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International organizational implications of action proposals

**Addendum No. 1:
Views of the Preparatory Committee for the Conference**



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INTERNATIONAL ORGANIZATIONAL IMPLICATIONS OF ACTION PROPOSALS

Addendum No. 1

Note by the Secretary-General

The Conference document on international organizational implications of action proposals (A/CONF.48/11) was considered by the Preparatory Committee for the Conference at its fourth session. The Committee also had before it at the time a concise summary of the consolidated document on the United Nations system and the human environment prepared by the Administrative Committee on Coordination.^{1/}

An account of the discussion by the Preparatory Committee of international organizational implications of action proposals is contained in Chapter III of the report on the session (A/CONF.48/PC/17). This chapter, entitled "International organizational implications of recommendations for action by the Conference, including financial implications" is reproduced as an Annex to the present note in the hope that it will facilitate consideration of this subject at the Conference.

^{1/} The consolidated document has been issued under the symbol A/CONF.48/12.

Annex

Extract from the report of the Preparatory Committee for the
Conference on its fourth session (A/CONF.48/PC/17, Chapter III)

III. INTERNATIONAL ORGANIZATIONAL IMPLICATIONS OF RECOMMENDATIONS FOR ACTION BY
THE CONFERENCE, INCLUDING FINANCIAL IMPLICATIONS

48. The Preparatory Committee considered item 4 of its agenda on the basis of the report of the Secretary-General to the Committee (A/CONF.48/PC/15) and the Conference document on international organizational implications of action proposals (A/CONF.48/11).^{1/} The Committee also had before it a concise summary of the consolidated document, prepared by the Administrative Committee on Co-ordination (ACC), on the United Nations system and the human environment (A/CONF.48/PC/15/Add.2).^{2/}
49. In his opening statement to the Committee, the Secretary-General of the Conference strongly emphasized his feeling that Governments were convinced that it was indispensable for an action-oriented conference not only to make recommendations for action but also to address itself to the question of providing the means to implement those actions. He believed that consideration should be given to the provision of adequate organizational and financial means for such implementation.
50. On the subject of organizational means, the Secretary-General of the Conference reiterated the views expressed in the above-mentioned Conference document (A/CONF.48/11) on the need for an intergovernmental body, a supporting secretariat unit and arrangements for access to scientific and technical expertise.
51. Turning to the question of financial means, he stated that studies were under way, and would be submitted by the time of the Conference, to assemble preliminary estimates based on the best available information on costs with regard to proposals for action at the international level. He considered that it was clear, even before an estimation of the total costs of the proposed action plan, that those costs would exceed the sums of money likely to be available and that it would therefore be necessary to establish a means for Governments to decide on priorities for action on a continuing basis.

^{1/} Made available to the Preparatory Committee under cover of A/CONF.48/PC/15/Add.1.

^{2/} Annexes to the summary were available only to the participants at the meeting.

52. The Secretary-General of the Conference emphasized the need for a fund for international environmental activities, as outlined in chapter IV of the Conference document (A/CONF.48/11). He considered that the fund should be justified and utilized on environmental criteria and would be additional to funds already allocated for development assistance. He said that such a fund need not be a large one and could become of the order of 30 to 40 million dollars a year, the greater part of which would have to be contributed by industrialized countries. He further stated that the fund could be administered by the proposed environmental secretariat unit under the policy guidance of the intergovernmental body.

53. On the separate and most important question of additional costs of development projects, he said that, in accordance with paragraph 9 of General Assembly resolution 2849 (XXVI), the Secretary-General would submit to the Conference a report on a scheme of voluntary contributions which would provide additional financing by the developed for the developing countries for environmental purposes, beyond the resources already contemplated in the International Development Strategy for the Second United Nations Development Decade.

54. The representative of the World Meteorological Organization introduced the concise summary of the consolidated document prepared by ACC. He said that the consolidated document, which would be submitted to the Conference under the symbol A/CONF.48/12, and the summary of it (A/CONF.48/PC/15/Add.2) had been approved by ACC in October 1971. He mentioned that Annex II to the consolidated document would not be issued with it but would be available in the Conference library. In drawing attention to the conclusions in paragraph 21 of the ACC summary, he expressed the view that existing mechanisms could well be adapted for the co-ordination of the activities of the United Nations system in the field of the human environment.

55. At the outset of the discussion of this topic in the Committee, a document was circulated at the request of the delegation of the United States containing a draft resolution on funding and institutional arrangements for consideration by the Committee. The document also included a brief statement on the uses to which an environmental fund could be put. At the request of the delegation of the United States, the Preparatory Committee agreed that the document would be reproduced in an annex to the report of the Committee for the record.^{3/}

^{3/} See Annex III to the report of the Preparatory Committee (A/CONF.48/PC/17).

56. Most representatives took part in the discussion of the international organizational implications of action proposals and expressed a variety of opinions on different aspects of the subject.

57. Most delegations agreed on the need to provide continuing institutional and financial means by which to put into effect those recommendations for environmental action at the international level which would be adopted by the Conference. Most delegations also agreed that the United Nations should be the principal organ for international environmental co-operation.

58. It was further agreed that institutional arrangements in the field of the human environment should be essentially flexible and evolutionary so as to permit their adaptation to changing needs and circumstances. It was felt that such institutional arrangements should take into account, as fully as possible, the potential of the organizations of the United Nations system and should make maximum use of existing machinery and resources within and outside the system. It was considered, therefore, that the highest priority should be attached to the need for co-ordination and rationalization of continuing and planned international environmental activities. The view was expressed, however, that given the multidisciplinary nature of environmental problems and the primarily sectoral structure of the United Nations system, it would be essential to go beyond traditional methods of co-ordination. One representative favoured the concept of a "lead agency", that is an agency with responsibility for a particular sector of the environment which would be assigned responsibility for co-ordinating the over-all international programme in that sector.

59. Members of the Committee stressed the need to take into account the regional nature of many environmental problems and of the measures needed to deal with them. It was felt that regional arrangements should be adapted to suit specific needs and interests of each region. Reference was also made to the need for the establishment or strengthening of national machinery for the co-ordination of environmental action and to the special efforts required to that end in developing countries.

60. There was general consensus on the need to establish, within the United Nations, an intergovernmental body to provide broad and continuing policy direction for international co-operation in the field of the human environment. A principal task of the intergovernmental body would be to review the environmental activities of the United Nations system and of other international organizations which perform functions in that field with a view to achieving well co-ordinated and concerted action. It was

also felt that it would be of particular importance to ensure that the institutional arrangements establishing the intergovernmental body would be such as to enable Governments to agree on the periodic assessment of new issues and problems requiring multilateral co-operation and to take necessary initiatives. It was generally agreed that the above need did not require the establishment of a new specialized agency.

61. In connexion with the location of the intergovernmental body within the Organization, two main alternatives were advocated. Several representatives suggested that the intergovernmental body on the human environment should be established as a subsidiary organ of the Economic and Social Council. It was stated in that context that the problems of the human environment fell within the competence of the Council and that the Council would thus be in a position to deal with the interrelated issues of environment, development and science and technology in a proper perspective. It was also pointed out that the Council was in the process of being enlarged and strengthened. Reference was also made to the over-all responsibilities for co-ordination that the Council is required to exercise under the Charter. Several other representatives felt that the intergovernmental body should be set up as a subsidiary organ of the General Assembly as a means of enabling the Assembly, and thus the whole membership of the Organization, to consider environmental problems in a broader context. Those representatives considered that provision should be made for the report of the intergovernmental body on the human environment to be submitted to the Assembly through the Economic and Social Council. One representative suggested that the latter formula might be considered as an interim solution and thus be reviewed before 1975 in the light of experience gained after the first few years and of the capacity of the Economic and Social Council at that time to undertake further important tasks in addition to those recently given to it.

62. Regarding the number of members of the intergovernmental body, suggestions ranged from a body of the size of the Preparatory Committee to one of the size of the recently created standing committees of the Economic and Social Council.^{4/} It was agreed that the membership of the body should be based on equitable geographical distribution. One representative suggested in addition that the membership should be environmentally balanced.

^{4/} Committee on Science and Technology and Committee on Review and Appraisal.

63. There was consensus in the Committee that it would be premature to define at that stage the precise functions and terms of reference of the intergovernmental body as such functions would emerge from the recommendations of the Conference for action at the international level. The Committee agreed that, subject to certain clarifications at the Conference, the functions outlined in chapter II of the Secretary-General's report (A/CONF.48/11) would provide the Conference with a general basis for the elaboration of the mandate of the intergovernmental body. Several delegations emphasized that it would be particularly important for the Conference to define the role of the intergovernmental body in connexion with the environmental implications of development. Some delegations said that the proposed function of prevention and settlement of disputes was one which offered interesting possibilities. Others believed that it would not be advisable or feasible to consider assigning such functions to the proposed institutional machinery.

64. There was agreement among delegations that arrangements should be made for the establishment of a secretariat unit to provide substantive and logistical support to the intergovernmental body on the human environment. It was emphasized that the core staff should be few in number but that the capacity of the secretariat should be commensurate with the requirements of international environmental co-operation. The secretariat would be responsible for ensuring implementation of decisions adopted at the intergovernmental level regarding international environmental activities but it should not assume an operational role in respect of such implementation. Some delegations suggested that the basic costs of the core staff should be borne by the proposed environmental fund; several others considered that those costs should be met from the regular budget of the United Nations so as to ensure the continuity of United Nations concern in the environmental field.

65. Several delegations were of the opinion that the executive head of the secretariat should have the rank of Under Secretary-General of the United Nations. The proposal submitted by the delegation of the United States of America envisaged the creation of the post of Administrator of United Nations Environment Programmes. One representative stated that consideration should be given to the creation of a post similar to that of the High Commissioner for Refugees, who is elected by the General Assembly on the nomination of the Secretary-General. It was felt that, as in the case of the mandate of the intergovernmental body, the responsibilities and title of the executive head and other related administrative provisions should be decided upon at the Conference in the light of its substantive recommendations.

66. The proposal submitted by the delegation of the United States of America envisaged the establishment of an environmental co-ordinating board to ensure maximum efficiency in the administrative co-ordination of United Nations environmental programmes. Such a board would comprise senior executive officers in charge of environmental programmes of the organizations of the United Nations system. That suggestion was supported by some delegations. Other delegations, while stressing the need for effective co-ordination, felt that the need could best be met by adopting existing interagency mechanisms and procedures.

67. It was generally agreed that it was important for the intergovernmental body and its secretariat to secure easy and efficient access to scientific and technical expertise within and outside the United Nations system and that arrangements should be made within the proposed institutional machinery to ensure two-way communication between it and the scientific and technical community.

68. There was widespread support within the Committee for the establishment of a United Nations voluntary fund which, in the view of some delegations, would cover those costs of international co-operation in the field of human environment which would be in excess of currently budgeted expenses for environmental programmes of the organizations of the United Nations system. In that connexion, many delegations expressed appreciation of the initiative taken by the President of the United States of America for the establishment of such a fund and of his intention to recommend to Congress that the United States commit itself to provide its fair share of the fund and hoped that the proposal would receive wide support. Many delegates stated that they were not in a position to comment at that stage on the detailed arrangements for the establishment of such a fund contained in the United States proposal. Some delegates stated that, in the absence of costed action proposals, they were not able to take a position on the establishment of a fund.

69. A number of representatives advanced the view that the executive head of the environment secretariat should be responsible for the administration of the fund and that the intergovernmental body on the human environment should exercise over-all policy guidance and supervision regarding the operation of such a fund. Other delegates emphasized in that respect that the head of the environment secretariat should administer the fund by delegation of authority of the intergovernmental body, to which he would be responsible in that regard. Several delegates stressed that the operations of the fund, and indeed the future budgetary policies of the various organizations of

the United Nations system, should be such as to meet the principle of additionality endorsed by the General Assembly. Some representatives stressed in that connexion that, beyond a possible fund to finance new programmes of the United Nations system in the domain of the environment, additional resources would be needed for direct assistance to cover environmental expenses incurred in development projects of developing countries. Some delegates emphasized, moreover, that it would be essential to ensure not only the full application of the principle of additionality but also that the implementation of environmental programmes would not have a negative effect on the budgets of the organizations of the United Nations system which were devoted to other activities.

Other representatives pointed out that, while the proposed fund was not designed to cover the additional cost of development projects as such, it would facilitate the full participation of all countries in international environmental programmes.

70. Two delegates considered that in the current trend of discussion of organizational implications there was the risk that the formulation of conclusions on the form of such machinery would precede decisions on its functions. They believed that further consideration should be given to the various possible institutional alternatives and that it should not necessarily be limited to the alternatives outlined in the Conference document on the subject.

71. Two other delegates were of the opinion that, in addition to the establishment of an intergovernmental body, the United Nations Conference on the Human Environment might be convened every fourth or fifth year. Such a conference would serve to formulate and determine a long-term environmental policy.

72. Some delegates, referring to the annex to the Conference document (A/CONF.48/11) entitled "Organization to deal with marine pollution: a special problem", expressed the view that consideration of the problems of the marine environment should not be separated from that of other environmental questions and that the necessary action relating to human environment should be taken within environmental machinery proposed to be established within the United Nations.

73. In commenting on the section of the Conference document which outlined the functions which were to be carried out at the international level (see A/CONF.48/11, chap. II, section A (iv)), one representative pointed out that the description of the information exchange function in the more recent document (see A/CONF.48/PC/15, paras. 23-42) which had obtained the agreement of the Preparatory Committee was an improvement upon that contained in the Conference document. The representative of

the Secretary-General of the Conference stated that the remarks of the representative would be conveyed to the Conference.

74. The Committee was of the view that the specific recommendations flowing from the considerations outlined above could only be tentative at that stage and that concrete recommendations could be finalized only by the Conference. It was suggested that Governments might wish to consult further in the intervening period.

75. The Secretary-General of the Conference informed the Committee that, without prejudice to any consultations which Governments might wish to conduct in New York or elsewhere, he would make himself available in Geneva on 3 and 4 May 1972 for consultations on the institutional and funding questions with all interested Governments eligible to participate in the Conference. He hoped that that would facilitate consultations among those Governments.

76. Statements were made, at the invitation of the Chairman and with the approval of the Preparatory Committee, by the Chairman of the Intergovernmental Oceanographic Commission and by the representative of the International Council of Scientific Unions

61. These considerations might lead governments to the conclusion that it is necessary to adopt a solution under which both the Council and the Assembly would be given an opportunity to review the activities of the system in the field of the human environment. In this connexion, it is pertinent to note that the resolutions of the General Assembly setting up the organs mentioned above contain provisions under which the Council considers their reports, discussed relevant aspects of their work, and in some cases elects the members of their governing bodies. The juridical formula which might serve this purpose could provide that the new body dealing with the environment be established as a subsidiary organ of the General Assembly reporting to the Assembly through the Council. It might also be desirable to specify, in some detail, the role that the Council would be expected to perform in considering the report on environmental matters.

62. Adoption now of such an institutional arrangement would not foreclose any subsequent adjustments called for in the future by changes that might become necessary in the mandate and operation of the intergovernmental organ dealing with the environment - including, perhaps, its transformation into a different type of institution - or indeed by a future decision of the Assembly or the Council as to their own methods of work which might have a bearing on their consideration of environmental matters.

63. If it is decided to recommend the establishment of an intergovernmental body on the human environment it will be necessary to consider its composition. It is not, of course, for the secretariat to advance any ideas in this regard and it will thus confine itself to setting out some relevant factual information. Firstly, it should be noted that the Preparatory Committee for the Conference comprises twenty-seven members. Other bodies, the membership of which may be relevant, are the three aforementioned standing committees recently established by the Economic and Social Council which comprise 54 members, elected by the Council in accordance with its own geographical distribution of seats. The Trade and Development Board of UNCTAD comprises 55 members elected by the Conference with "full regard for both equitable geographical distribution and the desirability of continuing representation for the principal trading States" and, to that end, seats are distributed on the basis of an established pattern and of lists of States contained in the Annex to General Assembly resolution 1995 (XIX). The Industrial Development Board comprises 45 members elected by the Assembly under resolution 2152 (XXV), on a similar basis as that provided for

UNCTAD. Under the terms of resolution 2814 (XXVI), recently adopted, the Governing Council of the UNDP comprises 48 members elected by the Economic and Social Council in conformity with rules regarding the distribution of seats set out in the same resolution.

64. Whatever the size of the intergovernmental body, its effectiveness will be largely determined by the level and quality of participation. The Conference may therefore wish to recommend that - as in certain other areas - governments should appoint as their representatives in the intergovernmental body senior officials or persons with special competence in environmental matters.

(ii) Secretariat

65. The need for the United Nations Secretariat to service the intergovernmental body on the human environment must be dealt with within the context of Article 101 of the Charter. The principal question that arises is whether the secretariat services concerned should be an integral part of the Department of Economic and Social Affairs or a separate unit within the United Nations Secretariat. In choosing between these possibilities it will be necessary to bear in mind the special characteristics of the secretariat required to deal with environmental matters.

66. When UNCTAD was set up as a subsidiary organ of the Assembly it was decided that "arrangements shall be made, in accordance with Article 101 of the Charter, for the immediate establishment of an adequate, permanent and full time secretariat within the United Nations Secretariat ..."^{13/} and a very similar provision was adopted when UNIDO was set up.^{14/} In pursuance of these decisions the Secretary-General set up within the secretariat two separate units which for administrative and other practical purposes have the status of a department but which, inasmuch as they service their own governing bodies, are required to operate, in the fields of their competence, under the guidance of those bodies. These two secretariats are headed by officials of Under-Secretary-General rank appointed by the Secretary-General the appointments being subject to confirmation by the General Assembly. The High-Commissioner for Refugees, who is also in charge of a separate secretariat unit, is elected by the General Assembly on the

^{13/} General Assembly resolution 1995 (XIX), paragraph 26.

^{14/} General Assembly resolution 2152 (XXI), paragraph 17.

nomination of the Secretary-General. The Administrator of UNDP is appointed by the Secretary-General after consultations with the Governing Council and subject to confirmation by the General Assembly.

67. A principal task of the secretariat would be to service, both substantively and logistically, the intergovernmental body on the human environment. In that context it would prepare the reports on the world environment and such other studies as may be required, and, generally, provide technical advice on matters within its competence. It would be responsible for ensuring implementation, at the technical level, to all the directives adopted by the intergovernmental organ, the Economic and Social Council and the Assembly regarding co-ordination of work and activities in the field of the human environment. In this connexion, and in order to enable these organs to exercise their leadership role, the secretariat would establish close relations with all related agencies and organizations so as to give practical meaning to the concept of positive co-ordination mentioned in Chapter I.

68. Inasmuch as it will be especially important to ensure that co-ordination starts at the very moment in which a new project and activity is conceived, the secretariat would avail itself, mutatis mutandis, of existing procedures for, and follow established practices of, interagency relations, including, in particular, those regarding prior consultation and exchange of data. Similarly, it will make appropriate administrative arrangements - possibly including secondment of staff - which would ensure the closest possible relations with individual agencies. In these respects, too, the problems of the human environment will require the gradual evolution of new methods of work and the adoption of appropriate systems of substantive consultation.

69. The executive head of the secretariat for the human environment would assist in the implementation of agreed decisions and in finding practical solutions to specific problems. He would bring to the attention of the intergovernmental body matters relating to the human environment requiring consideration by governments. He would endeavour to maintain close relations with the scientific community and should have access to the best available professional resources. Should an environment fund be established, the executive head might be vested, under the general guidance and supervision of the intergovernmental body, with responsibility for the administration of the fund, (see Chapter IV).

(iii) Relationship with the scientific community

70. The intergovernmental body and secretariat should work in close liaison with the scientific community. The value of developing close working relationships with the various components of the scientific community, such as ICSU and its subsidiary bodies, particularly SCOPE, as well as IUCN, has been concentrated during preparations for the Conference. These working relationships should embrace all branches of the scientific community including medicine and the social sciences.
71. While a single panel of scientific advisers might be created to meet all these purposes, it would seem better to proceed by convening expert groups on an ad hoc basis. Such groups could include, as they have in the preparatory process, experts from the United Nations system, governments and non-governmental sources. In this way, in addition to the support that they would have from other United Nations bodies and services, the intergovernmental body and secretariat would be able to seek advice from those persons whose expertise was most relevant to the particular problem under review. In assessing the risks due to exposure from certain pollutants of international significance (such as heavy-metals, and chlorinated hydrocarbons), it would seem preferable to constitute separate groups of experts rather than rely for the advice on a single overall panel.
72. A proposal to combine many of these functions in a single institution, i.e. "an International Centre for the Environment" (ICE), has been discussed in SCOPE. Essentially the same conception has been advanced elsewhere under the title "World Environment Institute" (WEI). However, proposals along these lines have not yet taken very specific form, nor have they been considered in detail in either the scientific community or intergovernmental bodies, and it is not clear how such a centre would be organized and financed.
73. For the immediate future, therefore, insofar as the United Nations system is concerned, more modest and flexible arrangements might be considered for the acquisition and exchange of environmental knowledge, without prejudice to the possibility that a more comprehensive proposal may develop which would merit consideration at a later stage. The responsibility for overall co-ordination and for identifying gaps in the existing monitoring networks could be carried out by the new intergovernmental body and secretariat, in consultation with the agencies concerned. Central data bank facilities could, where necessary, be made available through arrangements with specialized agencies

and the United Nations Office at Geneva. The International Computing Centre (ICC), recently established in Geneva for the collection of economic and social information, could possibly be utilized for this purpose. The encouragement of exchanges of national experience could be performed by the intergovernmental body with the aid of the secretariat.

74. One of the principal deficiencies which the environmental issue discloses in existing institutional arrangements is the inadequate relationship between the scientific community and social and political decision-making processes. This stems in part from inadequacies within the scientific community, and particularly in the relationship between the natural and social sciences, which make it difficult to obtain the kind of consensus within the scientific community itself that would provide clear guidance to political decision-makers on important questions. It also stems from inadequate arrangements in many countries for the kind of close communication and understanding between scientists and political decision-makers that is indispensable to successful environmental management. New institutional machinery should especially be directed towards this problem, recognizing that this is an area in which international efforts can be helpful in encouraging and supporting better relationships at the national level.

B. The prevention and settlement of disputes

75. In connexion with the prevention and settlement of environmental disputes, it may be recalled that Article 33 of the Charter requires the parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, to seek a solution first of all by "negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies, or other peaceful means of their own choice". Members could be encouraged to have recourse to such procedures for the settling of environmental disputes even where disputes did not actually threaten international peace. Where international agreements are negotiated on particular environmental problems, specific provision could be made, wherever possible for appropriate procedures for resolving disputes over their interpretation.

76. Parties to environmental disputes should have the option of bringing disputes to the environmental intergovernmental body or to other appropriate intergovernmental forums, which could make recommendations for peaceful settlement. Parties to disputes could also make use of the advisory services and good offices of the environmental

secretariat. Non-governmental organizations with special competence in the subject matter should have an opportunity to present their views and, in appropriate cases, advice could be sought from a specially-constituted panel.

77. Some kinds of environmental disputes could appropriately be referred to the International Court of Justice, which has authority under its Statute to make use of scientific advisers or "assessors" to inform itself of the facts. In the case of other environmental disputes, it may be more appropriate to resort to an ad hoc arbitral tribunal. In still other cases, it may be preferable to employ non-judicial procedures like negotiations, mediation and conciliation where a flexible adjustment of interests can be achieved through mutual accommodation.

78. In the absence of effective international measures to avoid and settle environmental disputes, governments are likely to resort to unilateral measures to protect their environmental interests, possibly including direct reprisals against other governments, for actions which inflict environmental injury upon them, a retaliation which could have grave consequences. This is another reason why the avoidance and settlement of environmental disputes deserves continuing attention, even if specific machinery for this purpose cannot be established immediately.