nature and Natural Resources (IUCN) and the International Council of Environmental Law –toward sustainable development- (ICEL) in the formulation and promotion of this initiative;

Considering that the draft Covenant contributes to the development of international environmental law, and aims to build a real sustainable development law;

Noting with satisfaction the progress made since the initial presentation of the draft International Covenant on Environment and Development, which has since undergone three revisions to periodically update it in accordance with the newest developments in the field;

Deeply concerned by the continuing lack of a version of the draft Covenant in other working languages of the United Nations, particularly in French;

Convinced that the French translation of the draft Covenant is of paramount importance to Francophone developing countries, which have an important role to play in the process of adopting such an instrument;

The Third Worldwide Conference of Environmental Law NGOs and Lawyers in Limoges (France), September 29-1 October, 2011:

1. Welcomes the draft International Covenant on Environment and Development, and recommends its adoption;
2. Decides to recommend it strongly to the attention of the United Nations General Assembly (UNGA) for discussion and adoption;
3. Provides for such purposes that the UNGA, through a Member State, embrace the draft Covenant and introduce it as an official document to ensure its translation into the working languages of the United Nations;
4. Draws the attention of the International Organization of La Francophonie to the urgent need for a French translation before the Rio+20 Conference, to facilitate discussions within the Francophone community;
5. Recommends that the UNGA, upon recommendation of the 6th Committee, directly adopt the draft International Covenant on Environment and Development in Plenary; ;

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6. Notes that several states have used the draft Covenant as a check list for their national legislation, especially African Union (AU) Member States;
7. Further Notes that AU Member States have concretely used the draft Covenant as a basis for the revision of the 1968 African Convention on the Conservation of Nature and Natural Resources and that all Heads of State and Government adopted this Revised African Convention (Maputo Convention) at the Second Summit of the African Union in 2003;
8. Invites AU Member States to quickly ratify the Revised African Convention adopted by the Heads of State and Government at the Second Summit of the African Union in Maputo in 2003;
9. Proposes, that if adoption of the draft International Covenant on Environment and Development by the UNGA in Plenary is not possible, the UNGA establish, under its aegis, an Intergovernmental Negotiating Committee for the negotiation and adoption of such an instrument, taking into account proposals that could be submitted by the States participating in the negotiation process, so that the Convention be developed by June 2014;
10. Urges the adoption of a resolution by the UNGA to quickly consider the establishment of conditions for the adoption of the draft International Covenant on Environment and Development, in accordance with the established practices of the UNGA;
11. Requests the Secretary-General, as soon as possible, to bring the draft Covenant to the attention of the UNGA for its consideration and adoption;

**RECOMMENDATION N°7
FOR A WORLD CONVENTION ON ENVIRONMENTAL ASSESSMENTS**

The participants in the global meeting of lawyers and environmental law associations are conscious of the reciprocal impacts of economic activities and their consequences on the environment and the need to intensify international co-operation in the field of environmental assessment for a better and more rational management of the environment and for sustainable development.

They encourage the commencement of a process for the drafting of an enforceable world convention on environmental assessment and sustainability, based on the following considerations:

1. Many States have adopted measures to ensure that environmental impact assessment is carried out as part of their laws and administrative regulations and their national policy. But existing national laws and regulations do not provide for the same requirements nor reflect harmonized criteria. This lack of uniformity of national laws on assessments has adverse effects on the protection of the environment and can generate distortions with unfair effects on international trade.
2. International jurisprudence, particularly of the International Court of Justice (ICJ) and the International Tribunal of the Law of the Sea (ITLOS), has found “that there is, in general international law, a duty to undertake an environmental impact assessment when the proposed industrial activity may have an adverse impact in a transboundary context, and in particular, on a shared resource”. However, the ICJ recognizes also that “general international law does not specify the scope and content of an environmental impact assessment” and that therefore “it is up to each State to determine, in its national legislation or in the authorization process, the specific content of the environmental assessment required in each case”. This clearly incomplete, normative framework gives rise to an urgent demand for the development of harmonized rules, agreed upon by States, in an international convention of global scope, to set minimum standards that must be complied with by national and international instruments dealing with environmental assessment and sustainability.
3. Currently, national and international provisions on environmental assessments do not generally apply to areas located beyond national jurisdiction. Legal instruments to fill this gap and to strengthen environmental protection of the common areas of the planet should be put in place as a matter of urgency.
4. In drafting the Convention, the following guidelines should be considered:
 - a. The Convention should have global scope, even if it is to be followed by other instruments of regional and sub-regional scope.
 - b. Scope of application: the Convention should have broad scope covering environmental, strategic and transboundary assessments and continuing surveillance and monitoring. The assessments should integrate the social and cultural aspects and the effects of planned activities on consumption of energy.
 - c. Floor but no ceiling: the Convention should establish the minimum requirements of the assessment procedures, while allowing the Parties to adopt more protective national standards. The Convention should establish the

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minimum content of the environmental assessment report and the technical quality and the scientific independence of its authors.

- d. Screening: the Convention should fix the list of activities subject to assessment procedures, either on the basis of general criteria or by a specific enumerating list.
- e. *Ex-ante* approach: the assessment procedure must be completed before a decision is made by the competent authority authorizing the project activity or under the corresponding laws, plans and programmes.
- f. Global commons: the Convention should apply to transboundary assessments which might affect other States or areas beyond national jurisdictions. In the case of transboundary assessments, procedures for notification and consultation among the States concerned will be required. All the States concerned can participate in the assessment procedures.
- g. Public participation: in all cases, public participation in the assessment procedures should be guaranteed and taken into consideration.
- h. Compliance mechanisms: the Convention should include a compliance mechanism with a Committee of independent experts who can receive requests from the public (independent body + public trigger)
- i. The Convention may be supplemented by Protocols as needed.

RECOMMENDATION N°8

SECURITY AND SUSTAINABLE USE OF SOIL

Recognizing that soil, as the primary basis for all terrestrial biodiversity, has until recently been largely ignored in international fora and by national governments, except in the context of desertification.

Understanding that the lack of consideration of soil represents a substantial gap in global policy making on the environment and that soil, as a vital biological resource demands urgent and specific protection on the same level as other environmental regimes, in particular biological diversity and climate change.

Accepting that it is necessary to initiate an integrated approach to soil conservation, soil security and sustainable use of soil and which takes soil into account within the multilateral environmental regimes of desertification, biological diversity and climate change.

Recalling the objectives of the Convention to Combat Desertification, to be pursued in accordance with its relevant provisions, to combat desertification, mitigate effects of drought, use long-term strategies that focus on improving productivity of land, rehabilitation, conservation and sustainable management of land and water resources, leading to improved living conditions, in particular at the community level;

Recognizing that over 70 percent of the world's pastoral lands are severely affected by soil degradation and in view of their contributions to climate change adaptation and mitigation, disaster risk management, biodiversity protection, and sustainable agriculture and rural development;

Taking into account the text adopted at the sitting of the European Parliament on 29 September 2011 on developing a common EU position ahead of the United Nations Conference on Sustainable Development (Rio+20) in particular clause 51 which "Regrets the slow progress of negotiations and commitments in the context of the UN Convention to Combat Desertification (UNCCD); considers that soil is a scarce resource and that land degradation and land use change require a global response; calls for concrete action, efficient measures and monitoring, especially as regards the production of biofuels";

It is recommended that, as a first step in addressing issues of global soil conservation, a Protocol on Security and Sustainable Use of Soil be negotiated under the Convention to Combat Desertification

It is further recommended that the Rio + 20 Conference consider the drafting of a comprehensive Convention on Security and Sustainable Use of Soil, focusing on soil degradation and contamination as well as including provisions concerning the role of soil in the conservation of biological diversity, mitigating and adapting to the effects of climate change, and food security with regard to all lands;

RECOMMENDATION N°9

CONVENTION FOR THE LAND-BASED MARINE POLLUTION

The third global meeting of lawyers and associations for environmental law

Considering that the land-based marine pollution represents 80% of the pollutions of the seas,

Considering the great number of causes of this pollution, all of them land-based,

Considering the deficiency of juridical international and regional conventions on this question,

Think it necessary to propose a global convention to fight this pollution and recommend the adoption of a convention to take account of the following:

1. to take account of all the causes of this pollution, including sedimentary deposits, the dumping of solid waste and the atmospheric fallout of volatile pollutants;
2. to take into account the three origins of the pollutants : sea shores, rivers, and atmospheric fallout;
3. the creation of a framework convention including minimum provisions and additional protocols taking into account the requirements of oceanic ecosystems and of the economic development of coastal states;
4. the convention to be based on three pillars : the putting in place of programs of action for 5 or 6 years setting out priorities, the obligation on member States parties to adopt the legislative measures needed for the effective enforcement of the programs, the adoption of the polluter-pays principle while also providing for financial penalties to incite economic actors to adopt equipment to diminish or suppress polluting discharges;
5. the introduction of a system of lists of products which are prohibited from dumping and of products provisionally authorized under State responsibility;
6. the convention to provide for the establishment of permanent bodies to include a Secretariat ensuring continuity and links between parties, an administrative Commission with decision making powers and to make recommendations on the enforcement of the convention, helping to co-ordinate actions and receiving the annual reports of the parties. The decisions of the Commission would be adopted by consensus, recourse to voting being avoided insofar as possible;
7. the additional protocols would allow a specific approach *ratione materiae* and also a chronological approach *ratione temporis* in order to prioritise actions and to allow the less developed States to gradually increase their participation. Protocols should be provided specifying waste standards, taking account of hydrographic basins, waste waters and the putting in place of continuous surveillance and the putting in place of a development plan for action programs, setting out public policy objectives;
8. to set up a responsibility system for the State parties assuring respect for the convention provisions. The non-compliant States would be obliged to make good the damage caused. However, whenever possible, the States parties should help the defaulting *bona fide* State. The State parties should set up penalties in their national laws;

9. the parties should use lawful peaceful means to resolve their disputes. If they do not resolve them, an appeal to the international tribunal of the law of the sea would be preferred.

RECOMMANDATION N°10

A PROTECTION FOR THE ENVIRONMENTALLY DISPLACED PEOPLE

- ✓ Considering the alarming condition of the global environment and the increasing rate of its deterioration,
- ✓ Considering that these negative environmental phenomena produce victims who encounter injury to their health and their dignity, and even impairment of their fundamental right to life,
- ✓ Considering that the gravity of environmental harm necessitates the displacement of individuals, families and populations,
- ✓ Considering that the exponential growth and clear foreseeability of such movements constitute a threat to the stability of human societies, the preservation of cultures, and world peace,
- ✓ Considering the many appeals from non-governmental organizations to recognize a status for environmentally-displaced persons, and insisting on the urgent necessity of responding to their plight,
- ✓ Considering that several international declarations underline the existence of this category of displaced persons (Principle 18 of the Rio Declaration on Environment and Development, concerning ecological assistance, June 1992; Agenda 21, Chapter 12, 12.47 ; and the Directive principles relating to internally displaced persons),
- ✓ Considering the numerous international conferences that also refer to such situations, including:
 - the Kyoto Conference (1997) and that of The Hague (2000) which set forth the risks of large migrations linked to climate change,
 - the World Conference on the Prevention of Natural Disasters (Hyogo, January 2005) which insisted on prevention linked in particular to ecological refugees,
- ✓ Considering that certain organs of the United Nations have spoken of this matter:
 - The General Assembly of the United Nations in resolutions 2956 (1972) and 3455 (1975) on displaced persons, resolution 36/255 of 17 December 1981 on strengthening the capacity of the United Nations system in the face of natural disasters and other catastrophes, resolution 43/131 of 8 December 1988 on humanitarian assistance to victims of natural disasters and emergency situations of the same type, resolutions 45/100 of 14 December relative to humanitarian assistance to victims of natural disasters and emergency situations of the same type, resolution 49/22 of 13 December 1994 concerning the international decade for the prevention of natural disasters,
 - The Security Council (5663rd session of 17 April 2007) making the link between the impact of climate change and international security, in particular in respect to persons who risk displacement by 2050;
 - The Secretary General of the United Nations in his message of 5 June 2006 exhorting governments and societies through the world to think of those who cannot subsist in arid zones and will become ecological refugees,
- ✓ Considering that the specialized institutions of the United Nations such as the World Health Organization, UNESCO, the World Bank, and other institutions in the United Nations system, such as the High Commissioner for Refugees, the United Nations Environment Programme, and the United Nations Development Programme, regional

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organizations such as the Council of Europe, the European Union, and the African Union have drawn attention to the challenges of environmental migrations,

- ✓ Considering the international agreements that already take into consideration environmental displacements, notably:
 - The International Labour Organization's Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries of 27 June 1989;
 - The Convention to Combat Desertification of 12 September 1994;
 - The African Union's Convention for the Protection and Assistance of Internally Displaced Persons in Africa of October 22, 2009;
 - ✓ Considering Principles Nansen prepared 6 and 7 June 2011,
 - ✓ Considering article 14 § f) Cancun agreements .
1. Proposes the adoption of a new international convention on environmental displacement that includes a clear definition of "environmentally displaced persons".
 2. Proposes to establish an institutional mechanism unprecedented protection of environmentally both those displaced within their own country and those who are displaced to other states .
 3. Proposes the adoption of common rights for environmentally displaced internally-and inter states –persons including: Right to assistance, Right to water and to subsistence food aid, Right to health care, Right to juridical personality, Civil and Political Rights, Right to housing, Right to return, Right to respect for the family, Right to work, Right to education and training, Right to maintain cultural specificity.
 4. Proposes the adoption of key principles of international law, international environmental law , international law of human rights, international law of refugees and displaced persons including: Principle of Solidarity, Principle of humanity, Principle of common but differentiated responsibilities, Principle of effective protection, Principle of non-discrimination, Rights to information and participation, The Right to Displacement, The Right to Refuse Displacement.
 5. Recommends the establishment of an institutional mechanism for cooperation with the National Commissions on Environmental Displacements in each State Party, in charge of reviewing applications for recognition of the status of a World Agency for Environmentally-Displaced Persons composed of a scientific council, board of directors and a secretariat .
 6. Recommends the establishment of a mechanism to monitor the proper implementation of the Convention through Conferences of the parties and national reporting.
 7. Encourages the creation of funding mechanism with the World Fund for the Environmentally-Displaced persons.

RECOMMENDATION N°11

WAR AND ENVIRONMENT

Convinced that purported necessities of war cannot justify disregard for the environment and, thus, for the living conditions of future generations,

Notes that the protection of the environment in times of armed conflict by way of specific treaty provision is insufficient;

Demands, therefore, that a treaty is adopted regulating a number of specific problems related to armed conflicts, both for international and domestic conflicts, that

- Ensures the protection of the environment as civilian objects, and as “demilitarized zones”;
- Provides for a special designation process for environmental areas that should be protected, which could include a designation by third parties such as the Security Council;
- Requires that those who plan and decide upon an attack must pay due regard to the protection of the natural environment;
- Mandates that the risk of environmental damage, including long term damage, must be taken into account in the application of the so-called proportionality principle relating to incidental damage,
- Assures that activities undertaken for the purpose of repairing or mitigating environmental damage during an armed conflict are protected and respected.
- Promotes and makes provision for post-conflict environmental rehabilitation.

Requests the International Committee of the Red Cross and States to take this demand into consideration in consultations concerning the further development of international humanitarian law.

RECOMMENDATION N°12

REGARDING A RESOLUTION ON OFFSHORE OIL DRILLING

The world meeting of environmental lawyers :

Considering the current context of deepwater and ultra-deepwater (more than 3000 meters) offshore oil development ;

Considering that the current price per barrel of oil allows such deepwater and ultra-deepwater to be cost-effective ;

Considering that the extension of the exclusive economic zone authorized by the United Nations opens the possibility for a greater number of deepwater wells ;

Considering that significant advances in drilling technology allow an ongoing increase in the depth of deepwater well ;

Considering that oil contracts between States and oil companies contain security questions that do not account for environmental protection ;

Considering that Article 204 of the United National Convention on the Law of the Sea nevertheless anticipates that States shall monitor the effects of activities that they allow on their territory ;

Noting that these activities, and in general the potential risks from offshore drilling, draw attention to deficiencies in international to deal with a form of development that will undoubtedly affect the integrity of the oceans and seas, and public goods. It is therefore appropriate that a United Nations resolution propose rules of conduct that should be imposed on States with oil resources.

Recommend :

a). Consistent with the precautionary principle, Regional Sea Conventions (??) should be based on the precautionary principle, to the extent that they currently are not.

b) Coastal States shall prepare an annual report on environmental protection measures imposed on oil development companies. This report should be submitted to a specialized agency or to an eventual World Environmental Organization.

c) A global prohibition on drilling in marine protected areas.

d) States shall systematically impose liability in the case of pollution caused by negligence or failure to abide by restrictions imposed on oil development companies.

e) Impacts assessments shall be required systematically prior to the issuance of all oil drilling permits.

f) A system shall be established for inspections of offshore oil installations by third-party observers designated by a specialized agency or by an eventual World Environment Organization.

g) A contingency fund shall be established to cover cleanup and restoration in the event of pollution, to be financed by oil companies and oil States.

RECOMMENDATION N°13

**THE LEGALLY BINDING GLOBAL TREATY ON
MERCURY (CONVENTION OF MINAMATA)**

Considering the known risks from mercury in the environment, in particular raised in the Global Mercury Assessment Report of the United Nations Environment Programme (UNEP);

Acknowledging that only a united global action can result in an effective response to mercury pollution, as long as it is adapted to local realities of the use of this metal and its derivatives;

Considering the need for a global answer to the problems posed by mercury, and its lifecycle;

Noting that many environmental injustices are caused by anthropogenic mercury emissions:

Recommend:

The signature, as soon as possible and if possible at the time of Rio+ 20 in 2012, of the legally binding global treaty on Mercury known as “Convention of Minamata”;

To request the elaboration of terms and objectives for the legally binding global treaty on Mercury, in order to guarantee the protection of health of the individuals and nature, while minimizing, and, as far as possible in the long-term, eliminating the anthropogenic mercury emissions into the air, water and soil;

To expressly recognize the relevance of the principles of prevention, precaution, polluter pays and of common but differentiated responsibilities in any response to problems caused by mercury at the international level;

To bring to technical and financial support to countries where mercury is used for local-level artisanal activities to replace mercury-based economic activities, in particular by the installation of a financial mechanism, possibly managed by Global Environment Facility (GEF);

To ensure the inclusion in the text of the Convention of Minamata of a mechanism for establishing a standardized approach to mercury regulation, closely linked with an effective supply of the technical and financial support for developing countries;

To regulate mercury, as far upstream as possible, through the harmonization of international instruments and conventions related to mercury (Basel, Rotterdam, Stockholm, “heavy metals” Protocol of the Geneva Convention, CNUCC);

To develop a convention structure to enable the future incorporation of other heavy metals, including, in particular lead and cadmium, into the framework of the convention;

To inform people without delay on the risks of mercury and in particular its presence in the activities and the objects of the daily life (batteries, light bulbs, health care activities, cosmetic products ...);

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To take part with the World Health Organization (WHO) in the education of public health workers on the presence of mercury in healthcare tools and procedures, and to seek to eliminate the use of mercury.

RECOMMENDATION N°14

THE PROJECT OF A GLOBAL LANDSCAPE CONVENTION

Considering

That the landscape is an element which is inseparable from the quality of life and the human rights to the environment;

That the perception of landscape depends on cultures and their diversity;

That there are various international legal texts on the topic of landscape but their scope is limited either geographically or in contents;

That the UNESCO has begun a reflection on the opportunity and feasibility of a new world instrument on landscape;

Those landscapes undergo increasing degradation and should be preserved.

Recommends

The recognition in the final declaration of the Rio+20 Conference of landscape as one of the fundamental elements of sustainable development.

The continuation of the process initiated by UNESCO concerning the opportunity of developing a global instrument on landscape;

To this end:

- 1) To undertake multidisciplinary studies regarding the concepts related to landscapes and the existing instruments at international, regional and national scale.
- 2) To broaden the discussion to all relevant international actors (institutions, civil society, economic sector ...).

Taking into account the following elements while reflecting on the global instrument:

The good governance of landscapes through the participation of populations and co-operation at all levels (global, regional, local).

The consideration of all landscapes, including everyday or degraded landscapes, and every kind of space (urban, rural, natural, etc.).

The legal nature of the instrument, which should allow both the establishment of general and coherent principles worldwide, while allowing States around the World the ability to develop regional instruments adapted to their administrative, legal, political, geographical, social and cultural diversity.

RESOLUTION N°15

FOR AN INTERNATIONAL ENVIRONMENTAL COURT (IEC)

“We, attendees to the Third worldwide conference of environmental law NGOs and Lawyers,

Convinced that the call for the establishment of an IEC should be considered in light of the more general problem of environmental law non-compliance and disputes,

Emphasizing on the fact that multilateral environmental agreements (MEAs) only rarely provide for compulsory dispute settlement rules,

Recognizing that, **as a consequence**, the contribution of both international and national courts to the development of international environmental law is hindered by their jurisdictional incapacity to generate MEA-based decisions,

Taking note of the European Parliament’s Resolution developing a common EU position ahead of the United Nations Conference on Sustainable Development (29.IX.2011),

Recalling that the idea of an IEC should be kept alive in spite the **difficulty of considering it** as a top-priority in the international agenda,

Approved the following recommendations regarding the creation of an IEC:

1. It is important the IEC Statute be adopted providing that disputes concerning the interpretation and application of MEAs could be submitted unilaterally by the State that considers its rights as being violated.
2. **New MEAs and Protocols concluded in the future should always include compulsory dispute settlement and efficient compliance mechanisms**
3. A broad jurisdiction should be granted to the IEC ; mechanisms **for** avoiding concurrent jurisdiction must be **provided**.
4. **The ICE statute would be an useful instrument if States were to agree to amend all existing MEAs so that disputes concerning their interpretation and application could be submitted to it at the request of one party. This would entail that:**
 - (i) **MEAs would be submitted** to compulsory jurisdiction **while now they** can be submitted to a judge or arbitrator only by a special agreement or when the “optional clause” of art.36(2) of the ICJ Statute (or regional agreements of similar effect) are applicable;
 - (ii) uniform interpretation of different agreements **would be obtained**.
5. States could also attribute to the IEC
 - (i) jurisdiction for preliminary rulings on questions of interpretation or application of MEAs arising before domestic or international courts;
 - (ii) consultative jurisdiction on questions of environmental law raised by non-governmental and international organizations.

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6. Even if there is currently no real opportunity to mainstream any project of creating an IEC on the international level, a reasonable number of States could give to the IEC the competence to adopt preliminary rulings on environmental questions at the request of domestic courts and start **preparing appropriate** amendments to domestic law. Such a project would be complex but not impossible.
7. The use of arbitration concerning environmental matters (which can use arbitrators specialized in environmental law) should be considered as **an alternative to** judiciary procedures.
8. The IEC would be a necessary complement to the proposed global convention on the environment.

RECOMMENDATION N°16

WORLD ENVIRONMENT ORGANIZATION (WEO)

The world meeting (of environmental lawyers in Limoges)

-Considering that environmental protection calls for an institution up to the tasks related to confronting pollution and conserving nature,

- Considering that global environmental governance is largely fragmented, inefficient, inconsistent and vastly underfunded,

- Considering that UNEP, despite its considerable accomplishments, has a structure that is insufficiently democratic, a mandate that is too limited, and powers and resources that are too weak,

- Considering that, just as international trade has its own institution, it is essential that the environment have a comparable institution,

- Considering that the idea and plans for a WEO originated at the Rio Conference of June 1992 and have been pursued at numerous meetings, in particular at the international level,

- Considering that the Governing Council of UNEP, meeting from 21-24 February 2011 at the Global Ministerial Environment Forum that brought together 144 ministers, formally transmitted to the preparatory committee for the Rio Conference of June 1992 (SHOULD THIS BE 2012 ?) ministerial recommendations on the strengthening of environmental governance that included « creation of a WEO as a favored option ». (NOTE : THIS SHOULD BE CHECKED AGAINST THE ORIGINAL DOCUMENT IN ENGLISH)

Recommends

(a) the creation of a World Environment Organization (WEO), headquartered in Nairobi

(b) establishment of democratic structures based on UNE VOCATION UNIVERSELLE (NOTE : I DON'T KNOW WHAT THIS MEANS), greater equity between States of the North and States of the South, and constituent bodies typical of specialized institution of the United Nations, with NGOs given a strong consultative and participatory role, and support for international impementation of instruments on environmental participation of citizens.

(c) an increase in the environmental democracy of the WEO, for example five years after teh WEO is created, by two principle means. A symbolic representation, with a consultative role, of past and future generations will be established within the WEO. The General Assembly and Executive Council would recognize six groups in addition to States : NGOs and unions, private enterprises, international and regional organizations, local communities and indigenous peoples, local authorities and experts. Their representation, election and weight of authority in voting and other decisionmaking processes would be determined in the WEO's fifth year.

(d) Establish the goals of the WEO. The goal of the WEO is to protect nature and combat pollution, while respecting environmental democracy. It undertakes this responsibility in the

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interest of present and future generations, with respect for past generations, and in the interest of all life.

(e) The determination of the functions related to these goals. 16 functions are proposed :

1. determine global environmental strategy,
2. strengthen the consistency and efficiency of multilateral environmental agreements,
3. manage several secretariats of conventions and participate in various ways to strengthening them,
4. strengthen scientific expertise, early warning systems and information,
5. contribute to a vast promotion of environmental education in educational systems throughout the world,
6. strengthen regional governance,
7. conduct rigorous and thorough assessments of traditional (command-and-control) legal and market-based mechanisms (RELATED TO THE ENVIRONMENT) in order to shed light on their advantages and disadvantages and to clarify their weaknesses and inefficiencies. No preference should be given to either type of mechanism, given that they should support, consistent with rights to information, as much transparency as possible, without overreliance on protected industrial, trade, financial and business secrets, given the preeminence of the human right to the environment,
8. help respond to the specific needs of developing countries,
9. initiate the creation of, and work closely with, a World Organization of Ecological Assistance,
10. initiate the creation of, and work closely with, a World Organization for Environmental Refugees,
11. initiate the development of new global conventions on environmental protection,
12. implement means to support the implementation and enforcement of environmental conventions,
13. help put in place comprehensive global system of eco-taxes,
14. establish a mechanism for resolution of environmental conflicts,
15. represent nature as a heritage of present and future generations, and ensure that its needs are met,
16. put in place a sanctions mechanism based especially on restoration.

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Some functions, which some States might find too radical, especially the last three, should be implemented five years after creation of the WEO.

(f) Give the WEO sufficient resources for fulfillment of its goals and functions, including financial resources, legal tools, adequate staff, strengthened regional offices, and a headquarters in Nairobi.

(g) Plan for the transformation of UNEP into a WEO, which would be a specialized institution of the United Nations.

RECOMMANDATION N°17

**LA TRANSFORMATION DU CONSEIL ÉCONOMIQUE ET SOCIAL DES
NATIONS-UNIES EN CONSEIL ÉCONOMIQUE, SOCIAL ET ENVIRONMENTAL**

Considering that Chapter 38 of Agenda 21 recommends the implementation of institutional mechanisms which are adapted to the effective international management of the environment;

Considering that Chapter XI of the Johannesburg Plan of implementation recommends the strengthening of the institutional framework for sustainable development at international level;

Considering that Chapter 27 of Agenda 21 recommends the strengthening of the role of Non governmental organizations (NGOs) as partners for sustainable development;

Considering the necessity to improve the representation of NGOs in the international institutional system of environment and to ensure their participation in decision making in this area;

Noting that international governance suffers from a certain democratic deficit, and that the international community shows encouraging signs of acceptance for an active participation of the civil society, especially NGOs, in finding solutions to environmental matters;

Recommends:

- (a) To undertake an institutional reform of the environmental protection in the UN system, by merging the Commission on Sustainable Development (CSD) and the Economic and Social Council (ECOSOC) in an Economic Social and environmental Council (ECOSOEC), reinforced by the Charter explicitly with a competence in environmental matters and sustainable development;
- (b) To give the new Council the role of supervisor of Environmental Conventions, and coordinator of environmental competences of the various organs of the UN system;
- (c) To establish a Permanent Forum on sustainable development, as a subsidiary body of ECOSOEC, responsible for monitoring and technical expertise in the three areas of sustainable development;
- (d) To provide in this Forum an equal representation of the states and the civil society (social and environmental NGOs, industry and scientists), to engage in the same way all the actors involved in the issue of sustainable development according to their skills, and to ensure better representation of civil society in international governance of the environment;
- (e) To ensure the independence of the representatives of civil society by an internal appointment process for members of the sectors concerned, without notice of the states or the council required.
- (f) That civil society could access, through the Forum members representing NGOs, to information about international negotiations on the environmental ;
- (g) To guarantee this right by creating an obligation for the UN bodies and the States to provide all the necessary information to the Forum, whose members will serve for all UN sessions interesting sustainable development;

RECOMMENDATION N°18

THE PLACE OF CIVIL SOCIETY AND NGOs IN

INTERNATIONAL LAW ON THE ENVIRONMENT

- (1) The Rio+20 Conference should take a decision to start negotiating a global treaty on Principle 10 of the Rio Declaration, in order to have a text ready for adoption in 2017. The negotiation process itself should be transparent and participatory.
- (2) The Rio+20 Conference should (a) encourage the development of regional treaties on Principle 10 along the lines of the Aarhus Convention, and (b) encourage interested States to accede to the Aarhus Convention and its Protocol on PRTR, both of which are open to accession by any UN Member State.
- (3) The Rio+20 Conference should request UNEP to provide assistance to countries to enable them to better implement the Bali Guidelines on Principle 10, and invite donor governments and institutions to provide financial assistance for this purpose.
- (4) Any new instruments or processes established pursuant to the Rio+20 Conference should be 'Principle 10-proofed', i.e. they should contain provisions and/or requirements promoting effective access to information, public participation and access to justice in relation to their subject matter.
- (5) In its conclusions on the institutional framework for sustainable development, the Rio+20 Conference should invite the governing bodies of and Parties to international treaties relating to the environment, including but not limited to multilateral environmental agreements, to ensure that the substantive outcomes under such instruments promote effective access to information, public participation and access to justice.
- (6) The Rio+20 Conference should adopt a set of guidelines guaranteeing minimum standards for civil society participation in international decision-making processes.

RECOMMENDATION N°19

STRENGTHENING OF FORESTRY LAW AT THE NATIONAL, REGIONAL AND INTERNATIONAL LEVEL

The Meeting:

Aware that forests, in the richness of their diversity, support ecological processes which are indispensable for maintaining all forms of life;

Alarmed at the continued high rate of loss and degradation of the world's forests, despite the notable expansion of reforestation;

Convinced that the capacity of forests to satisfy the global needs of humanity cannot be maintained in the long term except by the sustainable and equitable management, in the interest of present and future generations, from the ecological, economic, social, cultural and spiritual points of view;

Welcoming the significant progress of forestry law achieved at the national level through the many legislative reforms undertaken by numerous States, and **convinced** of the necessity to pursue such efforts to adapt, improve, complement, update and enforce the national legal frameworks relating to forests in all countries;

Appreciating the importance, from this perspective, of the *Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forests*, adopted in 1992 by the Nations United Conference on Environment and Development;

Welcoming the results achieved in the framework of the United Nations Forum on Forests and under the International Arrangement on Forest, which led to the adoption in 2007 of the *Non-legally Binding Instrument on all Types of Forests* by the General Assembly of the United Nations;

Noting the rising trend for consumer countries to impose direct or indirect restrictions on the import of forest products to ensure legal logging and sustainable management of forests;

Bearing in mind that there is still no global convention, of general scope, applicable to all the forests which the planet relies on, and **noting** the persistent divergences in opinion on the desirability to develop such a convention, both between States and amongst non-government actors;

Convinced that a global forestry convention would provide a sound legal basis for good governance and increased cooperation for the conservation and development of forests, and also enhance synergies among existing conventions dealing with related areas, in order to foster sustainable development, the fight against poverty, the preservation of biodiversity and a reduction in greenhouse gas emissions;

Recommends:

a) a dialogue should be initiated, in a constructive spirit, to bring positions closer together so as to reach a consensus allowing negotiations to start as soon as possible on a forestry convention which would: (i) have a worldwide scope; (ii) be applicable to all categories of forests and all forest products and services derived therefrom, respecting eco-regional diversities; (iii) cover the environmental, economic, social, cultural, sacred and spiritual dimensions of the conservation and utilisation of forest ecosystems; (iv) be grounded on

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principles of legality, sustainability, equity, solidarity, ethics and transparency, taking into account legal pluralism; (v) provide for viable financial mechanisms and help to raise official development aid for sustainable forest management;

b) the promotion of national, bilateral, regional and global initiatives aiming at the adoption and improvement of policy and legal instruments for the conservation and development of forests, especially: (i) forestry planning and programming tools; (ii) criteria and indicators for sustainable forest management; (iii) forest certification programmes; (iv) voluntary guidelines on specific aspects of forest management and use; (v) bilateral agreements and regional conventions intended to strengthen cooperation on forest conservation and development, including governance, legality and trade issues in the forestry sector;

c) the dissemination and deepening of reforms to improve, update and complement national forestry legislation in order to promote, *inter alia*: (i) environmental, social, economic, cultural and spiritual values of forests; (ii) forest planning and management and regulation of forest use, in compliance with sustainability and legality; (iii) the fight against illegal clearing and logging, transparency of trade in timber and traceability of forest products; (iv) reduction of forest biodiversity loss; (v) certification of forest products; (vi) more equitable, participatory and decentralized management of forests, involving all concerned actors, public and private, respecting the interests users, indigenous peoples, local entities and the national community;

d) a better legal regime for encouraging the role play of forests in reducing the negative impacts of climate change, notably in respect of: (i) tenure rights related to forest carbon stocks, sinks and credits; (ii) the REDD+ initiatives, taking due account of the interests of local communities and those living in the vicinity of forests;

e) the raising of funds, building of capacities, development of research, and transfer of technologies necessary to implement the measures mentioned in the preceding paragraphs.

RECOMMENDATION N° 20

MARINE PROTECTED ZONES ON THE HIGH SEAS

1) States should start the negotiations for an Implementation Agreement of the United Nations Convention on the Law of the Sea that would set forth a commonly agreed “package” on a global regime for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction;

2) The basic components of the future Implementation Agreement should be:

- the establishment of a network of high seas marine protected areas,
- a procedure for environmental impact assessment of high level dont le contenu et l'effectivité garantissent un haut niveau de protection,
- a regime for marine genetic resources, including access and benefit sharing,
- provisions on capacity building and transfer of technology;

3) As regards marine protected areas, consideration should be given to a number of elements, such as, *inter alia*:

- the provision of a List of high seas marine protected areas of world importance;
- the definition of common criteria for the choice of high seas marine protected areas (importance for the conservation of biological diversity, ecosystems or habitats of endangered species; special interest at the scientific, aesthetic, cultural or educational level; etc.).
- a procedure for the inscription of high seas marine protected areas on the List based on a decision taken by the parties to the Implementation Agreement;
- the adoption on a case by case basis of a set of protection and conservation measures, which are binding on all the parties to the Implementation Agreement;
- the obligation of the parties to adopt appropriate measures, consistent with international law, to ensure that no one engages in any form of activity contrary to the principles and purposes of the protection and conservation measures adopted for each high seas marine protected areas of world importance.
- the provisions of institutional arrangements and financial mechanisms necessary for the implementation of the Agreement.

- the provision of measures regarding marine protected zones on the high seas which are partly within national jurisdiction.

RECOMMENDATION N°21

INTEGRATED COASTAL ZONE MANAGEMENT (ICZM)

Preamble:

Whereas, notwithstanding public participation, public authorities have the primary responsibility for the implementation of ICZM

Considering the ecological status of marine pollution, 80% of which is from land-based sources

Considering the drift of islands of waste in every ocean (including Pacific and Atlantic)

Considering the challenges for the protection of coastal and marine biodiversity

Considering the technological risks that coastal and marine areas are subject to, including pollution from land and marine sources

Considering the hazards, characteristics of these areas, including the risks of evolution of the coastline and flooding

Considering the challenges posed by coastal and marine areas for humanity in terms of:

- Fisheries resources
- Transport (people and / or property)
- Port activities,
- Tourism,
- Energy production
- Urbanization
- Various economic activities related to the sea

Considering also the need to consider:

- The impact of climate change on the land / sea interface
- The growing impact of human activities on coastal land and sea
- The exponential growth of humanity, including its presence in coastal areas

Recommend that the Heads of State and Government undertake:

I - To be implemented in advance:

- Integrated management of coastal zones, based on the achievement of sustainable development,
- An application of Fees (environment, urban planning, land, sea etc. ..)
- Public policy redefined, developed on the principle of an integrated and participatory
- An approach based on priority coastal and marine ecosystems,
- A transnational / regional, based on river basins and coastal shipping
- Specific directions: protection of biodiversity, land-use planning in coastal areas (with

closed areas to build in coastal areas), areas of enhanced protection, coastal and marine economy in the service of environmental and social goals

- Developing a culture of ICZM from all stakeholders, including local

II- A set of objectives for ICZM

Public policy on ICZM should be based on:

A - Knowledge

Given the stakes and the complexity of coastal and marine ecosystems will be knowledge on transboundary coastal ecosystems will be developed.

Referring to the creation in 2009 of the World Conservation Monitoring Centre for Conservation of Nature (www.wdpa-marine.org):

- Regional Observatories will be created in 5 years

B - A set of objectives

Based on regional and / or interstate relevant priorities, objectives will be defined

Given the links land / sea, and the transboundary nature of these issues, but also the role of these ecosystems and their degradation characterized by qualitative targets of priority concern:

- 1. Coral reefs**
- 2. Estuaries**
- 3. « Mangroves »**

These objectives will lead to:

- a. restoration of degraded environments
- b. preservation of environmental quality

C - Coordination

Integrated management of coastal areas requires coordination of:

4. Strategies: first ICZM strategy in geographical and other steps to protect existing, including the Montego Bay Convention, the Ramsar Convention, the Convention on Biological Diversity, the Convention on the management of waste, many regional and bilateral Convention on the water management etc. ..
5. Actors: those of ICZM and other policy actors, public actors and regional national and local actors, the public and private actors
6. instruments: planning and operational tools, programs and funding

III - To implement operational capacity within five years

The coastal and marine zones, such as estuaries, deltas and river mouths are always political and administrative borders, international and national levels.

The basis of the operational response must be based on the will of the state to develop cross-border cooperation for the sustainable management of large estuaries or deltas in the world.

To achieve the qualitative objectives, a program will be conducted from 2013 to 2018 leading

to:

7. Strengthen coordination between universal institutions (UNEP / ONESCO / CAM) etc. ..., but also regional and local, both vertical and horizontal
8. Establish a regional action plan integrated with major ecosystems (oceans), based on - coastal basins
9. Establish a national plan of action, combined with a local approach. The coastal and marine spatial planning should be developed in a transversal way across river basins and sea, whether national or transboundary
10. Strengthen the participatory process (Aarhus)
11. Establish a sustainable program involving all programs and all stakeholders
12. Ensure sustainable funding
13. Enhancing the adaptability of the process in time of ICM
14. Implement an enforceable right planning, regulation, incentives
15. Raise awareness and educate law enforcement and judges
16. Provide an assessment based on shared indicators
17. Build capacity for research on ways to develop operational and effective
18. Strengthen international cooperation
19. Develop a culture of ICZM, drawing on local cultures

VI- Establishing shared control tools

Building on the achievements of existing assessments, an evaluation of ICZM will be conducted, relying on independent expertise and a set of qualitative and quantitative indicators common to all states, supplemented by local indicators, including:

1. Urbanization and the artificialization of coastal zones (facilities, infrastructure)
2. Demographics
3. Marine and coastal biodiversity
4. The quality of coastal and marine waters
5. Waste management
6. The landscape

In order to have appropriate tools to achieve integrated and sustainable management of coastal areas:

7. A panel of contributing indicators to measure the ecological footprint on coastal areas will be created
8. An ex-post evaluation of results will be conducted
9. Centers of independent expertise will be established

On the basis of these proposals, we recommend the promotion at “Rio +20” of:

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- A resolution to the General Assembly of the United Nations on the requirements of ICZM

and

 - Negotiations on universal principles and methods of intervention of ICZM, leading to a framework agreement, which will be adapted by each of the regional seas in detailed regional conventions.
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RECOMMENDATION N°22

COMPANIES' PLACE IN SUSTAINABLE DEVELOPMENT

AND THEIR RESPONSIBILITY

Having regard to the 1972 Stockholm Declaration and more particularly its assertions according to which “Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well being” and “everybody, citizens and communities, firms and institutions, whatever ..., assume its responsibilities and share tasks on an equal level”,

Having regard to the principles of the 1992 Rio declaration, and more particularly Principle 13 which says that “States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage. States shall also cooperate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction”,

Having regard to the Action Plan 21,

Having regard to the resolution of the UN General Assembly of the 11th of December 1987 indicating that ‘ the concept of sustainable development ...should become the directive and fundamental principle for ... institutions, organizations and private firms’,

Having regard to the Johannesburg declaration on sustainable development and particularly § 27 which underlines that ‘in pursuit of its legitimate activities the private sector, including both large and small companies, has a duty to contribute to the evolution of equitable and sustainable communities and societies’,

Having regard to the plan implementation of the World Summit for sustainable development (§140 f) which reminds the necessity of ‘promoting the corporate responsibility and being held accountable and the exchange of the best practices in the context of sustainable development, including, as appropriate, through multi-stakeholder dialogues ...’,

Considering that companies, either private or public, should be considered as full-fledged actors of Environmental International Law on the same level as States, NGO, or the civil society and that they have more particularly the best position to take up the challenges of sustainable development, and to permit the emergence of a green economy. That their role is essential in the innovation and the development of technologies which respect the environment,

Considering that it is necessary to look at things from the perspective of precautionary and polluter-pays principles by encouraging team spirit, competitiveness and innovation,

Considering that companies must make interdependent and complementary mainstays – economic, social and environmental ones - progress on all levels by adopting an integrated approach,

Considering that companies must save the environment from negative impacts generated/ caused by their activities, as well towards actual generations as towards future ones; that as a consequence they must adopt a responsible behavior towards the Human and the Environment,

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Considering that they have to respect the binding rules destined to assure the protection of the environment, in effect on the local, national, regional but also international level, that these rules are too often unknown and not respected,

Considering that the effectiveness of the protection of the environment has to be ensured,

Considering that serious damages caused to the environment can constitute violations of the fundamental rights which are internationally recognized and that it is essential to ensure; that it is important to reinforce these rights as far as the environment and social matters are concerned,

Considering that it is necessary to claim with force and vigour, on the international scale, the fundamental right of each person to live in a viable and safe environment, which ensure its dignity; that each State has to protect this right,

Considering that lots of conventions exist in terms of responsibility because of some pollutions and nuisance generated by economic actors, that however, it is necessary to overcome this sectoral approach by a more global and general one,

Considering that the time has come to elaborate an international and binding text in this field, that besides such an option had been planned during the Johannesburg Summit in 2002 and had even given rise to the involvement of acting that way,

Considering that one should speak to all the multinational or national economic actors, either private or public, and whatever their status, structure or fields of activity,

Considering that this text which concerns the environmental responsibility of companies has to be binding to be efficient, that it could not be analyzed in a range of directive and non-binding principles, that besides it has to be under efficient monitoring mechanisms and sanctions,

Considering that the concept of environmental responsibility, in the context of this recommendation, has to be taken as the obligation to answer both its actions and inactions which can, directly or indirectly, cause serious damages to the environment, that these damages are purely environmental or result in violations to people or goods, and also to repair the violations thus caused.

Considering that the States are responsible for the violations caused to the environment by the economic actors which depend on their jurisdictions, that positive obligations of carrying out everything to prevent and punish these violations – which respect the principle of polluter pays - weigh on the States,

Considering that the States have to introduce adequate national rules and to be sure of its full efficiency to real conditions, to inform and warn people, and also to foresee and be sure of the existence and efficiency of adequate and available remedies in front of a national judge, permitting to obtain a satisfying compensation,

Considering that the States also have to adopt proper statements to hold back the phenomena of law shopping or forum shopping by implementing rules of private international law, which will lead to the carrying out of the final protection of the environment,

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Considering that companies are responsible for preventing serious violations to the environment resulting from their activities and repairing the damages that they could have led to, that this responsibility must be held nationally, regionally and internationally,

Considering that the consideration of environmental and social issues must be done at the expense of competition rules and that the implementation of this recommendation must not be discriminatory,

The Heads of States and governments should decide on what follows:

Article 1

It is not possible to reach the objectives of sustainable development without a full participation of companies which are the essential actors.

An appropriate management of companies relies on the correct apprehension of social and environmental data, linked to economic data. Companies have to take into account the plurality of economic, social and environmental objectives in all their activities and be able to justify the implementation of principles and criteria of sustainable development.

The States have to make the necessary tools to work out the ecological costs available to companies and have to implement everything they can to encourage consumption and production ways which respect the environment and health. They have to ensure more particularly that the rules of competition law guarantee the recognition of the objectives of sustainable development.

Article 2

Companies shall be liable to the serious violations on the environment and on health which result from their activities, products or services. Their voluntary initiatives concerning the environment, social concerns and governance have to be promoted and a company must not be blamed for going over legal requirements.

Article 3

Companies have to adopt a responsible behavior, based on the internationally recognized principles which respect all the legislations which are enforceable to them.

A company which establishes itself in a country has to rely on a clear diagnosis of the situation and consider the possible impacts of its activities on the environment and society, and it has to be able to justify the recognition of this diagnosis and the answers given to the environmental issues and the acceptance of these answers by the concerned authorities.

Article 4

In this context, the use of the word 'company' means all the companies, either private or public, either simple or composed of several entities. In the case of several entities, the word 'company' refers to these different entities.

When a company has a decisive influence on a controlled entity, it can be blamed for the behavior of this one.

Article 5

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Within the framework of trade relationships with their subcontractors and suppliers, and beyond, within the framework of their sphere of influence, companies have to be sure of the respect of all the environmental and social obligations, legally set out.

Article 6

Companies must evaluate the impacts of their actions and put forward accompanying measures which limit, if necessary, the consequences of the implementation of products - on a given market - on the environment and health.

Article 7

In order to reduce the consumption of non renewable raw materials, to urge the rational use of natural resources and to prevent the production of waste, the requirements linked to eco-design have to be systematically integrated to production processes. Upgrading or recycling both production residues and products at the end of their life-cycle have to be underlined. The planned obsolescence of products must be fought against.

The States have to implement a framework of recycling that permits the salvage of raw material in conditions which respect the environment and people's health. Without state rules, each recycling operator has to ensure the respect of its interests.

In accordance with the polluter-pays principle, the producers of products which generate waste have to be urged on taking responsibility of the charges linked to the collection, the recycling or the destruction of the waste issued from their products.

Article 8

Companies implement exchange structures with the stakeholders, verify the quality of the information which are given to them and take into consideration their recommendations.

Article 9

The States have to guarantee the efficiency of the right of the environment and the implementation of the principles of sustainable development. To reach this purpose, they ensure the access to justice and make sure of the compensation for damages on the environment, health and living conditions.

Article 10

The governance of companies relies on a correct identification of social and environmental information and the availability of both the executive bodies and the associates and others taking part in it.

Article 11

The rules of companies' accounting must take into account relevant information concerning the environment.

These informations have to be introduced in an accessible and understandable way and be coherent with all the available environmental data. An independent hearer must be able to vouch for the accuracy and fairness of the information thus introduced.

Article 12

The spread reports concerning the economic results of the companies are accompanied with appropriate environmental and social information.

Companies whose activity may have important consequences on the environment have to elaborate a code of conduct, or subscribe to an existing code, which recommend the best practices and give an account of its application or explain why they do not do it.

Article 13

Workers and their representatives have access to all the environmental information hold by the company and are associated to the management of the stakes they represent.

The working environment must not be dangerous for workers. Like their representatives, they are associated to the implemented measures and to the management of issues linked to the working environment.

Companies have to make sure that their employees are correctly trained to issues linked to sustainable development and, more particularly to the environmental and health consequences of their activities. When they exist, training plans for workers have to take into account these issues. When they do not, such plans have to be elaborated to permit a good apprehension of these issues.

Article 14

Each company has to make available to its products' or services' consumers and to people information about the environmental and health impact of these products or services.

Each time it seems possible, one will refer to an efficient, clear, easy to check and non-discriminatory program of eco-labelling to spread this information.

The PNUE will elaborate minimum eco-labelling and environmental labels' schemes to which the States will refer in their national procedures.

Article 15

Any person who will know information which will permit him to think that serious environmental or health consequences could result from his/her silence has to be able to alert freely one of the members of his/her hierarchy or a person assigned to this, or a judicial authority, or ad hoc, designed by the State in which he/she works.

In accordance with its national legal system and within the limits of its resources, each State takes appropriate measures to ensure an efficient protection against possible acts of reprisal or intimidation of witnesses and experts who testify concerning these health or environmental alerts.

Each State takes appropriate measures to ensure the protection against an unfair handling by a genuine person who casts an environmental or health alert, on acceptable suspicions.

Article 16

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The companies which can justify the quality and the reality of their involvement in favor of the objectives of sustainable development must be able to take advantage of it. The States will get involved in a procedure of promotion of the initiatives of environmental and social concerns.

Article 17

The environmental, social and companies' governance commitment must be promoted among all the public purchase procedures. To reach this aim, the States are committed to:

- Either reserve the access to all the public command to companies which can justify for voluntary approaches in the environmental, social and governing matters verified by a third party independent organization that they approve.
- Or integrate in all their politics of public demand of specific requirements linked to the objectives of sustainable development.

The States will make sure that the ban of an access to the public procurement can be sentenced by judges deciding on environmental, social or of governance matters. The companies sentenced by decisions which come under the force of res judicata and which are subjected to a ban of an access to the public procurement will not be able, directly or not, to answer public tenders.

Article 18

In the most important Companies and at least in those which titles are admitted for negotiations on a ruled market, the pay of the leadership should be determined on the basis of indicators which significantly refer to the objectives of sustainable development.

Article 19

The financial institutions, either public or private, integrate the objectives of sustainable development in all their activities.

The private financial institutions transmit their financing criteria linked to sustainable development that they implement and to which extend they implement them or explain why they do not implement them.

The public financial institutions put aside their financing to activities which integrate in a significant and easy to check way the objectives of sustainable development. The criteria of the choice of the financed plans have to be pre-established, clear and easy to check and a report about their implementation has to be written every year.

Article 20

The States systematically take into account in their economic agreements an environmental and social aspect in order to contribute to the satisfaction of the objectives of sustainable development.

Article 21

Sectoral approaches concerning the responsibility of companies will be developed in the following fields:

- Transport,
- Waste management,
- Chemistry,
- Water,
- Agriculture and forestry,
- Energy,
- Extractable industries,
- Building and civil engineering works,
- Finance.

In the absence of an agreement on the former elements, it can be planned to :

1 – systematically and explicitly spread to the protection of the environment and to the pursuit of the objectives of sustainable development the directive principles about companies and human rights (*Ruggie principles*).

2- to devote - within the framework of a text adopted by the States –the fundamental orientations introduced in the directive lines concerning the societal responsibility : ISO 26000.

3 – to devote and to make restrictive, within the framework of the United Nations, the directive principles of the OCDE aimed at multinational companies and to establish reinforced mechanisms for supervision and control.

RECOMMENDATION N°23

FOR A GLOBAL TRANSITION TO CLEAN ENERGY

Given the importance of access to energy for the realization of many basic needs,

Recognizing that nearly one third of humanity has no access to modern sources of energy,

Convinced that the modern energy system, which is heavily based on energy mining, is causing irreversible damage to the environment and human health,

Recalling that the energy sector is responsible for three fifths of anthropogenic emissions of greenhouse gases inducing climate change, and that States are committed at the fifteenth session of the Conference of Parties to the Framework Convention on Climate Change in Copenhagen to halve emissions by 2050 compared to 1990, and not to exceed an average temperature increase of 2°C in 2100 compared to the pre-industrial era,

Recognizing that decreasing energy mining cannot ensure sustainable access to an environmentally friendly energy, and that a growing demand for them should lead to higher prices of energy and may even lead to diplomatic and armed disputes,

Alerted to the need for an energy transition characterized by a quantitative reduction of energy consumption and an improvement in the quality of energy,

Informed by the IEA, UNDP and UNIDO on the possibility of universal access to energy by 2030, by UNDESA on the need to limit the annual individual consumption to 70 gigajoules of energy, and by the IPCC on the ability to ensure a supply basis at almost 80% renewable energy by 2050,¹

Having noted that no energy source is clean in nature and the cleanliness of a source depends on how it is used by humans,

Resolved on the need to assess the impact of energy activities,

Stressing that a transition to clean energy would boost economic growth,

Stating that a transition to clean energy is an emergency and that only global and coordinated action of all actors in the energy sector can ensure effectiveness,

Emphasizing the decision of the United Nations General Assembly to proclaim 2012 International Year of sustainable energy for all,

States are encouraged at the UN Conference on Sustainable Development to be held in June 2012 in Rio de Janeiro, to adopt a roadmap for a transition to clean energy based on the following commitments:

1. Universal access to clean energy must be guaranteed at an economically acceptable cost, and solidarity mechanisms should be established to supply the poor free. To this end, the right to energy includes national legislation and international law.
2. Annual per capita consumption of energy should be limited to 70 gigajoules, and 80% of global energy supplies should be provided from renewable sources by 2050.
3. Any activities likely to significantly impact energy requirements (put up for sale of goods and services, buildings and facilities, activities, public

1 IEA, UNDP, UNIDO, *Energy Poverty - How to make modern energy access universal?*, Sept. 2010 ; UNDESA, *World Economic and Social Survey 2011 The Great Green Technological Transformation Overview*, 2011, p.14 ; IPCC, *Special Report on Renewable Energy Sources and Climate Change Mitigation, Summary for Policy Makers*, 2011

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policies, international treaties) are subject to a preliminary energy assessment and monitoring, including appropriate corrective action. This assessment is based on five criteria: improve energy sobriety and energy efficiency, estimate the embodied energy, guarantee the renewal of the resource, equitable sharing of the energy mining, and recover energy.

4. The Energy Charter Treaty establishes an essential legal framework for energy security and should include social and environmental fundamental rights, strengthen cooperation among States, as well as mechanisms of energy solidarity.
5. The International Renewable Energy Agency (IRENA) can significantly contribute to the clean energy transition. It is encouraged to adopt without delay a plan of action to achieve these objectives, involving all stakeholders in the energy sector and giving priority to local businesses.
6. The recipients of energy projects should be granted a right to information and participation in their development and implementation. Only organizations with the best guarantees of social and environmental ethics should be eligible for these projects.
7. Subsidies for energy mining will be cancelled and replaced by a global tax on the production of energy from mineral resources. The revenue generated will be allocated to the development of projects in accordance with clean energy, the poorest households, and high-priority spending such as health and education.
8. Mining energy fields should be conserved for future generations and preservation of the environment. In return, States could seek compensation based on the revenue generated by the global tax on the production of energy from mineral resources and allocated to the development of projects in accordance with clean energy, the poorest households, and high-priority spending such as health and education.
9. Quantitative targets in terms of renewable energy and consumption reduction will be adopted and regularly updated. Certificates and guarantees of origin will ensure their effectiveness.
10. Technical standards ecodesign will be adopted to ensure that only those goods, services and activities with the best energy performance are placed on the market.
11. State programs will encourage investors to develop goods, services and activities of energy performance above the market supply.
12. All measures will be implemented in order to contribute to an energy education, especially by incorporating its features and key issues in school curricula and vocational training.
13. Goods, services and activities using energy is subject to energy performance labeling, which should be standardized and easily understandable to the public.
14. The rules for energy management will be open-accessed so that anyone can easily reach this information whose sincerity will be ensured by an energy auditing.
15. To contribute to the effectiveness of these methods and objectives, public authorities and companies are encouraged to collaborate with NGOs working in favor of social and environmental ethics.

RECOMMENDATION N°24

THE NANOTECHNOLOGIES

Guidelines for international regulations concerning the nanotechnologies

1. *Guiding principles*
2. *Need for balance*
3. *Potential risks*
4. *Precautionary approach*
5. *Risks assessment*
6. *Cooperation between States*
7. *Transboundary movements*
8. *Traceability*
9. *Information obligations*

1. Guiding principles

The Rio Declaration on the Environment and Development has adopted several principles that must guide any regulation on the emerging technologies, and more specifically :

- *Cooperation. “States should cooperate to strengthen endogenous capacity-building for sustainable development by improving scientific understanding through exchanges of scientific and technological knowledge, and by enhancing the development, adaptation, diffusion and transfer of technologies, including new and innovative technologies” (Principle 9)*
- *Participation. “Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available (...) (Principle 10)*
- *Precautionary approach. “In order to protect the environment, the precautionary approach shall be widely applied by States according to their capability. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation” (Principle 15)*
- *Polluter pays principle. “National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in Principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment” (Principle 16)*
- *Preventive action. “Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority” (Principle 17)*

2. Need for Balance

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- *In that spirit, Member State must do their utmost to avoid reduction of the potential gains from the implementation of emerging technologies by the disadvantages that may be caused to the human health or the environment.*

3. Potential risks

- *The expectations placed on nanotechnology throughout their entire life cycle have led to heavy investment in research and development. However, they raise serious concerns about the potential risks that may be caused to the human health or the environment. The integrity and effectiveness of the natural protective barriers of living organisms may be affected.*
- *Lack of scientific certainty due to insufficient relevant scientific information and knowledge regarding the hazardous character of the products from nanotechnology make the risks assessment difficult.*

4. Precautionary approach

- In accordance with the principle of participation, States have to establish regulations on the basis of the precautionary principle to prevent the potential adverse consequences of the products from nanotechnology.
- The risk has to be presumed and assessed. The lack of the generic character of these products imposing a risk management based on a case by case analysis.
- The placing on the market of the products from nanotechnology does not presume the absence of risks and the researches on these products must continue.
- With regard to nanomaterials, if informations on bigger objects with the same chemical composition are available, the minimum valuation in accordance with the precautionary principle is to consider that nanomaterials show similar dangers.

5. Risks assessment

- States shall not authorize manufacture, application, placing on the market and use of the products from nanotechnology without this precautionary approach and shall impose an assessment of the environment and health situation in accordance with the principle of participation.
- Special attention should be given to the workers exposed to these products.
- States have to take measures to ensure a permanent monitoring on the effects of these products. Administrative authorities of the State must be sent all relevant information that is available and should have legal and technical capacities to search and prevent the potential adverse consequences of the products from nanotechnology.
- States should make the manufacturing, application, marketing and using authorisations upon the legal obligation to have technical and financial capacity in relation to prevent the risks potentially associated with nanotechnology and its products and repair the damages that may be caused to the human health or the environment. Liability for development risk cannot furnish a pretext for the producters to escape liability relating to the products they manufacture and market.

6. Cooperation between States

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- States have to cooperate to consider risks associated with the products from nanotechnology and the measures to prevent or reduce any adverse effects. Protection of commercial and industrial secrecy and patent law may not constitute an obstacle to this cooperation.
- States within whose territory these products are manufactured or implemented have to pass on information on product risk and to inform national authorities of the action taken to prevent risks.
- States have to support developing countries to build technical and financial capacity in relation to the risks potentially associated with nanotechnology and its products.

7. Transboundary movements

- States shall not authorise international transfers of the products from nanotechnology without having verification that the State of destination has the technical, legal and administrative resources to safely manage the risks potentially associated with nanotechnology and its products, in the light of the present state of scientific and technical knowledge. For that purpose, a cooperation has to be achieved.
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8. Traceability

- States have to take appropriate measures to ensure traceability of the products from nanotechnology throughout their entire life cycle.

9. Information obligations

- When the products derived in part or in full from nanotechnology, States have to require that the consumers are adequately informed.
- States have to impose the indication of safety precautions on the label or on an enclosed leaflet for the use of these products and their management as waste.
- States have to promote the public's awareness and guarantee an access to the information on nanotechnology and its products.

RECOMMENDATION N°25

**PROTOCOL ON BIOLOGICAL DIVERSITY AND THE PROTECTION OF
NATURAL AND RURAL SPACES ON THE PLANET**

Considering that every year hundreds of thousands of hectares of natural areas, forests and farmland are destroyed or degraded in the world,

Whereas the objectives of the Convention on Biological Diversity and the objectives identified by the European Union could not be achieved at the end of 2010 and the degradation of biodiversity is continuing at a rapid pace throughout the world,

Considering that both the United Nations and the European Union, in light of this, have been forced to review their goals by considering new deadlines,

Considering that the disappearance of land used for a many for agriculture is contradictory to the objective of adequate food for a world population that could reach 9 billion people by 2050 and the promotion of local rural development, while it contributes to the erosion of biodiversity,

Whereas the increasing artificiality of soils and their impermeability have direct consequences for the further conversion of natural and rural areas,

Considering the irreversibility of the situations resulting,

Considering also that the conversion of land long exploited for agriculture has further results on natural areas, leading to new land clearing, deforestation, drainage of wetlands, disruption of ecosystems, fragmentation of habitats, and the decline of natural areas, in the logic of competition between natural areas and the farmland between them,

Whereas the massive purchases of land for agricultural production, energy, mining and tourism in many parts of the world, at the initiative of private companies and foreign governments, further accelerate this process,

Whereas the loss of biodiversity can not be stopped under these conditions,

Whereas it is imperative that a policy of creation of new protected areas be pursued and strengthened around the world,

Considering therefore that a land policy for biodiversity should be defined and promoted internationally, from the perspective of a harmonization of policies that are intended to create new protected areas and other measures taken for biodiversity,

Anxious to promote the principle of non-regression of environmental law,

REQUESTS the parties to the Convention on Biological Diversity, meeting in Rio de Janeiro on 14-16 June 2012, to adopt the following recommendation:

PROTOCOL ON BIODIVERSITY AND THE PROTECTION OF NATURAL AND RURAL AREAS

**I - PRINCIPLES GUIDING THE ELABORATION OF A GLOBAL STRATEGY FOR
BIOLOGICAL DIVERSITY AND THE PROTECTION OF NATURAL AND RURAL
AREAS**

IMPROVEMENT OF LEVEL OF SCIENTIFIC UNDERSTANDING

- Prioritize and generalize the scientific criterion of the natural habitat by incorporating it into:

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- National accounting systems and internationally, including biodiversity observatories, the extent of the ecological footprint, the valuation of ecosystem services provided by nature, sustainable development indicators
- Policies aimed at protection of biodiversity at the international and regional levels

ESTABLISHMENT OF LEGAL FRAMEWORKS

Natural habitats

- Require states to implement at the national level and through regional agreements network of natural habitats and species
- Allow emerging countries and the poorest countries on the planet to have timely access to scientific tools for knowledge of natural habitats and biodiversity and the assessment of their condition, and to develop a legal framework on land

Cadastre

- To assist States and local authorities who wish to develop a computerized land registration system on which to base land policies in general and biodiversity policy in particular, taking care not to undermine customary rights and the rights of indigenous peoples, including nomadic peoples

Studies on impacts to land and compensation

- Require states to complete their national law with regulatory measures on environmental impact assessment, which must incorporate land and associated compensatory measures:
- Inclusion of a land component in impact assessments of the projects of works and equipment and in the assessment of environmental impacts of plans and programs, including the scale of the plot, the total area of the project, natural habitats present and when the environment is degraded, natural habitats that could be restored or rehabilitated, as well as measures to avoid, reduce, and possibly offset the impacts on species diversity and habitats
- Where impacts on biodiversity and the habitats of species can not be avoided or reduced, provided land compensation measures based on the following principles:
 - Prohibition of financial compensation and compensation based on the surface area alone; land compensation must be based on an equivalent value (ecological, landscape, ...) and have the purpose of conservation of one or more habitats or its restoration
 - Principle of achieving compensation according to local priority
- Protected areas, natural habitats of particular interest, especially for the functionality of ecosystems and for the renewal of natural resources should not be included in a compensation mechanism

ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN BIODIVERSITY PROTECTION AND NATURAL AND RURAL AREAS

Monitoring of transactions

- States must implement a system to monitor transactions involving the land in natural and rural areas, on the basis of relevant indicators that must be used regularly

Transparency and Access to Information

- States must ensure the transparency and publication of transactions involving land in natural and rural areas, including through the online publication of land contracts and deeds of land sales and the amount of transactions
- The UN supports and contributes to regional observatories contributes to the establishment of a global observatory of natural habitats and biodiversity, using indicators established on a scientific basis for an objective assessment of their conservation status
- Promote the establishment of local land committees like the Management Committees of the environment for Agenda 21

Whistleblowers

- International organizations take into consideration the function provided by the whistleblowers in the field of environment

Training

- The UN supports regional training programs in environmental law, including land rights, in view of the emergence of a group of professional negotiators of land for biodiversity

TOOLS AND MEANS OF INTERVENTION IN LAND FOR BIODIVERSITY AND THE PROTECTION OF NATURAL AND RURAL AREAS

Land agents

- Encourage States to establish specialized agencies, national and/or local, for implementation, primarily, of land measures specifically aimed at the protection of natural habitats and biodiversity

Regulatory authorities

- Encourage States to establish independent land regulatory authorities with particular competence and jurisdiction over the land rights issues of right access to land and their equitable implementation and the implementation of compensatory measures

Conventional protection

- Encourage States to complete their national law by a regulation on the conventional protection of natural areas and biodiversity, such as the long-term leases and contractual clauses requiring long-term protection and integrated management of habitats

Global Fund

- Creation of a global fund for the conservation of natural habitats, designed to enable accredited non-governmental organizations established principally with the objective of conservation and management of natural areas to acquire or lease long-term large areas to protect priority natural habitat, while involving local communities in a sustainable and environmentally friendly management of these territories, and give them the means of sustainable management with the objective of conservation and habitat functionality and species

Land strategy and Protected Areas

- In protected areas, states are implementing a land strategy to complement regulatory measures
- In order to reconcile the protection of biodiversity, the maintenance of natural areas and the needs of indigenous communities, particularly those of nomadic peoples, recommend the recognition and the creation of areas of indigenous heritage and community
- Encourage States, under the principle of non-regression, to complete their national law by ensuring the permanence of the regulatory classification of protected areas

Right of pre-emption

- Recommend that States incorporate in their national law a right of first refusal for the purpose of protection of natural areas for state and local authorities. In the case of the establishment of an agency responsible for exercising the right of first refusal,

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equitable representation on its deliberative or management structure must be guaranteed, particularly with respect to indigenous peoples and NGOs established principally for conservation and management of natural areas

- Establish the authority for states and local governments to allocate preempted assets to an NGO accredited principally established for the conservation and management of natural areas

Priority Regions

- Inventory regions reaching a critical threshold, identify land areas of intervention and designate land policy instruments adapted to their context
- Develop land programs objectives and specific resources for priority areas of the world such as Africa and Madagascar, South America, Asia, South East

**II - EQUITABLE AND SUSTAINABLE VALUATION OF NATURAL RESOURCES
VALORISATION EQUILIBREE ET DURABLE DES RESSOURCES NATURELLES**

Agro-systems

- Request States, local authorities and private actors to promote development based on an agro-system incorporating local models and the protection of biodiversity, soil protection, nutrition and the fight against poverty
- Encourage States to support environmentally friendly agricultural activities, that are compatible with the soil structure and characteristics, as well as with markets for products
- Require the states to regulate the use of pesticides and genetically modified organisms with a view to ensuring the effective protection of soil and biodiversity as well as safety within public health policy

General principles

- Require States to incorporate into their national law two principles:
 - polluter pays principle
 - protector-receiver principle²

Ecosystem services

- Recognition of the principle of ecosystem services

² From the perspective of a sustainable and equitable management of natural resources, the protector-receiver principle is designed to provide actors that contribute to the conservation of natural resources for the benefit of the public interest, a guarantee of fair compensation by transferring financial resources. Payment for environmental services is an application of the protector-receiver principle.

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- Increase in financial resources through the effective implementation of payment for environmental services, or equivalent measures, of which the proceeds must be allocated to actions to protect natural habitats

Local agriculture

- Focus on short distribution systems in order to lower the ecological footprint
- Promote the direct relationship between producer and consumer

III - HARMONIZATION OF POLICIES AND PROGRAMMES IN RELATION TO INTERNATIONAL BIODIVERSITY AND LAND PROTECTION OF NATURAL AND RURAL AREAS

- Inventory, conducted by international programs, of provisions that would have the destructive effect of aggravating degradation of biodiversity, notably by increasing habitat loss, degradation of biodiversity and destruction of natural and rural areas
- Encourage States to seek complementarity between the global and regional programs of development assistance and food for the protection of biodiversity and protection of natural and rural land
- Include in global and regional programs of development assistance and food the following principles:
 - Integration of the objective of maintenance of natural habitats and rural areas in these programs
 - Designation of agricultural and forestry practices compatible with maintaining the good condition of conservation of natural habitats
- Encourage states and international organizations to develop a common framework for development aid policies and politics of environmental protection
- Encourage the United Nations to complete the objectives of the Millennium Development Goals, especially Goal 7

RECOMMENDATION N°26

SUSTAINABLE TOURISM

The 3rd Global Meeting of Limoges:

Recognizing that tourism, in the richness of its diversity is a source of human development and a condition of peace between peoples, but also an awareness of the essential ecological processes for the existence of all life forms ;

Convinced that the ability of natural resources, the availability of host populations, the needs of energy resources to satisfy touristical travels can be maintained in long term only by sustainable and equitable management of resources into the benefit of present and future generations both ecological and economic, social, cultural and spiritual point of view ;

Considering the values of peace and exchange of international declarations of tourism as the World Charter for Sustainable Tourism of Lanzarote and the Global Code of Ethics for Tourism ;

Recognizing the value of the recommendations of the International Conference on small islands developing and other small islands held in Mahé in 2001 and reiterated by the World Summit on Ecotourism in Quebec in May 2002;

Whereas there is for the moment no global convention applicable to all touristical practices and attractions that exist on the Earth ;

Considering that such a global convention on sustainable tourism serve as legal basis for increased compatibility in the protection and promotion of tourist sites and would strengthen the existing conventions on related fields ;

Recalling the fundamental principles of international environmental law ;

Claim, failing to convince the opportunity to develop a new global convention on sustainable tourism among States as well as among international institutions and nongovernmental organizations, the following recommendations are the basis for the declarations adopted at the United Nations Conference in Rio in June 2012;

RECOMMENDS:

1. The recognition of sustainable tourism as a factor of socio-cultural development of populations and / or local communities, for his contribution to the fight against poverty, to improve their standard of living, to the consideration of peace between peoples ;
2. the improvement of national environmental laws so that they promote :
 - (i) the revaluation of environmental and social functions of leisure,
 - (ii) the planning of their development to ensure sustainability of their use,
 - (iii) a more equitable, participatory and decentralized management of resources, involving all stakeholders for the benefit of user populations, local and national community ;

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3. the adoption of legislation establishing a tourism police authority, in relation to the environment and tourism ministries, the Coast Guard, and various inspection bodies ;
4. the legal and economic empowerment of population to the ownership and control of their territories and their heritage resources ;
5. the recognition of legal value to the World Charter for Sustainable Tourism (Lanzarote, 1995) and the Global Partnership for Sustainable Tourism (recognized by the WTO and UNEP in Costa Rica, 2011);
6. the proclamation of legal value to charters, codes and other global and institutional instruments of sustainable tourism, by a codification of international law tourism principles integrating public policies and environmental law;
7. the development of codes of good conduct between public authorities, hotel industry, airlines companies, other tourism stakeholders, local NGOs and the public, combining tourism development and environmental protection and integrating polluter pays principle for international tourism activities ;
8. the promotion of national, regional and universal legal instruments for a new governance of tourist sites, including:
 - (i) planning tools integrating the principles of prevention and participation from the international environmental law,
 - (ii) a zoning density of the main tourist destinations (local, regional, international), after conducting a strategic environmental assessment and with a sustainable development approach,
 - (iii) the criteria and indicators for sustainable management of tourist areas,
 - (iv) environmental certification of tourist sites;
9. the recognition of the value and relevance of an integrating approach to climate change for a new sustainable tourism included in the green economy (Gothenburg, 2009, Copenhagen, 2009), specially with the establishment of new legal and financial supervisory capacity for air travel and with a discrimination in the choice of tourism transport for the benefit of non-carbon energy.