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Statut consultatif spécial auprès du Conseil économique et social des Nations Unies (ECOSOC)
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Newsletter N ° 1 January 2017 CIDCE

Moving environmental law forward, Avanti !

The CIDCE publishes its first newsletter in a time of division, when the current global events split perspectives between hopes and fears. Luckily, we can note with satisfaction that the hopes are more numerous than the fears.

The main fear is that we will witness a retreat of environmental law, both in the United States and internationally, following the election of Donald Trump. In reality, environmental law achievements as well as judicial and popular safeguards have become so established that it seems impossible that we will witness major setbacks. Certainly, the use of shale gas and fossil fuels will continue. Nonetheless, the environmental structures built, the national administrative machine, the diplomatic bureaucracy of international conventions and the UN are so present that it would be impossible to make them disappear by simply making regressive statements, both in the United States and elsewhere. The United States cannot isolate itself from the rest of the world and give up its power. In the same way, France cannot abandon the precautionary principle even though the French presidential candidate for the May 2017 elections proposes to do, because this fundamental principle of environmental law is formally enshrined in the Treaty on the Functioning of the European Union. Brexit creates a major crisis and a serious setback for Europe. Therefore, The British Association of Environmental Law (ukela.org) has requested that there be no reduction in the environmental protection nationally. In this way, the organization endorses the principle of non-regression, which has become an indispensable weapon for resistance against retrogrades.

Many hopes are on the horizon. Certainly, the Rio+20 conference in 2012 was disappointing given the numerous proposals for international conventions proposed by the CIDCE at that time. Whereas doomsayers were predicting the end of multilateralism and the depletion of any ecologically-responsible momentum, we saw, rather, the sounding of a salutary awakening bell. For example, we mention the following:

- the potential entry into force of the 2013 Minamata Convention of Mercury, for which the first COP is being considered for September 2017;
- the Paris Climate Agreement in force in November 2016, less than one year since its approval, record time for entering into force!
- The signing of the Kigali Amendment to the Montréal Protocol on Substances that deplete the Ozone Layer on 15 October 2016. This Amendment provides for a gradual ban by 2050 of hydrofluorcarbon (HFC) use. With this, states shall achieve a quarter of the Paris Climate Agreement goals;
- Canada's decision to re-accede to the Convention to Combat Desertification by once again becoming a Party on March 21, 2017, after leaving in 2014;

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- the final Proclamation on Climate and Sustainable Development of the COP 22 in Marrakech in November 2016, in which the CIDCE was very active, proclaims the “irreversible” character of the achievements on climate. In this way, it expresses the strength of the principle of non-regression in environmental protection;
- the successful negotiation in Latin America and the Caribbean in adopting a regional treaty to legally enact principle 10 of the Rio Declaration of 1992. It also included the principle of non-regression. The 5th round of negotiations took place from November 20-25, 2016 in Santiago, Chile and the 6th, which will be decisive, will be held in Brasilia from March 20-24, 2017 and the CIDCE’s Brazilian national focal point will be there;
- the formal integration of human rights in major international decisions on the environment, which the CIDCE has requested in each of these meetings as a participant. The meetings include the 2015 Sendai conference, the Paris Agreement in December 2015 and the 2016 humanitarian summit in Istanbul;
- approval by the 155^o Session of the FAO Council on December 5, 2016 of "volunteer guidelines for sustainable land resource management" (VGSSM) which should pave the way for an international convention on soils as proposed by the CIDCE in 2012 in Rio;
- the Decisions of the Convention on Biological Diversity COP13, held in Cancun in December 2016, including 13/6 on biodiversity and human health, 13/9 on marine planning and 13/12 on marine biodiversity and Coast;
- Global Compact project on migration and the draft resolution of 22 December 2016 provide for an NGO consultation between April 2017 and June 2018 on the links between migration and human rights, and between migration and disasters. The CIDCE shall participate actively by continuing its support of the CIDCE draft convention on environmentally displaced persons and recommendations resulting from CADHOM research on Disasters and Human Rights in international and comparative law;
- at a European level, the announcement by the European Commissioner for the Environment on December 7, 2016 that the Birds and Natura 2000 directives would not be a legislative regression is a victory for the principle of non-regression advocated by the CIDCE’s motion 082 for the IUCN World Conservation Congress in Hawaii in 2016.

The hopes and optimism are also set nationally. Among many advancements in environmental law, we can mention:

- France adopted the principle of non-regression by the Law on Biodiversity, Nature and Landscape of 8 August 2016 with the approval of the Constitutional Council, and it prepared the decree on the protection of habitats for marine species around Clipperton Island in the Pacific Ocean;

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- The United States President Obama's decision on December 20, 2016 to ban oil drilling on millions of hectares in the Arctic and Atlantic Ocean on the basis of the Outer Continental Shelf Lands Act.

The appointment of the new United Nations Secretary General António Guterres, who was the High Commissioner for Refugees for 10 years, is a sign of a promising future.

Finally, in line with the CIDCE's prospective initiatives, 2017 shall also see the launch of the Third International Covenant on Human Rights project, after the two pacts of 1966. It shall address the Human Right to the Environment as an ethical value and universal legal standard that is inseparable from other human rights: civil, political, economic, social and cultural.

Michel Prieur
President of the CIDCE
Michel [dot] prieur [at] unilim.fr