



General Assembly

Distr.  
GENERAL

A/36/531  
25 September 1981

ORIGINAL: ENGLISH

Thirty-sixth session  
Agenda item 69 (j)

DEVELOPMENT AND INTERNATIONAL ECONOMIC CO-OPERATION: ENVIRONMENT

Problems of remnants of war

Report of the Secretary-General

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## I. INTRODUCTION

1. This progress report has been prepared by the secretariat of the United Nations Environment Programme (UNEP), on behalf of the Secretary-General, in response to paragraphs 4 and 5 of General Assembly resolution 35/71 of 5 December 1980, on problems of remnants of war.

## II. GENERAL BACKGROUND

2. By resolution 3435 (XXX) of 9 December 1975, the General Assembly, *inter alia*, recognized that the development of certain developing countries had been impeded by the material remnants of war, the most important of which were mines, which continued to be present in their territories. The General Assembly also called upon those States which had taken part in those wars to make available forthwith to the affected States all information on the areas in which such mines had been placed, including maps indicating the position of those areas, and on the types of mines. The Assembly further called upon those States which had created this situation to compensate forthwith the countries in which such mines had been placed for any material and moral damage suffered by them as a result, and to take speedy measures to provide technical assistance for the removal of such mines. In paragraph 5, the Assembly requested the Governing Council of UNEP to undertake a study of the problem of the environment, and to submit a report on the subject to the General Assembly at its thirty-first session.

3. The Executive Director of UNEP, after consulting an advisory group of experts he established to assist him in the preparation of the report called for in resolution 3435 (XXX), submitted to the Governing Council his recommendations regarding the preparation of the study of the problem of the material remnants of war, particularly mines, and their effect on the environment (see UNEP/GC/84/Add.1).

4. By paragraphs 3 and 4 of decision 80 (IV) of 9 April 1976, the UNEP Governing Council authorized the Executive Director to proceed with the study by seeking information from Governments, and requested him to consult with Governments regarding the desirability of convening an intergovernmental meeting to deal with the environmental problem of the material remnants of war. The Executive Director was also requested, in paragraph 5 of the decision, to render assistance to States, upon request, in preparing their own programmes for the elimination of mines in their territories.

5. The Executive Director, on behalf of the Governing Council, submitted an interim report on the study of remnants of wars to the General Assembly at its thirty-first session (A/31/210). On 16 December 1976, the Assembly adopted resolution 31/111, by which it requested the Governing Council to ensure that the study was completed, taking into account the views expressed during the discussion of the matter in the Assembly.

6. On the basis of the replies to a questionnaire sent to Governments, the Executive Director submitted to the Governing Council, at its fifth session, a

report (UNEP/GC/103) on the implementation of General Assembly resolution 3435 (XXX). The debate on this study was summarized in chapter X of the report of the Governing Council of UNEP on the work of its fifth session. 1/

7. By decision 101 (V) of 25 May 1977, the Governing Council, inter alia, requested the Executive Director to continue his consultations with Governments with a view to implementing paragraph 4 of decision 80 (IV). The Council also requested the Executive Director to transmit the study, on its behalf, to the General Assembly at its thirty-second session.

8. At its thirty-second session the General Assembly had before it a note by the Secretary-General (A/32/137) transmitting the study by the Executive Director. By paragraph 5 of resolution 32/168 of 19 December 1977, the Assembly noted the study (referred to as "report"), as well as decision 101 (V) of the Governing Council, and invited the Governments concerned to co-operate with the Executive Director in the implementation of the decision.

9. By decision 6/15 of 15 May 1978 the Governing Council requested the Executive Director to urge Governments to register with the International Referral System for sources of environmental information (INFOTERRA) sources of appropriate technology for dealing with the environmental hazards caused by remnants of wars. It also requested him to continue to gather sources of information on the subject, to render assistance to Governments, upon request, in preparing their programmes for the elimination of mines, and to carry out and promote studies, in collaboration with appropriate components of the United Nations system, on the environmental effects of the material remnants of wars.

10. The Governing Council considered, at its eighth session, the state of the environment report 1979 (UNEP/GC.8/3), which included as one of the selected topics "the environmental effects of military activities" (chap. V, in which paras. 127 and 128 referred particularly to the problem of material remnants of wars).

11. The report of the state of the environment 10 years after Stockholm, which is being prepared for submission to the Governing Council at its tenth session and will deal, inter alia, with peace, security and the environment, includes specific references to the environmental consequences of past wars.

### III. CONSULTATIONS HELD PURSUANT TO RESOLUTION 35/71

12. Three basic issues are clearly identified in the operative paragraphs of General Assembly resolution 35/71:

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1/ Official Records of the General Assembly, Thirty-second Session, Supplement No. 25 (A/32/25), paras. 443-460.

- (a) Availability to affected States of all information on areas where mines were placed, and types of mines (para. 2);
- (b) Problem of compensation (para. 3);
- (c) Identification of ways and means for a solution of the problem including the possibility of a conference under the auspices of the United Nations (para. 4).

13. Pursuant to paragraph 4 of the resolution, the views of all States <sup>2/</sup> were sought by means of a letter from the Executive Director of UNEP on behalf of the Secretary-General. By 9 September 1981, only 35 States had replied to the letter. Of these replies, six were mere acknowledgements or notifications that the letter had been transmitted to the appropriate authorities, which had not yet replied. One State replied that it did not wish to respond to the secretariat note because of difficulties with certain aspects of resolution 35/71.

14. Of the remaining 28 replies, nine either stated that the Governments from which they emanate do not have any problems relating to material remnants of war or otherwise refrain from commenting on the substance of the matter. The contents of the 19 replies that do contain substantive comments are summarized below under four headings, namely:

Information;

Compensation;

Possibility of a United Nations conference;

Role and involvement of the United Nations system.

#### A. Information

15. Some Governments were of the view that Protocol II to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons provided an adequate mechanism for a full exchange of information on the location of mines.

16. One Government suggested that the solution to the problem of remnants of war could only be found by analysing comprehensive and factual information on the subject, the first step to a complete solution being a factual study to be prepared by the United Nations. Such a study would make it possible to examine concrete suggestions as to how an internationally agreed ad hoc machinery for mine clearance

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<sup>2/</sup> The resolution requested the Secretary-General "to consult with the States concerned". In view of the difficulty in identifying "the States concerned", the Executive Director of UNEP addressed the letter to all States.

operations could be integrated into the United Nations system. This kind of approach, in more general terms, was also suggested by other Governments.

17. One Government recommended that those countries in possession of information or technology for dealing with environmental hazards caused by remnants of war could register with INFOTERRA. It should be recalled in this connexion that the Governing Council of UNEP, in decision 6/15 of 15 May 1978, had already requested Governments to register this kind of information with INFOTERRA. This request, however, remains as yet largely unfulfilled.

#### B. Compensation

18. The problem of compensation was dealt with explicitly in a number of replies. One Government was of the opinion that the problem should be handled at a bilateral level. According to another Government it was for the country which had placed the mines to bear the cost of their removal and disposal, and that country should compensate for all loss of life and damage to property, but not for economic loss arising from non-use of lands or other property. Some countries, on the other hand, considered that the country responsible should assume full liability for any damage caused by remnants of war. One Government suggested that the States concerned should follow a pragmatic approach in order to reach agreement, and not rely on considerations of a legalistic nature to evade liability and avoid the need to provide compensation. Finally, one Government expressed the view that the achievement of practical results was likely to be furthered by leaving aside the question of responsibility and compensation, as they were controversial issues the consideration of which should be postponed until a United Nations study was completed, since such a study might provide suggestions that could facilitate the conclusion of international agreements.

#### C. Possibility of a United Nations conference

19. The idea of convening a conference under the auspices of the United Nations is clearly supported in seven of the replies under consideration. Two replies do not make any reference to a conference, while four are opposed to the idea. One Government felt that, prior to any discussion on the matter, the purpose of the conference in specific terms as well as its character and participation, should be defined in specific terms. Another was of the opinion that a special conference is not advisable and that the matter could be taken up as a special item at the tenth session of the UNEP Governing Council. The remaining four Governments stated that they were not opposed to the idea of holding the conference.

#### D. Role and involvement of the United Nations system

20. One Government expressed the opinion that the whole matter should be examined outside the United Nations system, on a bilateral basis. Another was of the view that the States concerned should proceed without delay to the conclusion of

bilateral agreements or through an international organization such as UNEP in order to bring this pressing problem nearer to an effective solution.

21. The majority of the replies assign to the United Nations a responsibility in seeking a solution to the problem. However, while some of them limit the role of the United Nations to the area covered by the already adopted Protocol II to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons, others visualize a much larger United Nations involvement, e.g. the preparation of a comprehensive study, the promotion of studies and the provision of assistance to Governments, upon request.

22. Some replies assigned such a role specifically to UNEP, but two Governments opposed the involvement of UNEP on account of its limited resources.

#### IV. OTHER RELEVANT FACTS

23. Apart from the consultations thus held, two main developments appear to be of relevance to this report.

24. The first is the International Symposium on Material Remnants of the Second World War on Libyan Soil, held at Geneva from 28 April to 1 May 1981 and organized by the United Nations Institute for Training and Research (UNITAR) and the Libyan Institute of Diplomatic Studies, Tripoli. The symposium concentrated on the legal aspects of the problem, and more specifically on the questions of responsibility and compensation. While views differed, it was recognized that the problem should be solved through international co-operative efforts, both bilateral and multilateral.

25. The second development is the adoption by the Governing Council of UNEP, on 25 May 1981, of decision 9/5 entitled "Material remnants of war", which read as follows:

"The Governing Council,

"Recalling its decisions 80 (IV) of 9 April 1976 and 101 (V) of 25 May 1977,

"Aware of the related General Assembly resolutions 3435 (XXX) of 9 December 1975, 31/111 of 16 December 1976 and 35/71 of 5 December 1980, which support the legitimate demand of countries affected by remnants of war, for example minefields, for adequate compensation by the countries responsible for the planting of these mines,

"1. Reiterates the responsibility of the countries that planted the mines for the extensive damage suffered by the affected countries as a result of the mines planted in their lands;

"2. Appeals to the responsible countries to take the necessary steps to supply the affected countries with maps and all other information leading to the location of the minefields and, at the same time, to arrange for proper compensation;

/...

"3. Requests the Executive Director to continue co-operating with the Secretary-General in his consultations with the countries concerned on the possibility of convening an international conference under the auspices of the United Nations to adopt measures for an immediate and final solution to this issue."

#### V. CONCLUSION

26. The results of the consultation undertaken by UNEP on behalf of the Secretary-General pursuant to resolution 35/71 were rather sparse. Less than 12 per cent of the Member States have given their views on the subject-matter of the resolution.
27. It would appear that the majority of States are reluctant to make substantive comments at this stage.
28. The main divergences of opinion among the States that did reply seem to relate to the question of United Nations involvement and on the steps to be taken to bring about a solution to the problem.
29. In view of this apparent lack of interest and/or reticence on the part of the majority of States, it is difficult to make any concrete recommendations with a view to solving the problem to which resolution 35/71 refers. In this regard, the possible relevance of Article 107 (Chapter XVII, "Transitional security arrangements") of the Charter of the United Nations should be noted.
30. Given the above-mentioned circumstances, it is recommended that the General Assembly may wish to reiterate its call to all Governments to co-operate more fully with the Secretary-General in communicating to him their views on the problem and, in particular, urge Governments in possession of any information regarding mines placed in the territories of other States in past wars to make that information available to the affected States.

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