

Human rights and the environment

Maguelonne Déjeant-Pons
Marc Pallemmaerts



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**Compendium of instruments
and other international texts
on individual and collective rights
relating to the environment
in the international and European framework**

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with the collaboration of
Sara Fioravanti

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Prefaces

The Council of Europe was founded in 1949 and works to build a united Europe based on a humanist conception of society. It pursues four major objectives: defence of human rights and pluralistic democracy, enhancement of European cultural identity, the search for solutions to society's problems and the development of democratic stability in Europe. On the threshold of a new millennium, the environmental problems confronting us ever more acutely are at the very heart of these major concerns. The link between human rights and environmental problems is thus very clear. The individual's right to a healthy environment, rich in its biological and landscape diversity, is gradually becoming recognised and established in international instruments, national constitutions and case-law. However, a long, difficult road has to be negotiated before it can be enforced by the courts. The procedural rights which have to go with it – the rights to information, participation and access to the courts – are just beginning to become established.

This book brings together, for the first time, the international texts at global and European regional level which proclaim the importance of the "right to the environment". An evaluation of these is made and the need to open a debate about human duties towards the environment is considered. Rights and duties are, indeed, two sides of the same coin and the notion of "democratic citizenship" therefore has to be redefined. A dual challenge has to be met: protecting the planet for present and future generations and strengthening the establishment of democracy. It is sustainable development that will ensure the survival of our common heritage. It is up to Europe to be a role model in the environmental field with respect to the defence of the fundamental freedoms of the individual and democracy for all.

WALTER SCHWIMMER

Secretary General of the Council of Europe

As a small European country we are pleased to be able to make a contribution to this important book. Indeed, our country has a tradition that should not be overlooked in the field of the protection of human rights and their fulfilment. When Belgium was created in 1830 a constitution was adopted that was the symbol of liberties that had previously often been limited and threatened: freedom of the press, the right of association, freedom of worship and education. Although this constitution had borrowed a lot from already existing texts its influence came from the fact that in turn, it was much copied. In the nineteenth century our country was also an asylum for thinkers, writers and artists who were often constrained elsewhere. Since 1830 our constitution has been revised many times. Greater attention has been devoted to the democratic content and the creation of a federal state structure which guarantees the same rights to the different language groups of our country. Our country has signed several international treaties, which have secured more rights and freedom for our citizens.

The classic nineteenth century liberties did not seem sufficient in our country to guarantee a decent existence for each individual. Indeed, citizens expected the authorities to do more. In the second half of the twentieth century this materialised in the adoption of a series of measures, among others in the field of public health and environmental protection. Only in 1993 was this translated into the inclusion of economic and social rights in our constitution. Among these, we find: the right to work, including decent working conditions and remuneration, the right to social security, health protection and care, the right to a decent place to live, the right to cultural and social development as well as the right that we particularly want to mention, that is the right to the protection of a healthy environment. Although the implementation of this right requires in the first place an effort from the public authorities, its recognition also implies that citizens should contribute to its realisation.

I am convinced that the fight for the observance of human rights will require constant effort. In this field we cannot give way to self-satisfaction. On the contrary, we must continue to watch for the dangers threatening these rights. The objective is to be able to offer a decent existence to all. It is clear that human beings put their lives at risk if this is done at the expense of the environment. One does not see the branch on which one is sitting. The guarantee of good quality of the atmosphere, the soil and water; the protection of the fauna and the flora, the preservation of the ecosystems, landscapes and a liveable climate are therefore very important for the survival of all living beings. In several places the book indicates that this target cannot be achieved by an approach which focuses exclusively on man.

The book clearly indicates the need to make environmental quality a fundamental human right. In the two clarifying introductory contributions this human right to a healthy environment is presented both as a substantive

and a procedural right. Then follows a series of international texts (including European) which try to give shape to this right. In this sense, the present book makes an important contribution to our ever deeper search for a suitable tool to better protect all living beings and our planet as well as that of generations to come.

MAGDA AELVOET

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Index

| | <i>page</i> |
|---|-------------|
| <i>Prefaces</i> | 3 |
| <i>Index</i> | 9 |
| I. Introduction: human rights and environmental protection | 11 |
| 1. The human right to a healthy environment as a substantive right <i>by Marc Pallemmaerts</i> | 17 |
| 1.1. Instruments of a universal nature | 11 |
| 1.2. Instruments of a regional nature | 15 |
| 1.3. The substantive scope of the right to a healthy environment | 19 |
| 2. Human rights to environmental procedural rights | 23 |
| <i>by Maguelonne Déjeant-Pons</i> | |
| 2.1. International recognition of procedural rights in environmental matters | 24 |
| 2.2. Establishment at an international level of mechanisms allowing the exercise of procedural rights in environmental matters | 31 |
| II. Instruments and other international texts | 47 |
| 1. The world framework | 47 |
| 1.1. Legally binding instruments | 47 |
| 1.2. Non-legally binding instruments and texts adopted by inter- governmental organisations or meetings | 52 |
| 1.3. Texts adopted by non-governmental organisations | 79 |
| 2. The regional European framework | 124 |
| 2.1. Legally binding instruments | 124 |
| 2.2. Non-legally binding instruments and texts adopted by inter- governmental organisations or meetings | 217 |
| 2.3. Texts adopted by non-governmental organisations | 292 |
| III. Bibliography | 307 |
| <i>Table of contents</i> | 315 |

I. Introduction: human rights and environmental protection

1. The human right to a healthy environment as a substantive right

by Marc Pallemarts

The purpose of this introductory essay is to examine to what extent the existence of an individual right to a healthy environment is recognised under international law and, in so far as it is, what is the substantive content of such a right. To this end, we shall review relevant international instruments of a global as well as regional nature, both legally binding and non-binding, which address the relationship between environmental protection and human rights.

1.1. Instruments of a universal nature

The link between environmental protection and human rights was first explicitly recognised in 1972, in the Stockholm Declaration, adopted by the United Nations Conference on the Human Environment. Principle 1 of this declaration proclaims:

“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 he bears a solemn responsibility to protect and improve the environment for present and future generations”.

The relationship between the environment and human rights is also stressed in the preamble to the Stockholm Declaration, which states that protection of the environment is “essential [...] to the enjoyment of basic human rights – even the right to life itself”. It is to be noted that these provisions do not directly recognise the right to a healthy environment as such. They rather amount to an indirect recognition of such a right, by establishing a link between well-recognised human rights, such as the right to freedom and the right to life, and the quality of the environment. Environmental quality is presented as a prerequisite for achieving “adequate conditions of life”. Thus, the Stockholm Declaration in fact builds on some earlier language contained in the 1966 UN International Covenant on Economic, Social and Cultural Rights, which recognised the individual’s right to “the continuous improvement of living conditions” (Article 11) as well as to “the enjoyment of the highest attainable standard of physical and mental health” (Article 12, paragraph 1) and committed states to protecting the right to health by positive measures, including, *inter alia*, “the improvement of all aspects of environmental and industrial hygiene” (Article 12, paragraph 2(b)).

While Principle 1 of the Stockholm Declaration has inspired many national constitutional provisions, adopted since the early 1970s, which recognise the

right to the environment as a fundamental right under domestic law,¹ it has not to date been transposed into a binding rule of international law of universal application. In 1986, the Experts Group on Environmental Law of the World Commission on Environment and Development (WCED), noting that the right to a healthy environment could not yet be considered “a well-established right under present international law”,² proposed to fill this gap by including a set of universal legal principles on environmental protection and sustainable development, which it drafted with a view to their eventual incorporation in a global, legally binding instrument, a provision entitled “Fundamental human right” and worded as follows:

“All human beings have the fundamental right to an environment adequate for their health and well-being”.³

This proposal was fully endorsed by the WCED in its final report, in which it recommended the elaboration, within the framework of the United Nations, of a universal declaration and, subsequently, a world convention, codifying the general principles of international environmental law and including a human rights provision as proposed by the expert group. In the 1989 Hague Declaration, the heads of state and government of twenty-four countries, both developed and developing, stressed the relationship between the protection of the Earth’s atmosphere and the right to life, described as “the right from which all other rights stem”. The declaration recognises “the right to live in dignity in a viable global environment, and the consequent duty of the community of nations vis-à-vis present and future generations to do all that can be done to preserve the quality of the atmosphere”.

The issue of the relationship between the environment and human rights was again taken up by the United Nations during the preparatory process of the UN Conference on Environment and Development (UNCED). After some preliminary discussions in 1989, the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, “affirming the inextricable relationship between human rights and the environment” and referring to “new trends in international law relating to the human rights dimension of environmental protection”, decided in August 1990 to initiate a study on the subject and appointed a Special Rapporteur. This decision was endorsed by the United Nations Commission on Human Rights and later by the UN General Assembly, which adopted an important resolution in December 1990 in which it urged the Commission on Human Rights to continue its study and to report to the UNCED Preparatory Committee. In this Resolution 45/94, the UN General Assembly, apparently inspired by the language of the WCED

1. Such as, for example, Article 23 of the Belgian Constitution, as amended in 1993, which recognises every person’s right to “the protection of a healthy environment”. For a comprehensive overview of such constitutional provisions, see the report of the UN Commission on Human Rights, *Human Rights and the Environment*, UN Doc. E/CN.4/Sub.2/1994/9, Annex III.
2. Experts Group on Environmental Law of the World Commission on Environment and Development, *Environmental Protection and Sustainable Development: Legal Principles and Recommendations*, Graham and Trotman/Martinus Nijhoff, London/Dordrecht/Boston, 1986, p.40.
3. *Ibid.*, p. 38.

proposal, also “recognise[d] that all individuals are entitled to live in an environment adequate for their health and well-being”. This resolution, adopted without a vote, seemed to open the prospect of including similar language in the instrument on the “general rights and obligations of States in the field of the environment” which was due to be adopted by UNCED two years later.

Notwithstanding the UN General Assembly resolution and the initiatives of the Commission on Human Rights and its Sub-Commission, whose Special Rapporteur submitted a preliminary report in August 1991, UNCED itself did not explicitly affirm the human right to a healthy environment. Yet, during the course of the preparatory process of UNCED, various proposals for inserting in the conference’s declaration of principles a provision recognising “the right of every individual to enjoy a healthy and balanced environment”¹ or “to live in an environment capable of assuring his health and well-being”² were made by both developed and developing countries. In the end, however, it proved impossible to reach a global consensus on any of these proposals.

No provision of the Rio Declaration explicitly addresses human rights. The declaration does, however, contain a few provisions which have some relevance to the issue. Principle 1 states:

“Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature”.

The primary purpose of this provision is to articulate an anthropocentric rationale for environmental protection and sustainable development, rather than to affirm individual environmental rights. Compared with Principle 1 of the Stockholm Declaration, the reference in Rio to a vague entitlement to live “in harmony with nature” tends to water down the human rights dimension of environmental protection. The emphasis on a “productive life” reflects the apprehensions of developing countries fearing that environmental protection could take precedence over economic development. In this context, it is also significant that, while it fails to clearly affirm the right to a healthy environment, the Rio Declaration does expressly recognise the right to development, albeit not explicitly as an individual human right.

Principle 3 of the Declaration provides that “the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations”. As it does not specify the subject of the right to development, this provision could also be interpreted as referring to a collective right or even a right of states, as opposed to individuals. The reference to the “environmental needs of present and future generations”, which is clearly inspired by the WCED’s definition of sustainable development, is equally ambiguous. Principle 3 could be read as implying either that the fulfilment of the right to development is in itself sufficient to meet these environmental needs, or that it is contingent on “equitably” meeting not only the developmental, but also environmental needs of humankind. While no

1. Proposal of Peru, UN Doc. A/CONF.151/PC/83, 23 July 1991.

2. Proposal of Canada, UN Doc. A/CONF.151/PC/WG.III/L.5, 16 August 1991.

progress was made at Rio with respect to the recognition of a substantive human right to a healthy environment, the Rio Declaration does recognise, in its Principle 10, the need for public access to environmental information, public participation in environmental decision-making and access to justice, which can be considered as procedural rights deriving from this substantive right. Their scope and relevance is further explored in a separate introductory essay.

After Rio, the United Nations human rights bodies continued their work on the relationship between the environment and human rights. In August 1994, the Special Rapporteur appointed in 1990 presented her final report to the Sub-Commission on Prevention of Discrimination and Protection of Minorities.¹ This report explores the interrelationship between human rights and environmental protection in all its dimensions, addressing not only the right to a healthy environment as such, but also the effect of the environment on the enjoyment of other fundamental rights, such as the right to life, the right to health, the right to food, and so on. It includes a “draft declaration of principles on human rights and the environment”, which the Special Rapporteur hopes “will help the United Nations to adopt [...] a set of norms consolidating the right to a satisfactory environment”.² It includes a “Draft Declaration of Principles on Human Rights and the Environment”. The report submitted in 1994 is still under consideration by the Commission on Human Rights, which is yet to decide what further action to take with respect to the Draft Declaration of Principles. In her report, the Special Rapporteur expressed the hope that this Draft Declaration “will help the United Nations to adopt (...) a set of norms consolidating the right to a satisfactory environment.” At present, this still seems to be a distant prospect.

The draft declaration builds on both the Stockholm and Rio declarations. The human right to a healthy environment is affirmed from the outset in the following, direct terms:

“All persons have the right to a secure, healthy and ecologically sound environment.”

While this language goes beyond indirect recognition as articulated in Stockholm, the link between the right in question and other human rights is duly acknowledged in several provisions of the draft declaration stressing their “interdependent and indivisible” nature. The relationship between environmental protection and the fulfilment of basic human needs is set out in another provision, apparently inspired by Principle 3 of the Rio Declaration, though formulated explicitly in terms of individual rights, which recognises the right of all persons “to an environment adequate to meet equitably the needs of present generations and that does not impair the rights of future generations to meet equitably their needs”. This express recognition of the rights of future generations is in tune with the tenets of sustainable development, a concept which, according to the preamble to the draft declaration,

1. *Human Rights and the Environment*, final report prepared by Mrs Fatma Zohra Ksentini, Special Rapporteur, UN Doc. E/CN.4/Sub.2/1994/9.

2. *Ibid.*, paragraph 261.

“links the right to development and the right to a secure, healthy and ecologically sound environment”.

At its 1994 meeting, the Sub-Commission on Prevention of Discrimination and Protection of Minorities “welcomed” the Special Rapporteur’s recommendations and the draft declaration of principles and recommended to the Commission on Human Rights to follow up on them by appointing, in turn, a special rapporteur on human rights and the environment with a mandate to seek comments on and “make recommendations” regarding this draft.¹ However, the commission merely “took note” of the sub-commission’s Special Rapporteur’s report, without referring specifically to the draft declaration of principles, and requested the Secretary General of the United Nations to seek the opinions of governments, intergovernmental and non-governmental organisations on “the issues raised” in that report.²

1.2. Instruments of a regional nature

Although little progress towards the international legal recognition of the human right to a healthy environment has been made at the global level since the Stockholm conference, some results have been achieved at the regional level. There are currently two regional legal instruments for the protection of human rights which contain a reference to the right to the environment. The African Charter of Human and People’s Rights, adopted in Algiers on 26 June 1981, provides that “[a]ll peoples shall have the right to a general satisfactory environment favourable to their development” (Article 24). It should be noted that this provision does not actually recognise the right to the environment as an individual human right, but rather as a collective right, vested in peoples. Moreover, this right is formulated in rather ambiguous terms, which could be interpreted, consistently with the precepts of sustainable development, as implying that a “satisfactory” environment is a prerequisite of development, but might just as well be read as subordinating environmental quality to the imperatives of development. The pertinent provision of the Additional Protocol to the American Convention on Human Rights, adopted in San Salvador on 17 November 1988, for its part, is more straightforward in its formulation. Unlike the African charter, it does explicitly recognise an individual right, as it stipulates that “[e]veryone shall have the right to live in a healthy environment and to have access to basic public services” (Article 11).

There are, however, no environmental provisions in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its additional protocols. In the early 1970s, some proposals were made to elaborate a protocol to this Convention recognising the right to a healthy environment, but these initiatives were unsuccessful. It should nevertheless be noted that, while the ECHR does not protect the right to a healthy environment as such, it has been recognised in the case-law of the European Commission and Court of Human Rights that certain kinds of

1. Resolution 1994/27, 26 August 1994.

2. Resolution 1995/14, 24 February 1995.

environmental impairment with severe harmful consequences for individuals, or even the mere failure of public authorities to provide information about serious environmental risks to which individuals are exposed, may constitute a violation of other human rights protected by the Convention, such as the right to respect for one's private life and home.¹

While there are no legally binding provisions recognising the right to a healthy environment in European Community law, that right has been acknowledged in a high-level political declaration of the European Council. In their Dublin Declaration on "The Environmental Imperative", adopted on 7 July 1990, the heads of state and government of the member states of the European Community proclaimed that the objective of Community action for the protection of the environment "must be to guarantee citizens the right to a clean and healthy environment". The European Commission, for its part, has twice recommended to intergovernmental conferences for the reform of the Community treaties that the right to a healthy environment be included in the Treaty provisions on citizens' rights, but the member states have thus far failed to act on this recommendation. But it should be recalled that "protecting human health" is one of the explicit objectives of EC environmental policy, as laid down in Article 130r(1) of the EC Treaty, and that the Court of Justice of the European Communities has held that EC directives laying down environmental quality standards for air and water must be understood as conferring rights on individuals which are to be upheld by domestic courts.²

"Soft law" instruments enunciating the right to a healthy environment have been adopted in a number of other European fora. Of particular relevance is the European Charter on Environment and Health, adopted in Frankfurt on 8 December 1989 by the first joint Conference of the Ministers of the Environment and of Health of the Member States of the European Region of the World Health Organisation (WHO), which affirms that "[e]very individual is entitled to an environment conducive to the highest attainable level of health and well-being". Reference can also be made to the draft European charter and convention on the environment and sustainable development, endorsed by the Parliamentary Assembly of the Council of Europe on 28 September 1990, whose first provision recognises that "[e]very person has the fundamental right to an environment and living conditions conducive to his good health, well-being and full development of the human personality".³ It should be noted, however, that the Committee of Ministers of the Council of Europe did not act on the Parliamentary Assembly's recommendation to initiate intergovernmental negotiations for the elaboration of a legally binding instrument of this nature.

It is only very recently that the right to a healthy environment was first explicitly recognised in the operative provisions of an international legal

1. See European Court of Human Rights, Judgment of 9 December 1994, *Lopez Ostra v. Spain*; Judgment of 19 February 1998, *Guerra et al. v. Italy*.

2. See eg Judgment of 30 May 1991, Case C-361/88, *Commission v. Germany*, paragraph 16; Judgment of 17 October 1991, Case C-58/89, *Commission v. Germany*, paragraph 14.

3. Recommendation 1130 (1990), paragraph 1.

instrument at European level, that is the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, signed in Aarhus, in Denmark, on 25 June 1998.

The history of the Aarhus Convention goes back to the Ministerial Conference on Sustainable Development in the ECE Region, a regional preparatory meeting for UNCED held in Bergen, Norway, in May 1990, where the member states of the United Nations Economic Commission for Europe (UN/ECE) agreed “to contribute to the preparation of a document on environmental rights and obligations for possible adoption at the 1992 Conference on Environment and Development”.¹ A preliminary draft of an UN/ECE charter on environmental rights and obligations, which explicitly recognised the individual right to a healthy environment and further contained provisions on access to information, public participation in decision-making and legal protection, was elaborated by an informal meeting of experts on environmental law convened jointly by the Dutch and Norwegian Ministries of the Environment in October 1990.² Though it was subsequently considered by an *ad hoc* meeting open to participation by all member governments of the UN/ECE, this draft charter was never formally endorsed by the UN/ECE nor submitted to UNCED on its behalf, due to a lack of consensus within the region on the desirability of such an instrument. The provision acknowledging the existence of a substantive right to the environment proved particularly controversial.³

Thus, when the UN/ECE resumed its work on environmental rights after the Rio conference, it chose to focus exclusively on the implementation of the procedural rights set out in Principle 10 of the Rio Declaration. Accordingly, the UN/ECE “Guidelines on Access to Environmental Information and Public Participation in Environmental Decision-Making”, adopted by the “Environment for Europe” Ministerial Conference, held in Sofia in October 1995,⁴ do not contain any reference to the substantive right to a healthy environment. Neither did the mandate of the working group established by the UN/ECE Committee on Environmental Policy in January 1996 to prepare a draft convention on access to environmental information and public participation in environmental decision-making, based on these guidelines.⁵ Nevertheless, following a suggestion made at the first meeting of the working group by the delegation of Belgium⁶ and despite some initial opposition from other delegations, it was eventually agreed to include both in the preamble and in the body of the draft convention provisions, based on language proposed jointly by Belgium, Denmark and Italy,⁷ referring to the substantive right to a healthy environment.

1. *Bergen Ministerial Declaration on Sustainable Development in the ECE Region*, 16 May 1990, paragraph 16 (g).

2. UN Doc. ENVWA/R.38, 14 December 1990.

3. See Report of the *Ad hoc* Meeting on Environmental Rights and Obligations, UN Doc. ENVWA/AC.7/2, 10 July 1991, paragraph 10.

4. UN Doc. ECE/CEP/24, October 1995.

5. UN Doc. ECE/CEP/18, 8 February 1996, Annex I.

6. UN Doc. CEP/AC.3/2, 9 July 1996, Annex I.

7. UN Doc. CEP/AC.3/12, 22 July 1997, Annex II.

The preamble to the Aarhus Convention explicitly recalls Principle 1 of the Stockholm Declaration and United Nations General Assembly resolution 45/94 and, paraphrasing language from the Stockholm Declaration's preamble, "recognise[s] that adequate protection of the environment is essential to human well-being and the enjoyment of basic human rights, including the right to life itself". It establishes a conceptual link between substantive and procedural environmental rights by stating that "citizens must have access to environmental information, be entitled to participate in decision-making and have access to justice in environmental matters" in order "to be able to assert" their right to live in an environment adequate to their health and well-being, as well as to "observe" their concomitant duty "to protect and improve the environment for the benefit of present and future generations". Article 1 of the convention, under the heading "Objective", then provides:

"In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision making and access to justice in environmental matters in accordance with the provisions of this Convention".

The explicit recognition of the right to a healthy environment in the Aarhus Convention adds weight to its operative provisions for the implementation of the procedural rights of access to information, participation in decision-making and access to justice, by articulating the legal and philosophical underpinning of these rights. It indicates that they are not ends in themselves, but are meaningful precisely as means towards the end of protecting the individual's substantive right to live in a healthy environment. It does not, however, have immediate legal consequences, as the provisions of Article 1 do not, as such, impose on parties any specific obligations beyond those laid down in the other provisions of the convention. Indeed, the protection of the right to a healthy environment is presented as an *objective* to which the Aarhus Convention is intended to contribute, not as a substantive obligation distinct from the specific obligations with respect to access to information, participation and access to justice which it imposes on its contracting parties. It is striking that the fundamental right to live in a healthy environment, at the very moment of its legal recognition, finds itself, as it were, immediately reduced to its mere procedural dimension. However, it should be noted that the language used in Article 1 implies that the parties acknowledge that guaranteeing the procedural rights laid down in the convention will not in itself be sufficient to ensure the protection of the substantive right, but will only "contribute to" the achievement of that ultimate objective.

The Aarhus Convention is the first multilateral environmental agreement whose main purpose is to impose on its contracting parties obligations towards their own citizens. In this respect there is in fact a close affinity between the convention and international human rights law. This affinity also appears from the convention's provisions on compliance review, which, for the first time in international environmental law, open up the possibility of a review mechanism accessible not only to states, but also to individuals,

through some form of individual recourse procedure. Article 15 provides for the establishment of “arrangements” for reviewing compliance by parties which “shall allow for appropriate public involvement and may include the option of consideration of communications from members of the public on matters related to this Convention”. The fact that the same provision stresses the “optional”, “non-confrontational”, “non-judicial” and “consultative” nature of the review mechanism, which is yet to be established by the meeting of the parties “on a consensus basis”, certainly reflects the apprehensions of many signatory governments about this option and indicates that it will be difficult to reach agreement on the modalities for implementing this provision, but its mere existence is a significant feature of the Aarhus Convention. It should be noted that the phrase “matters related to this Convention”, as used in Article 15, is rather open-ended and could be interpreted not only as referring to violations of the specific procedural rights guaranteed by the convention but also, conceivably, as not precluding communications about the observance of the substantive right to a healthy environment recognised as an objective in Article 1.

1.3. The substantive scope of the right to a healthy environment

In the above review, we have used the phrases “right to a healthy environment” and “right to environment” indiscriminately, to refer, in a generic way, to the notion of an individual entitlement to a certain quality of the environment. As we have seen, the various international instruments analysed use a variety of different formulations to denote the right which they seek to affirm. We shall now examine what inferences can be drawn from these various formulations as to the scope and material content of the right to a healthy environment.

In its most basic form, the right to environment could be equated with the existence of an environment fit to sustain human life, that is a “viable” environment in the most literal sense. As the international community has acknowledged in the World Charter for Nature: “Mankind is part of nature and life depends on the uninterrupted functioning of natural systems which ensure the supply of energy and nutrients”. However, it would be a minimalist conception to consider that the right to environment is infringed only when the right to life itself is directly threatened, since only extremely severe environmental degradation can affect the bare biological necessities of human survival. There is no indication that such a restrictive interpretation was intended in any of the instruments quoted. In affirming the “right to live in dignity in a viable global environment”, and stressing the connection between the prevention of atmospheric pollution and the protection of the right to life, the signatories of the Hague Declaration rather seem to have aimed to underscore, in a solemn way, the importance of protecting the global environment. The notion of dignity, which is referred to in both the Hague and Stockholm declarations, implies a level of environmental quality which is sufficient to ensure not only bare survival, but also the satisfaction of basic human needs. The relationship between the protection of the environment and the fulfilment of those needs is also emphasised in the above-mentioned provisions of the African Charter of Human and People’s Rights,

the Rio Declaration and the United Nation's draft declaration of principles on human rights and the environment.

However, the scope of the right to a healthy environment goes beyond what is required to meet basic human needs. Whatever the actual language used – whether it refers to a “healthy environment” or to an environment “adequate for” or “conducive to” human health – the minimum standard that can be deduced from all the relevant instruments is that of environmental conditions which do not adversely affect human health. The impact of various forms of pollution on human health is well documented, and environmental quality standards for the protection of human health have been established for different pollutants and environmental media, based on scientific research to determine “no adverse effect” concentration and exposure levels below which there is no significant health impact. Such standards have been set both at the national and international level. As far as the latter is concerned, reference can be made to the work of the WHO on “environmental health criteria” and to a number of EC directives on ambient air quality¹ and the quality of drinking water.² Though the scientific basis of environmental quality standards often involves a measure of uncertainty and may be disputed, such standards can be used as objective, albeit imperfect, criteria to specify the material content of the general notion of a healthy environment. This notion, as articulated in the draft declaration of principles on human rights and the environment, encompasses “freedom from pollution”, that is protection from exposure to harmful substances through the physical environment, and “the right to safe and healthy food and water”. It covers all aspects of “environmental hygiene”, as referred to in the UN International Covenant on Economic, Social and Cultural Rights. Viewed from a human health perspective, the right to a healthy environment is in fact that to a healthful environment, not merely the absence of environmental conditions detrimental to human health, but an environment that is positively conducive to the “highest attainable level” of health, as the WHO's European Charter on Environment and Health puts it.

However, the human rights dimension of environmental protection is not only a matter of “environmental hygiene”. The right to a healthy environment involves more than an environment adequate for human health. Most of its formulations refer to an environment adequate for human well-being as well as health. Health and well-being can be viewed as components of a broader notion which the Stockholm Declaration calls “adequate conditions of life”. The International Court of Justice too, in its 1996 advisory opinion on the *Legality of the Threat or Use of Nuclear Weapons*, has recognised this broader dimension of the environment, which, in its view, “represents the living space, the quality of life and the very health of human beings, including generations unborn”.³

1. Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air, OJ No L 163, 29 June 1999, p. 41.

2. Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption, OJ No L 330, 5 December 1998, p. 32.

3. Opinion of 8 July 1996, *Legality of the Threat or Use of Nuclear Weapons*, paragraph 29.

The European Court of Human Rights, in its *Lopez Ostra* judgment, has also distinguished the impact of environmental conditions on the quality of life from that on human health, stressing that “severe environmental pollution may affect individuals’ well-being and prevent them from enjoying their homes in such a way as to affect their private and family life adversely, without, however, seriously endangering their health”.¹ In a more recent case, the same Court even found that the discomfort resulting from the lack of “essential information” as to the nature and extent of a risk of industrial accidents, which may seriously affect a person’s environment and personal safety, constituted a violation of that person’s right to respect for her private and family life.²

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Such impairments of the quality of life as a result of environmental conditions, though falling short of actually harming human health, should nevertheless be considered as infringements of the right to a healthy environment *sensu lato*. Indeed, a healthy environment is to be seen not merely as an environment that is healthful for human beings, but also as an environment that is itself “healthy”, in the sense of being ecologically sound and balanced. That would seem to be the intended meaning of the notion of “a secure, healthy and ecologically sound environment”, as articulated in the draft declaration of principles on human rights and the environment, which also explicitly recognises the cultural and spiritual importance of the natural environment to humans. This special bond between man and nature is equally acknowledged in the World Charter for Nature, which affirms that “civilisation is rooted in nature [...] and living in harmony with nature gives man the best opportunities for the development of his creativity, and for rest and recreation”. From this perspective, the conservation of nature becomes a condition of human well-being and acquires a human rights dimension. Though it deliberately stops short of enunciating human rights, the Rio Declaration’s rather muted reference to “a healthy and productive life in harmony with nature” carries a similar connotation, contrasting oddly with that instrument’s overall materialistic thrust. The assertion of a human rights rationale for nature conservation – which may strike one as somewhat artificial and needlessly anthropocentric – should not detract from the intrinsic value of biological diversity, which is also duly recognised in the World Charter for Nature and in the preamble to the more recent Convention on Biological Diversity. But, at any rate, it is clear that biological diversity must be considered an essential component of a “healthy” environment.

1. Judgment of 9 December 1994, *Lopez Ostra v. Spain*, paragraph 51.

2. Judgment of 19 February 1998, *Guerra et al. v. Italy*, paragraph 60.

2. Human rights to environmental procedural rights

by Maguelonne Déjeant-Pons

"The Court recognises that the environment is not an abstraction but represents the living space, the quality of life and the very health of human beings, including generations unborn."

International Court of Justice, Advisory Opinion of 8 July 1996

The World Charter for Nature, which was adopted by the United Nations General Assembly on 28 October 1982 (Resolution 37/7), imposes certain obligations on states and on individuals with a view to enforcing the principles which it sets forth. It specifies, in particular, that "[a]ll persons, in accordance with their national legislation, shall have the opportunity to participate, individually or with others, in the formulation of decisions of direct concern to their environment and shall have access to means of redress when their environment has suffered damage or degradation."

In its report entitled *Our Common Future* (the Brundtland report), published in 1987, the World Commission on Environment and Development (WCED) adopted a list of proposed legal principles for environmental protection and sustainable development, the first of which reads "[a]ll human beings have the fundamental right to an environment adequate for their health and well-being". Principle 6 specifically concerns the right to information and equal access and due process in administrative and judicial proceedings.

Principle 10 of the Rio Declaration on Environment and Development adopted by the United Nations Conference on Environment and Development on 14 June 1992, states "[e]nvironmental 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. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided". The importance of procedural rights – the right to information, the right to participate, and the right to appropriate means of seeking redress – has therefore been recognised at world level.

International recognition that it must be possible to assert procedural rights in environmental matters, as reflected in the above global initiatives, is also increasingly evident at the European – regional level – or more generally the pan-European level. It should be noted that the relevant law, thus granted international recognition, may concern not only national legal systems but also the international legal system.

2.1. International recognition of procedural rights in environmental matters

International recognition of rights and national legal systems

International organisations have had a very active role in promoting recognition of procedural rights exercisable at the national level.

It should first be noted that, within the European Union, Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment aims to ensure free access to and circulation of environmental information held by public authorities, and to lay down the basic conditions under which such information should be made available. This fundamental directive should be considered in conjunction with other texts such as Council Directive 82/501/EEC of 24 June 1982 on the major-accident hazards of certain industrial activities, which provides that the competent authorities shall ensure that information communicated to them by manufacturers running industrial installations regarded as particularly hazardous is transmitted to the persons liable to be affected; Council Directive 89/618/Euratom of 27 November 1989 on informing the general public about health protection measures to be applied and steps to be taken in the event of a radiological emergency, which stipulates that the population must be informed at regular intervals, without having to request such information, as to the health protection measures applicable in the event of a radiological emergency; and Council Directive 90/219/EEC of 23 April 1990 on the contained use of genetically modified micro-organisms, which requires member states to inform persons liable to be affected of the relevant emergency plans. Council Directive 97/11/EC of 3 March 1997, amending Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, provides for a degree of public involvement in proceedings concerning major projects to build thermal power stations and other combustion installations, nuclear power stations and other nuclear reactors, installations for the final disposal of radioactive waste, motorways, express roads. The national authorities must give the public access to the application for development consent and to the information which the developer is required to provide for the purposes of the enquiry and assessment, and a limited group of persons concerned must be given an opportunity to express an opinion on a project before work starts on it.

In the framework of the Council of Europe neither the European Convention for the Protection of Human Rights and Fundamental Freedoms, adopted in Rome on 4 November 1950, nor the protocols thereto acknowledge any human right relating to the environment, as such. However, the Convention gives general recognition to the right to information (Article 10 on freedom of expression, which includes freedom to hold opinions and to receive and impart information and ideas), the right to appropriate means of seeking redress (Article 6 on the right to a fair hearing) and the right to an effective remedy against breaches of the rights and freedoms set forth in the Convention (Article 13).

On 1 February 1979 the Parliamentary Assembly of the Council of Europe adopted Recommendation 854 (1979) on access by the public to government records and freedom of information. The Committee of Ministers of the Council of Europe has also taken a position on the subject. In its Recommendation No. R (81) 19 of 25 November 1981 on access to information held by public authorities, it considered that every effort should be made to “ensure the fullest possible availability to the public of information held by public authorities”. The Declaration on freedom of expression and information adopted by the Committee of Ministers on 29 April 1982 also stipulates that everyone has the right to seek information. Recommendation No. R ENV (90) 1 of the Committee of Ministers to member states on the European Conservation Strategy, adopted on 12 October 1990 in Brussels at the 6th European Ministerial Conference on the Environment, also recommends that governments and, where appropriate, local and regional authorities, should “inform and educate citizen groups, non-governmental organisations and the public generally, and encourage and enable them to participate in the definition of conservation policies and programmes”. Two sections of that recommendation are devoted to “information, databases and monitoring” and “public awareness and participation”.

The Lugano Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment was opened for signature on 21 June 1993. It will come into force once it has been ratified by three states, including two member states of the Council of Europe, and is open for accession by the European Community and states not members of the Council of Europe. It is based on the concept that operators have strict liability, that is, liability imposed without any need for proof that the operator was at fault, resulting from the specific risk engendered by the pursuit of a dangerous activity in a professional capacity. To help victims adduce evidence of damage suffered, the convention includes a series of provisions intended to facilitate access to information held by public authorities and by operators (Chapter III – Access to information). It also allows associations and foundations to take legal action to obtain the prohibition of an unlawful activity or to have an operator ordered to take preventive or reinstatement measures (Chapter IV – Actions for compensation and other claims). The Strasbourg Convention on the Protection of the Environment through Criminal Law, which was opened for signature on 4 November 1998, contains an article on the right of groups to participate in proceedings.

The Model Act on the Protection of the Environment, drawn up in 1994 by a group of independent experts within a programme of co-operation sustained by the Council of Europe with central and eastern European countries, also includes a section (Part IV) on the right to information and public participation in the protection of the environment. It deals with the right to information, the supply of information, events likely to affect public health, refusal of requests for information (judicial and administrative remedies), fees for the supply of information, and other public authority obligations concerning the right to comprehensive general information on the state of the environment and the right to participate.

Mention should also be made of the forerunner role played by the Organisation for Economic Co-operation and Development (OECD), since a number of its recommendations on transfrontier pollution set forth principles essential to the implementation of a system based on the equal right of access and non-discrimination (Recommendation C (74) 224 of 14 November 1974 on the principles concerning transfrontier pollution; Recommendation C (76) 55 of 11 May 1976 on the equal right of access in relation to transfrontier pollution; Recommendation C (77) 28 of 17 May 1977 on the implementation of a regime of equal right of access and non-discrimination in relation to transfrontier pollution; and Recommendation C (78) 77 of 21 September 1978 on strengthening international co-operation on environmental protection in transfrontier regions). As far back as 1979 the OECD member countries signed a ministerial declaration whereby they committed themselves to providing the public with information on major hazards. The decision-recommendation concerning provision of information to the public and public participation in decision-making processes related to the prevention of, and response to, accidents involving hazardous substances, and Recommendation C (98) 67 on environmental information, adopted by the Council of the OECD in 1988 and 1998 respectively, were important steps in that direction.

The United Nations Economic Commission for Europe (UN/ECE) has also made a significant contribution, in that, since 1990, it has been working steadfastly to secure full recognition of procedural rights in environmental matters. Firstly, the ministerial conference on the follow-up to the report "Our common future" in the ECE region, held in Bergen from 8 to 16 May 1990, led to the drafting of a charter on environmental rights and obligations of individuals, groups and organisations. Although adopted by the non-governmental organisations, this charter – which had six parts, general principles, access to information, obligation to make information available, participation, legal protection and compensation, and implementation – never progressed beyond the preliminary draft stage at intergovernmental level. Secondly, as recommended in the final texts of the Bergen conference, where the possibility of preparing a document on the environmental rights and obligations of individuals, groups and organisations was envisaged, an informal meeting of experts in environmental law was convened in Oslo from 29 to 31 October 1990 by the Dutch and Norwegian environment ministers, and a draft ECE charter on environmental rights and obligations was drawn up. It was proposed that this text's geographical scope might be extended to the entire world at the United Nations Conference on Environment and Development held in Rio in 1992, but the project was shelved. The Oslo text, which was distinct from the Bergen one, included a preamble and six sections on environmental information, education and training, decision-making, legal protection and compensation, transboundary impacts and implementation.

The work was subsequently resumed as part of the "Environment for Europe" process of pan-European ministerial conferences, successively held in Dobříš in June 1991, Lucerne in April 1993, Sofia in October 1995 and Aarhus in June 1998. The next conference will be in Kyiv in 2003. The declaration

adopted by the environment ministers of the UN/ECE region and the representative of the Commission of the European Communities responsible for the environment in Lucerne on 30 April 1993 states in the section on the Ecological Programme for Europe: “[w]e call for the elaboration of proposals by the UN/ECE for legal, regulatory and administrative mechanisms to encourage public participation in environmental decision-making, and for cost-efficient measures to promote public participation and to provide, in cooperation with the informal sectors, training and education in order to increase the ability of the public to understand the relevance of environmental information.

The declaration adopted by the environment ministers of the UN/ECE region at the Sofia Conference on 25 October 1995 allowed considerable progress to be made since it contained an endorsement of the guidelines on access to environmental information and public participation in environmental decision-making. These guidelines had been prepared by a special team under the leadership of the Netherlands and had been submitted to the ministerial conference by the Working Group of Senior Officials for the “Environment for Europe” process. In one of the ten sections of the declaration, dealing with public participation, the environment ministers of the forty-nine countries in the UN/ECE region (Europe, North America and Central Asia) and the representative of the European Commission stated: “We endorse the ECE guidelines on access to environmental information and public participation in environmental decision-making and invite the ECE to review their implementation in 1997 and to report to the next conference”. In another section, entitled “The future”, they declared “[I]n this context: [...] The development of a regional convention on public participation should be considered with appropriate involvement of NGOs”. The declaration stated moreover: “We believe it is essential that, in accordance with Principle 10 of the Rio Declaration, states should give the public the opportunity to participate at all levels in decision-making processes relating to the environment, and we recognise that much remains to be done in this respect. We call upon all countries in the region to ensure that they have a legal framework and effective and appropriate mechanisms to secure public access to environmental information, to facilitate and encourage public participation, *inter alia* through environmental impact assessment procedures, and to provide effective public access to judicial and administrative remedies for environmental harm. We invite countries to ensure that in relevant legislation effective public participation as a foundation for successful environment policies is being introduced”.

At a special session on 17 January 1996 the Committee on Environmental Policy of the UN/ECE set up an *ad hoc* working group to prepare a draft convention on access to environmental information and public participation in environmental decision-making. Under its terms of reference the group was required to take into consideration the ECE guidelines, the recent conventions prepared within the framework of the UN/ECE and the Rio Declaration on Environment and Development. The resulting convention on access to information, public participation in decision-making and access to justice in

environmental matters was opened for signature in Aarhus, Denmark, on 25 June 1998 at the 4th ministerial conference, "Environment for Europe".

In its Recommendation 1284 (1996) on European environmental policy (1994-95), adopted on 23 January 1996, the Parliamentary Assembly of the Council of Europe reiterated its belief that the success of any decision on environmental protection depended on the understanding and acceptance of the latter by all the groups concerned, such as local authorities, business and industry and the public. It pointed out that access to information and dialogue with the different partners were fundamental to this process.

Most of the conventions relating to the environment prepared under the auspices of the UN/ECE already require contracting parties to guarantee certain procedural rights in environmental matters at a national level. Article 4 on "Preparation of the environmental impact assessment documentation" of the Convention on Environmental Impact Assessment in a Transboundary Context, signed in Espoo on 25 February 1991, contains an interesting provision whereby the parties concerned must arrange for the environmental impact assessment documentation to be distributed not only to the authorities of the party affected but also to the public in the areas likely to be affected. Comments must be submitted to the competent authority of the party of origin within a reasonable time before a final decision is taken on the proposed activity. Article 9 on "Information to, and participation of the public" of the Convention on the Transboundary Effects of Industrial Accidents, signed in Helsinki on 17 March 1992, lays down fundamental provisions requiring parties to ensure that adequate information is given to the public in the areas capable of being affected by an industrial accident arising out of a hazardous activity. Provision is made to give "the public in the areas capable of being affected" an opportunity to participate in the relevant procedures with the aim of making known its views and concerns on prevention and preparedness measures. Moreover, parties must, in accordance with their legal systems and, if desired, on a reciprocal basis, provide natural or legal persons who are being or are capable of being adversely affected by the transboundary effects of an industrial accident in the territory of a party, with access to the relevant administrative and judicial proceedings, including the possibilities of starting a legal action and appealing against a decision affecting their rights, equivalent to those available to persons with their own jurisdiction. The Convention on the Protection and Use of Transboundary Water Courses and International Lakes, signed in Helsinki on 17 March 1992, includes an Article 16 on "Public information": riparian parties must ensure that information on the conditions of transboundary waters is made available to the public, that this information is available for inspection free of charge at all reasonable times and that copies of it are obtainable on payment of reasonable charges.

The World Health Organisation (WHO) also helps to promote procedural rights in environmental matters. The European Charter on Environment and Health, which was adopted in Frankfurt on 8 December 1989 by the environment and health ministers of the states members of WHO's European region and by the Commission of the European Communities, provides that

every individual is entitled to “information and consultation on the state of the environment and on plans, decisions and activities likely to affect both the environment and health” and to “participation in the decision-making process”.

Mention can also be made of the fact that the Conference on Security and Co-operation in Europe (CSCE) recognised the importance of the right to information on environmental issues. Drawing inspiration from the report of the CSCE meeting on protection of the environment held in Sofia in 1989, where the participating states reasserted their commitment to the rights of individuals, groups and organisations to be informed about and participate in environmental matters, the Charter of Paris for a New Europe, adopted on 21 November 1990, states “[w]e emphasise the significant role of a well-informed society in enabling the public and individuals to take initiatives to improve the environment. To this end, we commit ourselves to promoting [...] the public reporting of the environmental impact of policies, projects and programmes”.

International recognition of rights and the international legal system

The Rio Declaration on Environment and Development of 1992 does not expressly envisage the exercise of procedural rights in environmental matters at an international level, since it mentions “the relevant level” but then refers only to “the national level”. However, there is an emerging trend to consider that such express provision exists, as can be seen from paragraphs 11 to 13 of the UN/ECE guidelines on access to environmental information and public participation in decision making, which mention “international documents”, the “availability of the texts of international legal instruments”, “international bodies” and “international rules”.

The European Council on Environmental Law (CEDE), a scientific non-governmental organisation, has had an important part in the work done in this field. It has pursued various activities concerning the public’s role in respect of the implementation of international treaties for the protection of the environment and has prepared a draft text on the subject. Four main articles were drafted at a working meeting in May 1996 under the title “Information, participation and means of recourse with respect to the implementation of treaties relating to the environment”.

Along the same lines, it can, for example, be noted that the contracting parties to the Bern Convention on the Conservation of European Wildlife and Natural Habitats of 19 September 1979 in a sense applied in advance the principle of partnership recommended in the Rio Declaration of 1992. The convention permits bodies or agencies technically qualified in nature conservation to take part in the activities of the Standing Committee to a certain extent. Any body or agency technically qualified in the protection, conservation or management of wild fauna and flora and their habitats and belonging to the category of international agencies or bodies, either governmental or non-governmental, and national governmental agencies or bodies or

national non-governmental agencies or bodies, which have been approved for this purpose by the state in which they are located, may inform the Secretary General of the Council of Europe, at least three months before a meeting of the committee, of its wish to be represented at that meeting by observers. They will be admitted unless, at least one month before the meeting, one third of the contracting parties have informed the Secretary General of their objection. Although the only condition for participation by international non-governmental bodies or agencies is that one third of the contracting parties should not be opposed thereto, national bodies or agencies must, in addition, have the approval of the state in which they are located. This has only rarely been withheld to date. It should also be noted that organisations qualified and active in the field in question may usually send observers to meetings of groups of experts or other meetings. Organisations represented by observers at meetings of the Standing Committee may take the floor at such meetings in accordance with the committee's rules of procedure, which provide that an observer shall not have the right to vote but may, with the support of a delegation or permission from the Chair, make oral or written statements on the subjects being discussed. Proposals tabled by observers may be voted upon if they are taken up by a delegation. Therefore, although the observers' role is in a sense limited by their lack of voting rights, it is none the less an important one, since they may take the floor in debates and are thus able to express their point of view. The dialogue, and sometimes even co-operation, which may be established between contracting parties and non-governmental organisations is proving to have a beneficial impact on the convention's functioning. Some non-governmental organisations help to implement activities, in particular by doing expert work (identification of endangered species of flora and fauna, study of those species' needs and monitoring of their numbers), and to circulate information. Observers can also take the initiative, in that they may put forward proposals for consideration by the Standing Committee.

The Standing Committee has also approved the publication of certain documents, including reports of its meetings – which the Secretariat has been authorised to publish since 1991 – and all documents drawn up under the convention's programme of activities.

Lastly, the Standing Committee has in practice developed procedures allowing individuals, national or international non-governmental organisations or other bodies to report situations where application of the convention may be posing problems or where there is a need for action by the contracting parties. If a state appears to be failing to comply with its obligations under the convention, an appropriate solution to the difficulties is sought through discussion, and the implementation of that solution is carefully monitored. This approach also ensures greater openness in the exchange of information between civil society and the governmental level.

Other mechanisms designed to promote information, participation and access to forms of review are being established under other international conventions relating to the environment. We are gradually seeing the emer-

gence of new legal concepts, which will probably take a stronger hold in coming years.

2.2. Establishment at an international level of mechanisms allowing the exercise of procedural rights in environmental matters

The effective exercise of procedural rights in environmental matters is made possible by the existence of certain mechanisms specifically intended for dealing with environmental issues or simply used for that purpose. This is the case for the mechanisms devised by international organisations allowing people tangibly to avail themselves of one of these procedural rights – the right to information – or permitting the judicial or non-judicial review of the exercise of such rights.

International mechanisms allowing the tangible exercise of one of the procedural rights in environmental matters: the right to information

The mechanisms in question give individuals access to information collected at an international level by international organisations. Such information comprises raw data on the state of the environment as such, data which has been processed and analysed, and information on national and international instruments relating to the environment. It should be noted that the international community makes a huge effort in this sphere, and the resulting mass of information is eventually made available to interested members of the public.

During the 1960s, when the ecological movement was gaining ground, it became clear that there was a need for an international system to monitor and evaluate global environmental trends. The United Nations Conference on the Human Environment held in Stockholm in 1972 therefore decided that, with the establishment of the United Nations Environment Programme (UNEP), a system to evaluate the global environment, known as Earthwatch, would be implemented. This has three components: the Global Environment Monitoring System (GEMS), the International Environmental Information System (Infoterra) and the International Register of Potentially Toxic Chemicals (IRPTC), actually UNEP Chemicals.

In 1975 UNEP set up a GEMS Programme Activity Centre (PAC), with the aim of linking existing monitoring systems and catalysing new stations and networks. The London-based Monitoring and Assessment Research Centre (MARC), established as part of that structure, regularly publishes UNEP Global Environmental Data reports, a collection of global environmental statistics. GEMS also includes the World Conservation Monitoring Centre (WCMC) in Cambridge, an organisation run jointly by the International Union for Conservation of Nature and Natural Resources – World Conservation Union (IUCN), the World Wide Fund for Nature (WWF) and UNEP, which, *inter alia*, maintains databases on endangered species. The objective of the GEMS/PAC was to provide a rigorous scientific basis for the work of UNEP and for environmental management programmes of governments, international agencies and institutions. It concentrates on five

sensitive areas: climate, transfrontier pollution, terrestrial renewable resources, the oceans and environmental pollution. The WHO, the Food and Agriculture Organisation of the United Nations (FAO), the World Meteorological Organisation (WMO), the Intergovernmental Oceanographic Commission (IOC) of the United Nations Educational Scientific and Cultural Organisation (Unesco) and other specialised institutions within the United Nations system co-operate in the network's functioning. In 1985 UNEP established a new resource within the GEMS/PAC to enable it to make data more readily available to decision-makers, the Global Resource Information Database (GRID). This makes use of Geographic Information Systems (GIS) and satellite imagery technology for data presentation purposes.

The Infoterra machinery for the international exchange of information is a decentralised system, affording governments, industry and researchers access to existing knowledge on the functioning of ecosystems. Infoterra has also established a network of sources of information by sector and by specialisation. The GRID, the UNEP Chemicals and the UNEP Industry and Environment Office are part of this. The aim of the UNEP Chemicals is to ensure that the information on chemicals available worldwide is accessible to their users: governments, environment agencies, industry and also individuals. The International Programme on Chemical Safety (IPCS), which is based at WHO headquarters, processes information and publishes assessments of health and ecological risks. The Division of Environmental Information, Assessment and Early-Warning of UNEP actually leads these activities. It includes the GRID, Infoterra and the networks previously managed by the GEMS. A report entitled "Global Environment Outlook" has been regularly published since 1995.

Other information collection mechanisms are being developed at a regional level. As regards the Mediterranean, for example, mention should be made of the importance of the data gathered by the Blue Plan Regional Activity Centre (RAC/BP) of UNEP's Mediterranean Action Plan (MAP).

Regional organisations specifically or particularly concerned with the pan-European regional level are also extremely active in gathering environmental information.

A major step forward was the creation, by the enlarged European Union, of the European Environment Agency (EEA), the successor to the Corine (Coordinating Information on the Environment) programme. Launched in 1990, the agency began operating on 30 October 1993 following the decision to establish its headquarters in Copenhagen. Council Regulation 1210/90/EEC of 7 May 1990 on the establishment of the European Environment Agency and the European Environment Information and Observation Network defines its objective as being "to provide the Community and the member states with objective, reliable and comparable information at European level, enabling them to take the requisite measures to protect the environment, to assess the results of such measures and to ensure that the public is properly informed about the state of the environment" (Article 1).

The agency's principal spheres of activity encompass, as far as possible, all means of gathering information, enabling it to describe the present and foreseeable state of the environment from the points of view of the quality of the environment, the pressures on it and its sensitivity. Priority is given to the following areas of work: air quality and atmospheric emissions; water quality, pollutants and water resources; the state of the soil, of fauna and flora and of biotopes; land use and natural resources; waste management; noise emissions; chemical substances hazardous for the environment; and coastal protection. Seven decentralised European Topic Centres have been set up so far with the following themes: inland waters, air quality, air emissions, marine and coastal environment, nature conservation, soil and catalogue of data sources. The agency's tasks include ensuring the broad dissemination of reliable environmental information and publishing a report on the state of the environment every three years (Article 2.vi). Article 6 of the regulation provides that environmental data supplied to or emanating from the agency "may be published and shall be made accessible to the public, subject to compliance with the rules of the Commission and the member states on the dissemination of information, particularly as regards confidentiality". The regulation establishing the agency also provides that it shall be open to countries which are not members of the European Community, but which share the concern of the Community and the member states for the agency's objectives, under agreements concluded between them and the Community.

The report "Europe's environment: the Dobříš assessment", which was prepared by a European Environment Agency/European Commission taskforce, in co-operation with the UN/ECE, UNEP, the OECD, the Council of Europe, the WHO, the IUCN and Eurostat, and with the participation of the European countries concerned, at the request of the Conference of European Environment Ministers, "Environment for Europe", held in Dobříš in 1991, was presented at the Sofia ministerial conference in 1995. A second report, "Europe's environment: the second assessment", was submitted at the fourth ministerial conference, "Environment for Europe", held in Aarhus in June 1998. The aim of these reports is to provide planners and developers taking part in policy definition and programming in the environmental field and related sectors of activity with an objective basis for their analyses. Another aim is to spread information and raise general awareness of the environment problems now facing Europe.

In recent years the OECD has undertaken a programme of environmental performance reviews of the organisation's member countries. The primary objectives are to help individual countries judge the progress they have made, while determining baseline conditions, trends, policy commitments, institutional arrangements, and routine capabilities for carrying out national evaluations, to foster environmental improvements and to stimulate the efforts of the governments concerned. These systematic, independent, regular reviews are made public under the authority of the organisation's Secretary General, and constitute a valuable source of information accessible to the public at large. Environmental Performance Reviews have already been carried out, notably for: Germany, France, Iceland, Norway, Portugal,

Japan, Italy, the United Kingdom, Poland, the Netherlands, Austria, Canada and the United States.

In the field of nature conservation, mention should be made of the role played by the Council of Europe's Naturopa information and documentation centre on nature conservation in providing environmental information, education and training. Specialist circles and the public are kept informed of action to protect the environment taken by the Council of Europe and member states through periodical publications (the Naturopa magazine). Information on the state of the environment and legislation applicable in the Organisation's member states is also collected as part of the Council of Europe's intergovernmental programme of activities relating to the environment. For example, a comparative study of Europe's protected areas entitled "Nature conservation sites designated in application of international instruments at pan-European level" was presented at the ministerial conference in Aarhus in June 1998.

Lastly, it can be noted that, as a general rule, reports issued by individual countries in compliance with their obligations under international treaties relating to the environment are also a source of plentiful information, in so far as these reports are made available to the public.

International mechanisms allowing judicial or non-judicial review of the exercise of procedural rights in environmental matters

International judicial or non-judicial guarantees of procedural rights have so far mainly concerned only rights exercisable at the national level, or the Community level in the case of the European Union. However, under certain conditions, they might also relate to rights susceptible of being asserted under international law, where, for instance, a government has agreed to be bound by treaty provisions establishing the right to information, to participation and to appropriate means of seeking redress.

Within the European Union, the procedures of appealing to the European Commission, which may in turn refer the matter to the Court of Justice of the European Communities under Article 169 of the Treaty establishing the European Community, petitioning the European Parliament and making an application to the European Ombudsman offer the public a number of means of complaining of breaches of Community law relating to the environment.

Within the Council of Europe, the "environmental" case-law of the institutions of the Convention for the Protection of Human Rights and Fundamental Freedoms, adopted in Rome on 4 November 1950, is of interest in a number of respects, since it provides a concrete example of the scope of a judicial review mechanism relating to respect for the procedural rights of individuals in national legal systems. Although neither the Convention nor the protocols thereto recognise human rights in environmental matters, as such, those rights are sometimes asserted, as it were, through certain of the rights which they guarantee. This can be seen in respect of both "substantive" and "procedural" rights. From the substantive point of view, the

rights asserted by applicants which indirectly concern environmental matters mainly include those covered by Articles 2 (the right to life), 3 (the right to physical integrity), 5 (the right to liberty and security), and 8 (the right to respect for one's private and family life, home and correspondence) of the Convention and Article 1 (the right to peaceful enjoyment of possessions) of the additional ("first") protocol thereto, adopted in 1952.

The Convention moreover generally establishes the right to information (Article 10 on freedom of expression, which includes freedom to hold opinions and to receive and impart information and ideas), the right to appropriate means of seeking redress (Article 6 on the right to a fair hearing) and the right to an effective remedy against breaches of the rights and freedoms set forth in it (Article 13). It also gives recognition in very general terms – too general from an environmental point of view – to the right to participation (Article 3 of the first protocol on the right to elections under conditions ensuring "the free expression of the opinion of the people" in the choice of a legislature). The fairly abundant precedents relating to Articles 6 and 13 of the Convention include cases having a bearing on certain aspects of procedural rights in environmental matters. Applicants are also beginning to avail themselves of the possibilities offered by Article 10 as regards freedom to receive environmental information.

The right to information

The first paragraph of Article 10 of the Convention provides "Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers [...]".

The right to information was relied on in the case of *Anna Maria Guerra and Others v. Italy* (Application No. 14967/89). The applicants complained that the relevant authorities' failure to take measures to inform the public about the risks posed by a chemical factory and how to proceed in the event of a major accident, which were required under a presidential decree, infringed their right to freedom of information, as guaranteed by Article 10 of the Convention. In its decision on admissibility of 6 July 1995 the European Commission of Human Rights (the Commission) took the view that, in order to assess whether a mechanism providing access to information mentioned by the government was actually applicable, it was necessary to establish what information was obtainable in that way and then to verify whether the information referred to by the applicants was included. It considered that this was a question closely bound up with the merits of the application, requiring an in-depth examination of the nature of the information which the applicants alleged was being withheld, which could not be settled at the stage of the admissibility proceedings. Having therefore found that the application raised questions of fact and of law necessitating an examination on the merits, the Commission declared it admissible as to this ground of complaint, without prejudging the merits of the case. In its report dated 29 June 1996 the Commission expressed the opinion, by twenty-one votes to eight, that there had been a violation of Article 10 of the Convention.

The opinion expressed by the Commission is of special interest on several counts. The Commission noted, *inter alia*, that “[t]he current state of European law [...] confirms that public information is now an essential tool for protecting public well-being and health in situations of danger to the environment”. The provisions basically deal with two types of information: information on preventive safety measures and the rules to be followed in the event of an accident, a category of information which relates directly to protecting the health, or even the lives, of the persons concerned, and information on certain features of the industrial or other activity in issue, and an assessment of the potential risks for employees and workers at the relevant factory, local residents and the environment. The Commission took the view that the second category of information was intended to enable the persons concerned to satisfy themselves that, in non-emergency situations, the activity in question was being carried out in conformity with the technical standards drawn up to ensure its compatibility with protection of the environment and the local population, the purpose being not only to enable people to take any initiatives necessary to prevent accidents, but also to enable them to take action where they were exposed to levels of pollution harmful to their well-being and health, but not necessarily reaching the point where they could be described as an accident.

The Commission held that there had been a violation of Article 10 stating “[h]aving regard to their positive obligations in the field of information under Article 10 of the Convention, the competent authorities should, at least between May 1988 (the date of issue of [the presidential decree]) and 1994 (the year in which the controversial production process ceased), have taken the necessary measures for the applicants, who were living in a high-risk area, to receive adequate information on issues concerning the protection of their environment. It is not for the Commission to dictate, or even to indicate, the nature or scope of the measures to be taken: all that the Convention requires is that an individual should enjoy a right of effective access to the relevant information on the hazards of his environment, save where there is an overriding public interest in keeping such information confidential”. The Commission’s opinion was a spectacular step towards recognition of the right to information in environmental matters. However, in a judgment of 19 February 1998 (116/1996/735/932; case of *Guerra and others v. Italy*) the Court held, by eighteen votes to two that Article 10 was not applicable in the case under consideration. Citing the *Leander v. Sweden* judgment of 27 March 1987, it reiterated that freedom to receive information, referred to in paragraph 2 of Article 10 of the Convention, “basically prohibits a government from restricting a person from receiving information that others wish or may be willing to impart to him”, then added “that freedom cannot be construed as imposing on a state, in circumstances such as those of the present case, positive obligations to collect and disseminate information of its own motion”. The court did, however, find a violation of Article 8.

Developments in international law on the right to information nevertheless now make it binding on governments to provide information, without first having to be requested to do so, in situations where individuals – without or even with their knowledge – are or are likely to be exposed to unacceptable

risks or accidents because of the presence of hazardous substances. For instance, the Aarhus Convention imposes a positive obligation on states, requiring each party to ensure that “in the event of any imminent threat to human health or the environment, whether caused by human activities or due to natural causes, all information which could enable the public to take measures to prevent or mitigate harm arising from the threat and is held by a public authority is disseminated immediately and without delay to members of the public who may be affected” (Article 5, paragraph 1.c).

In the case of *L.C.B. v. the United Kingdom* (Application No. 23413/94), in the proceedings before the Commission the applicant alleged a violation of Articles 2 and 3, inter alia, of the Convention. Under those articles, she complained of the effects on her state of health of failure to provide information and advice concerning her father's exposure to radiation during nuclear tests on Christmas Island and the risks to which she herself was subsequently exposed. Towards the end of the 1970s she had been diagnosed as having acute myeloid leukaemia. While doing military service in the UK Royal Air Force, the applicant's father had been posted on a beach and exposed in four instances, without protective clothing or an individual photographic monitoring device, to ionising radiation from the explosion of nuclear weapons in the atmosphere. He had also participated in clean-up operations at the test site and had subsequently suffered skin blistering and bouts of nausea. The applicant maintained that the lack of information had prevented pre- and post-natal monitoring in respect of her state of health that would have led to earlier diagnosis and treatment of her illness and allowed her to lead a longer and qualitatively better life. In its decision on admissibility of 28 November 1995 (*Decisions and Reports* (DR) No. 83-B), the Commission found that this part of the application – to the extent that the applicant was complaining of a lack of information and advice after the date on which the United Kingdom recognised the right of individual appeal raised complex and serious issues which required determination on their merits. The Commission therefore unanimously declared admissible, without prejudging the merits, the applicant's complaints under Articles 2 and 3 of the Convention in relation to a failure to inform and advise her parents as to her father's exposure to radiation during the nuclear tests and as to a consequent risk to the applicant's own health. However, in its report of 26 November 1996 the Commission unanimously expressed the opinion that there had been no violation of Articles 2 and 3. In its judgment of 9 June 1998 (14/1997/798/1001), the European Court of Human Rights (the Court) also unanimously held that those articles had not been breached. The Court did not find it established that “given the information available to the state at the relevant time concerning the likelihood of the applicant's father having been exposed to dangerous levels of radiation and of this having created a risk to her health, it could have been expected to act of its own motion to notify her parents of these matters or to take any other special action in relation to her”.

The cases *Kenneth McGinley v. the United Kingdom* (Application No. 21825/93) and *Edward Egan v. the United Kingdom* (Application No. 23414/94), which were joined by the Commission in a decision dated 15 May 1995, concerned an alleged refusal to allow the applicants' access to medical

records and other documents. The applicants maintained that, as servicemen in the Pacific in the 1950s, they had been exposed to radiation during nuclear tests. They relied on various articles of the Convention. In its decision on admissibility of 28 November 1995 the Commission unanimously declared admissible, without prejudging the merits, the applicants' complaints under Articles 6, 8 and 13 in relation to the failure to allow access to records, finding that this part of the application raised complex and serious issues which required determination on the merits. In its report of 26 November 1996 the Commission concluded unanimously that there had been a violation of Article 6, paragraph 1 of the Convention, that it was not necessary to consider the applicants' complaints under Article 13 and, by twenty-three votes to three, that there had been a violation of Article 8.

In its judgment of 9 June 1998 (10/1997/794/995-996; case of *McGinley v. the United Kingdom*) the Court held, by six votes to three, that there had been no violation of Article 6, paragraph 1 (the Court found that the existence of documents allegedly in the state's possession which would have helped the applicants to prove that they had been exposed to dangerous levels of radiation was not substantiated and, furthermore, that the applicants could have applied to a national court to secure the disclosure of such documents); by five votes to four, that there had been no violation of Article 8 (where a government engages in hazardous activities, such as those in issue in the case under consideration, which might have hidden adverse consequences on the health of those involved in such activities, respect for private and family life under Article 8 requires that an effective and accessible procedure be established which enables such persons to seek all relevant and appropriate information; in the material circumstances the applicants could in fact have requested the desired information); and, unanimously, that it was not necessary to consider the complaint under Article 13.

Two dissenting opinions were, however, expressed. In the first – a joint opinion – three judges held that there had been a violation of the rights recognised by Articles 6 and 8 of the Convention. The applicants could not be criticised for not having used the procedure enabling them to seek disclosure of the information before a tribunal, in so far as the fact that there was such a procedure could not suffice to satisfy the positive obligations that were incumbent on the state under both Articles 6 and 8. The judges held that “the applicants had the right to be informed of all the consequences that their presence in the test area could have for them [...]. They had the right to know what might happen to them, without having to ask”. In the second dissenting opinion a judge took the view that “the available procedures were not adequate to satisfy the state's positive obligation to provide a means whereby the applicants could seek and obtain access to this information”.

The right to appropriate means of seeking redress

The right to a fair hearing has been relied on in a number of applications. Paragraph 1 of Article 6 of the Convention provides “in the determination of his civil rights and obligations [...] everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal

established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of [...] public order or national security in a democratic society [...]”.

The case of *Arrondelle v. the United Kingdom* (Application No. 7889/77, Commission decision on admissibility dated 15 July 1980, DR 19, p. 186) could not be examined on the merits since a friendly settlement was reached between the parties (Commission report of 13 May 1983, DR 26, p. 5). The applicant, who owned a house located between the runway of Gatwick airport and a motorway, complained of particularly difficult living conditions, even affecting her health, by reason of noise, and specified that several attempts to sell the property at its full market value had failed. The applicant also alleged a violation of Article 6 of the Convention, since it had not been possible to bring her case before the civil courts as the Civil Aviation Act broadly prohibited actions for nuisance arising from civil aircraft in flight or in aerodromes. The government having contended that the applicant had failed to exhaust a domestic remedy, the Commission noted that the remedy in question was not available to her. The application was declared admissible, without prejudging the merits, but the case ended in a friendly settlement. The applicant declared her application to be settled by an offer from the government to pay her 7 500 pounds sterling “without implying any admission of a violation of the Convention”.

In the case of *Zimmermann and Steiner v. Switzerland* the applicants were tenants of flats in localities close to Zürich-Kloten airport. Since the Federal Assessment Commission had rejected their claims for compensation for the damage caused by the noise and air pollution resulting from the operation of the airport, the applicants had lodged an administrative law appeal against that decision with the Federal Court. In their application to the Commission (Application No. 8737/79) they alleged that the length of the proceedings relative to the hearing of their appeal in the Federal Court (almost three and a half years) had exceeded the “reasonable time” stipulated in Article 6, paragraph 1 of the Convention. In a judgment of 13 July 1983 (Series A, No. 66), the court unanimously held that there had been a violation of that article but did not make any award of compensation for the alleged non-pecuniary damage suffered.

In the case of *Frederick William Baggs v. the United Kingdom* (Application No. 9310/81) the applicant complained of the noise and vibration caused by an airport close to his property and maintained that he was the victim of a violation of his right to respect for his family life and home, guaranteed by Article 8 of the Convention. He also alleged a violation of his right to the peaceful enjoyment of his possessions guaranteed by Article 1 of the additional protocol to the Convention (the “First Protocol”) adopted in 1952. Moreover, he complained of a breach of paragraph 1 of Article 6 of the Convention in that, unlike the legislation of the other states parties to the Convention, the UK Civil Aviation Act excluded a right of action in trespass and nuisance by reason of the flight of an aircraft over property and a right of action in nuisance by reason of the noise or irritation caused by an aircraft on an aerodrome. In its decision on admissibility of 16 October 1985 (DR 44,

p. 13), the Commission acknowledged that any civil claim must be capable of being submitted to a court, but Article 6, paragraph 1 did not impose requirements in respect of the nature and scope of the relevant national law governing the "right" in question. Nor did it consider itself, in principle, competent to determine or review the substantive content of the civil law which ought to obtain in the state party any more than it could do so in respect of substantive criminal law. It went on to find that the purpose and effect of the impugned legislation was to exclude generally any possible compensation claims for trespass and nuisance and not just to limit jurisdiction of civil courts with regard to certain classes of civil action. The applicant therefore could not invoke under English law a substantive right to compensation for the alleged noise nuisance. The mere fact that an action in respect of aircraft noise nuisance would consequently be devoid of all prospects of success was not equivalent to depriving the applicant of the right of access to a court, and the complaint did not disclose any appearance of a violation of the rights and freedoms set out in the Convention, in particular in Article 6, paragraph 1. The application was therefore to this extent manifestly ill-founded within the meaning of Article 27, paragraph 2 of the Convention.

In the case of *George Vearncombe, Werner Herbst, Lothar Clemens and Ellen Spielhagen v. the United Kingdom and the Federal Republic of Germany* (Application No. 12816/87), the applicants complained about the disturbance they had to, and would in future have to, suffer, due to the noise caused by shooting on a range in their immediate vicinity. Relying on the precedents of *Arrondelle and Baggs*, they maintained that they were victims of violations of their right to respect for their private and family life and their homes, guaranteed by Article 8 of the Convention. They also alleged a violation of Article 1 of the First Protocol relating to the right to peaceful enjoyment of possessions. They also complained of a breach of Article 6, paragraph 1 in that they had been unable to have a court examine their requests for court orders enjoining the British Military Government in West Berlin from constructing and/or using the shooting range, as the British courts had no jurisdiction. In its decision on admissibility of 18 January 1989 (DR 59, p. 186), the Commission found that the complaint did not disclose any appearance of a violation of Article 6, paragraph 1. The fact that United Kingdom law excluded the jurisdiction of British courts in respect of damage caused to the inhabitants of Berlin by the British military forces was not equivalent to depriving the persons concerned of the right of access to a court, as an action for compensation could be pursued before the German courts pursuant to an Allied Kommandatura law.

The case of *Claus Braunerhielm v. Sweden* (Application No. 11764/85) indirectly raised certain issues having a bearing on conservation of the environment. The applicant, the owner of an estate covering an area of almost five hectares, including stretches of sea, complained of a violation of his right not to be deprived of his possessions, since new legislation granted the public the right to fish his waters licence-free using hand-held tackle, and, as a result, a significant number of people were now fishing there without his having been awarded any compensation. Since that type of fishing had been made legal, his coastal property – land and sea – was subject to great pres-

sure and attracted a large number of visitors. He had previously enjoyed an exclusive right to fish his waters. He also alleged a violation of Article 6, paragraph 1 in that the new legislation, granting the public the right to fish licence-free, interfered with his private property rights and hence with his civil rights. He maintained that this amounted to a violation of the Swedish Constitution, but he could not bring a claim before the Swedish courts because parliament alone was permitted to interpret the constitution. In its decision of 9 March 1989 (not published) the Commission noted that the "right" to exclusive fishing with hand-held tackle which the applicant previously enjoyed had been taken away from him by the new law passed by parliament, and the only claim which the Swedish courts could have examined – provided they had competence to invalidate or set aside a law passed by parliament – was that of a breach of the constitution itself. The Commission held that Article 6, paragraph 1 did not guarantee access to a court for such a claim and therefore declared the application manifestly ill-founded in this respect, within the meaning of Article 27, paragraph 2 of the Convention.

The case of *Powell and Rayner v. the United Kingdom* (Application No. 9310/81) is of interest in that, for the first time, the Court had to determine a claim under Article 8 of the Convention, since it had not been possible to reach a friendly settlement (see European Court of Human Rights, *Powell and Rayner*, the judgment of 21 February 1990, Series A, No. 172). The applicants maintained that, as a result of excessive noise generated by air traffic in and out of Heathrow Airport, they had been the victims of an unjustified interference by the United Kingdom with the right guaranteed to them under Article 8. The applicants also claimed that they were denied access to the courts for the determination of their "civil rights and obligations" by the Civil Aviation Act, which set a statutory bar to bringing an action in nuisance in respect of aircraft noise. They argued that this constituted a violation of Article 6, paragraph 1 of the Convention. The Court found that the effect of the Act in question was to exclude liability in nuisance with regard to the flight of aircraft in certain circumstances, with the result that the applicants could not claim to have a substantive right under English law to obtain relief for exposure to aircraft noise in those circumstances. No arguable claim of a violation of Article 6 could be derived from the applicants' subsidiary assertion that the limited entitlement to sue granted under the Act was illusory. Access to the domestic courts was available to any person who considered that he had a cause of action in nuisance under English law. The Court unanimously held that it had no jurisdiction to entertain the applicants' complaints under Article 6, paragraph 1.

In the case of *Lennart and Gunny Zander v. Sweden* (Application No. 14282/88), the applicants were the owners of property adjacent to land on which a company stored and treated household and industrial waste. A licence to engage in this activity had been issued to the company by the National Licensing Board for Protection of the Environment under the Environment Protection Act. Following the tipping of refuse containing cyanide onto the dump, analyses of water from nearby wells had shown that water to contain excessive levels of cyanide. The municipality had then supplied property owners dependent on the wells with drinking water, but had subsequently stopped

doing so, since the maximum permitted level of cyanide had been raised. The company then sought a licence to use the dump for untreated household refuse and for the storage of ashes and slag from waste incineration plants. The applicants submitted to the Licensing Board that the proposed expansion of activities on the dump involved an increased risk that their drinking water would be polluted. They therefore requested that, as a precautionary measure, the licence should contain a clause obliging the company to supply drinking water to the eleven property owners dependent on the wells. The Licensing Board granted the company's request and dismissed the applicants' claim on the ground that there was no likely connection between activities on the dump and any pollution of the wells. However, it ordered that the water in the wells be analysed at regular intervals and that the owners be informed of the results. Should the analyses give reason to suspect that the dump was causing pollution of the water, the company must immediately comply with any orders issued by the County Administrative Board to supply the property owners with drinking water. A subsequent appeal by the applicants to the government against the Board's decision was dismissed. Before the Commission they complained that they had not had the right to have their civil rights determined by a court and alleged a violation of Article 6, paragraph 1 of the Convention. The Commission declared the application admissible and, in a report of 14 October 1992, expressed the unanimous view that there had been a violation of that article. In its judgment of 25 November 1993 (45/1992/390/468, case of *Lander v. Sweden*) the Court sought to ascertain the existence of a dispute over a "right". It observed that the applicants based their claim to the Licensing Board on legislation laying down certain obligations incumbent upon a person who engaged in an environmentally hazardous activity without, however, specifying who was the beneficiary of those obligations. It then found that the applicants could arguably maintain that they were entitled under Swedish law to protection against the water in their well being polluted as a result of the company's activities on the dump; that there was a disagreement between the applicants and the Board raising issues capable of going to the lawfulness of the conditions attaching to the permit; that the outcome of the dispute was directly decisive for the applicants' entitlement mentioned above; and, therefore, the appeal lodged by the applicants with the government against the issuance of the licence involved the "determination" of one of their "rights". Having held that the right in question was a "civil right", since the applicants' claim directly concerned their ability to use the water in their well for drinking purposes, which was one facet of their right of property as owners of the land, the Court found that at the material time it was not possible under Swedish law for the applicants to have the government's decision upholding that of the Licensing Board reviewed by a court. It therefore unanimously held that Article 6, paragraph 1 had been violated and ordered Sweden to pay each of the applicants 30 000 Swedish kronor for non-pecuniary damage.

The case of *Ursula Balmer-Schafroth and nine others v. Switzerland* (Application No. 22110/93) was referred to the Court by the Commission. Before the Commission the applicants alleged violations of Article 6, para-

graph 1 and Article 13 of the Convention. They complained of a lack of access to a court to challenge a decision by the Swiss Federal Council to grant an operating licence to the Mühleberg nuclear power station, which was located in close proximity to their homes. The applicants, who either owned or rented their homes, lived within the power station's containment zone (*Alarmzone*). The Commission expressed the opinion, by sixteen votes to twelve, that there had been a violation of Article 6, paragraph 1 of the Convention since there was no procedure enabling a court to review the Federal Council's decision. In its judgment of 26 August 1997 (67/1996/686/876, case of *Balmer-Schafroth v. Switzerland*) the Court held, by twelve votes to eight, that Article 6, paragraph 1 was not applicable in the case under consideration. In the proceedings before the Federal Council the applicants had not established a direct link between the operating conditions of the power station, which they contested, and their right to protection of their physical integrity, as they failed to show that the operation of Mühleberg power station exposed them personally to a danger that was not only serious but also specific and, above all, imminent. In the absence of such a finding, the effects on the population of the measures which the Federal Council could have ordered to be taken in the case under consideration remained hypothetical. Consequently, neither the dangers nor the remedies were established with a degree of probability that made the outcome of the proceedings directly decisive, within the meaning of the Court's case-law, for the right relied on by the applicants. In the Court's view, the connection between the Federal Council's decision and the right invoked by the applicants was too tenuous and remote. Two dissenting opinions were issued. In the first of these, Judge Pettiti declared, "[t]ogether with my colleagues in the minority, I would have preferred it to be the judgment of the European Court that caused international law for the protection of the individual to progress in this field by reinforcing the 'precautionary principle' and full judicial remedies to protect the rights of individuals against the imprudence of authorities".

The right to an effective remedy has also been relied on in some cases. Article 13 of the Convention provides: "[e]veryone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity".

In the previously cited case of *Frederick William Baggs v. the United Kingdom* the Commission, in its decision of 16 October 1985, declared admissible, without prejudging the merits of the case, the applicant's complaint that he had had no effective remedy before a national authority, within the meaning of Article 13 of the Convention, to complain about the aircraft noise nuisance. However, it gave no opinion on the merits, since a friendly settlement was reached.

In its previously cited *Powell and Rayner v. the United Kingdom* judgment of 21 February 1990 the Court unanimously held that there had been no violation of Article 13 in respect of either applicant. That article did not go so

far as to guarantee a remedy allowing a contracting state's legislation to be challenged as such.

The case of *Noël Narvii Tauira and eighteen others v. France* (Application No. 28204/95) is of interest in several respects. The applicants challenged a decision by the President of the French Republic on 13 June 1995 to resume a series of six or seven nuclear tests in the atolls of Mururoa and Fangataufa in French Polynesia, arguing that the resumption of these tests entailed risks. In particular, they called into doubt the environmental monitoring and supervision carried out by international teams of scientists and maintained that the radiation might have serious repercussions on the health of the local population and that there were risks of fracturing the atoll and of pollution by atmospheric fallout. Apart from alleging a violation of their right to life (Article 2 of the Convention), their right not to suffer degrading or humiliating treatment (Article 3), their right to a private life and to their homes (Article 8, paragraph 2), their right to peaceful enjoyment of their possessions (Article 1 of the First Protocol) and their right not to be discriminated against on grounds of race (Article 14 of the Convention), the applicants complained of a breach of Article 13. They deemed that in French law they had no effective remedy allowing them to have the alleged violations brought to an end, since under French case-law a presidential decision qualified as a prerogative act, which for reasons of state could not be subject to any form of judicial review. They also stipulated that the presidential decision had been published merely in a press release and not in the Official Gazette (*Journal Officiel*). The Commission unanimously decided to strike the case off the list in respect of one applicant, who had withdrawn her application on the ground that she had at the same time lodged another application with the United Nations Commission on Human Rights in Geneva. The majority of the Commission moreover declared inadmissible the application lodged by the remainder of the applicants, holding that they could not claim to be "victims" of a violation of the Convention. They did not have an arguable, reasoned claim that, on account of the authorities' failure to take sufficient precautions, the probability that damage would occur was such that it could be regarded as amounting to a violation. The Commission therefore rejected as manifestly ill-founded, under Article 27, paragraph 2 of the Convention, the complaints under Articles 2, 3, 8, 13 and 14 of the Convention and Article 1 of the First Protocol, as they stood. Concerning the allegation of a violation of the right to an effective remedy, it recalled its line of decisions whereby the right guaranteed under Article 13 of the Convention could only be asserted in respect of a grievance regarded as arguable under the Convention institutions' case-law. It held that, since the applicants could not claim to be the victims of a violation of the Convention, it followed that they had not brought before the Commission grievances which could be regarded as arguable in terms of the case-law. It is to be regretted that, such being the case, the Convention institutions did not have to take position on the possibility of exercising an effective remedy against decisions of the President of the Republic. As Michel Prieur pointed out such decisions constitute "official acts which, as such, in a state governed by the rule of law should be susceptible of judicial review before the *Conseil d'Etat*".

In the aforementioned case of *L.C.B. v. the United Kingdom*, to determine the admissibility of the application the Commission was required to examine whether the applicant had exhausted the available domestic remedies, since the government contended that she had failed to bring a civil action. However, the Commission found that a civil action for damages against the armed forces could not be considered an effective and adequate domestic remedy in the case under consideration. Under the case-law of the Convention institutions applicants are required to exhaust only domestic remedies that are likely to be effective and adequate. A remedy that clearly lacks any prospect of success is not considered a domestic remedy which must be exhausted, pursuant to Article 26 of the Convention, and the burden of proving the existence of available and sufficient remedies falls upon the state invoking non-exhaustion. The Commission therefore took the view that the applicants' complaints should not be declared inadmissible on the ground of failure to exhaust domestic remedies.

In the case of *Ursula Balmer-Schafroth and nine others v. Switzerland*, already cited, the applicants also alleged a violation of Article 13 of the Convention, in that no effective remedy was available to them enabling them to complain of breaches of Articles 2 and 8. The Commission took the view, by twenty-seven votes to one, that given its finding in respect of Article 6, paragraph 1 there was no need for it to examine the complaint under Article 13, since the requirements of the latter were less strict than, and in the case under consideration were absorbed by, those of the former. A dissenting opinion was expressed. In its previously cited judgment of 26 August 1997, the Court held by twelve votes to eight that Article 13 of the Convention was not applicable in the case under consideration. Having already found that Article 6 did not apply, it reached the same conclusion with respect to Article 13.

This overview of the case-law shows that the institutions of the European Convention on Human Rights are faced with a real dawning of awareness among individuals of their procedural rights in environmental matters. These rights must therefore be fully taken into account and guaranteed.

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It is particularly desirable that the tendency, apparent at a pan-European regional level, towards growing recognition of procedural rights in environmental matters and the introduction of mechanisms guaranteeing respect for such rights should be followed on the other continents, failing which a large part of humanity will be deprived of what can be regarded as some of the most basic rights, in that their infringement often goes hand in hand with harm to human health. It is, for instance, necessary that certain provisions of the African Charter on Human and People's Rights, adopted in Nairobi on 28 June 1981, or of the American Convention on Economic, Social and Cultural Rights, adopted in San Salvador on 17 November 1988, be clarified in the light of environmental rights. The African Charter provides, *inter alia*, "[e]very individual shall have the right to information" (Article 9), and mentions the right of every citizen "to participate freely in the government of his country" (Article 13). The United Nations Commission on Human Rights also

has an important role to play. At a national level, basic texts have already been adopted by some countries, such as Bolivia, which in 1995 promulgated a law on participation by the people (*Ley de Participación popular y las políticas de asuntos étnicos, desarrollo rural y carnetización de los pueblos indígenas de Bolivia*).

In this context, the provisions of the most recent global or regional conventions relating to the environment are encouraging. Particular mention can be made of the Rio Convention on Biological Diversity of 5 June 1992 (Article 13 on public education and awareness), the United Nations Framework Convention on Climate Change adopted in New York on 9 May 1992 (Article 6 on education, training and public awareness, which provides for public access to information and public participation) and the Barcelona Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, as amended on 15 June 1995 (Article 15 on public information and participation).

The preamble to the Rio Declaration on Environment and Development stresses the importance that must now be given to establishing "a new and equitable global partnership through the creation of new levels of co-operation among states, key sectors of society and people". Chapters 27 and 31 of the Agenda 21 programme of action for sustainable development, respectively entitled "Strengthening the role of non-governmental organisations: partners for sustainable development" and "Scientific and technological community", set forth guiding principles for such action.

Protection of the biosphere can be seen against the background of a new mass awareness of the importance of environmental issues. There is growing recognition that these issues are decisive not only for people's health and well-being but also, in the longer term, for development, peace and security. In the Advisory Opinion of 8 July 1996 on the legality of the threat or use of nuclear weapons the International Court of Justice went on to assert that "the existence of the general obligation of states to ensure that activities within their jurisdiction and control respect the environment of other states or of areas beyond national control is now part of the corpus of international law relating to the environment".

Paradoxically, awareness of the need to take special care of the environmental dimension of the biosphere has always existed in a number of civilisations and religions, but has been fairly slow to emerge in the modern world. In this respect, there is an urgent need to make up for lost time. This is an area where the precedents set by the European Court of Human Rights have a fundamental role to play. It is indeed the responsibility of humankind, and of each individual, to ensure that the quality and integrity of the terrestrial ecosystem are preserved, protected and restored.

II. Instruments and other international texts

1. The world framework

1.1. Legally binding instruments

- Charter of the United Nations, adopted in San Francisco (United States) on 26 June 1945
- International Covenant on Economic, Social and Cultural Rights, adopted by the United Nations General Assembly on 16 December 1966
- International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly on 16 December 1966
- Convention on International Trade in Endangered Species of Wild Fauna and Flora, adopted in Washington (United States) on 3 March 1973
- Framework Convention on Climate Change, adopted in New York (United States) on 9 May 1992
- Convention on Biological Diversity, adopted in Rio de Janeiro (Brazil) on 5 June 1992
- International Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, adopted in Paris (France) on 14 October 1994
- Convention on the Law on the Non-Navigational Uses of International Watercourses, adopted in New York (United States) on 21 May 1997

Charter of the United Nations, adopted in San Francisco (United States) on 26 June 1945

“[...]

Chapter IX. International economic and social co-operation

“[...]

Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and international cultural and educational co-operation; and

c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

[...]"

International Covenant on Economic, Social and Cultural Rights, adopted by the United Nations General Assembly on 16 December 1966

"[...]

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - a. the provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - b. the improvement of all aspects of environmental and industrial hygiene;
 - c. the prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - d. the creation of conditions which would assure to all medical service and medical attention in the event of sickness.

[...]"

International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly on 16 December 1966

"[...]

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - a. for respect of the rights or reputations of others;
 - b. for the protection of national security or of public order (ordre public), or of public health or morals.

[...]"

Convention on International Trade in Endangered Species of Wild Fauna and Flora, adopted in Washington (United States) on 3 March 1973

[...]

Article VIII. Measures to be taken by the parties

[...]

7. Each party shall prepare periodic reports on the implementation of the present Convention and shall transmit to the Secretariat:

- a. an annual report containing a summary of the information specified in sub-paragraph b of paragraph 6 of this article; and
- b. a biennial report on legislative, regulatory and administrative measures taken to enforce the provisions of the present Convention.

8. The information referred to in paragraph 7 of this article shall be available to the public where this is not inconsistent with the law of the party concerned.

[...]"

Framework Convention on Climate Change, adopted in New York (United States) on 9 May 1992

[...]

Article 6. Education, training and public awareness

In carrying out their commitments under Article 4, paragraph 1.i, the parties shall:

- a. Promote and facilitate at the national and, as appropriate, subregional and regional levels, and in accordance with national laws and regulations, and within their respective capacities:
 - i. the development and implementation of educational and public awareness programmes on climate change and its effects;
 - ii. public access to information on climate change and its effects;
 - iii. public participation in addressing climate change and its effects and developing adequate responses; and
 - iv. training of scientific, technical and managerial personnel.
- b. Co-operate in and promote, at the international level, and, where appropriate, using existing bodies:
 - i. the development and exchange of educational and public awareness material on climate change and its effects; and
 - ii. the development and implementation of education and training programmes, including the strengthening of national institutions and the exchange or secondment of personnel to train experts in this field, in particular for developing countries.

[...]"

Convention on Biological Diversity, adopted in Rio de Janeiro (Brazil) on 5 June 1992

"[...]

Article 13. Public education and awareness

The Contracting Parties shall:

- a. Promote and encourage understanding of the importance of, and the measures required for, the conservation of biological diversity, as well as its propagation through media, and the inclusion of these topics in educational programmes; and
- b. Co-operate, as appropriate, with other states and international organisations in developing educational and public awareness programmes, with respect to conservation and sustainable use of biological diversity.

[...]

Article 14. Impact assessment and minimising adverse impacts

1. Each Contracting Party, as far as possible and as appropriate, shall:

- a. Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimising such effects and, where appropriate, allow for public participation in such procedures;

[...]"

International Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, adopted in Paris (France) on 14 October 1994

"[...]

Article 3. Principles

In order to achieve the objective of this Convention and to implement its provisions, the Parties shall be guided, inter alia, by the following:

- a. the Parties should ensure that decisions on the design and implementation of programmes to combat desertification and/or mitigate the effects of drought are taken with the participation of populations and local communities and that an enabling environment is created at higher levels to facilitate action at national and local levels;
- b. the Parties should, in a spirit of international solidarity and partnership, improve co-operation and co-ordination at subregional, regional and international levels, and better focus financial, human, organisational and technical resources where they are needed;
- c. the Parties should develop, in a spirit of partnership, co-operation among all levels of government, communities, non-governmental organisations and landholders to establish a better understanding of

the nature and value of land and scarce water resources in affected areas and to work towards their sustainable use;

[...]

Article 10. National action programmes

1. The purpose of national action programmes is to identify the factors contributing to desertification and practical measures necessary to combat desertification and mitigate the effects of drought.

2. National action programmes shall specify the respective roles of government, local communities and land users and the resources available and needed. They shall, inter alia:

[...]

e. promote policies and strengthen institutional frameworks which develop co-operation and co-ordination, in a spirit of partnership, between the donor community, governments at all levels, local populations and community groups, and facilitate access by local populations to appropriate information and technology;

f. provide for effective participation at the local, national and regional levels of non-governmental organisations and local populations, both women and men, particularly resource users, including farmers and pastoralists and their representative organisations, in policy planning, decision-making, and implementation and review of national action programmes;

[...]

Article 19. Capacity-building, education and public awareness

1. The Parties recognise the significance of capacity-building – that is to say, institution-building, training and development of relevant local and national capacities – in efforts to combat desertification and mitigate the effects of drought. They shall promote, as appropriate, capacity-building:

a. through the full participation at all levels of local people, particularly at the local level, especially women and youth, with the co-operation of non-governmental and local organisations;

[...]

3. The Parties shall co-operate with each other and through competent inter-governmental organisations, as well as with non-governmental organisations, in undertaking and supporting public awareness and educational programmes in both affected and, where relevant, unaffected country parties to promote understanding of the causes and effects of desertification and drought and of the importance of meeting the objective of this Convention. To that end, they shall:

a. organise awareness campaigns for the general public;

- b. promote, on a permanent basis, access by the public to relevant information, and wide public participation in education and awareness activities;
- c. encourage the establishment of associations that contribute to public awareness;
- d. develop and exchange educational and public awareness material, where possible in local languages, exchange and second experts to train personnel of affected developing country parties in carrying out relevant education and awareness programmes, and fully utilise relevant educational material available in competent international bodies;

[...]"

Convention on the Law of the Non-Navigational Uses of International Watercourses, adopted in New York (United States) on 21 May 1997

"[...]

Article 32. Non-discrimination

Unless the watercourse States concerned have agreed otherwise for the protection of the interests of persons, natural or juridical, who have suffered or are under a serious threat of suffering significant transboundary harm as a result of activities related to an international watercourse, a watercourse State shall not discriminate on the basis of nationality or residence or place where the injury occurred, in granting to such persons, in accordance with its legal system, access to judicial or other procedures, or a right to claim compensation or other relief in respect of significant harm caused by such activities carried on in its territory.

[...]"

1.2. Non-legally binding instruments and texts adopted by intergovernmental organisations and meetings

1.2.1. United Nations General Assembly

- Universal Declaration of Human Rights, adopted by the United Nations General Assembly in New York (United States) on 10 December 1948
- World Charter for Nature (Resolution 37/7), adopted by the United Nations General Assembly on 28 October 1982
- "Our Common Future", report of the World Commission on Environment and Development (WCED) created on the United Nations General Assembly's proposal, published in 1987
- Resolution 45/94 on the need to ensure a healthy environment for the well-being of individuals, adopted by the United Nations General Assembly on 14 December 1990
- Programme for the further implementation of Agenda 21, adopted by the United Nations General Assembly on 27 June 1997

Universal Declaration of Human Rights, adopted by the United Nations General Assembly in New York (United States) on 10 December 1948

"[...]

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

[...]"

World Charter for Nature (Resolution 37/7), adopted by the United Nations General Assembly on 28 October 1982

"[...]

16. All planning shall include, among its essential elements, the formulation of strategies for the conservation of nature, the establishment of inventories of ecosystems and assessments of the effects on nature of proposed policies and activities; all of these elements shall be disclosed to the public by appropriate means in time to permit effective consultation and participation.

[...]

23. All persons, in accordance with their national legislation, shall have the opportunity to participate, individually or with others, in the formulation of decisions of direct concern to their environment, and shall have access to means of redress when their environment has suffered damage or degradation.

[...]"

"Our Common Future", report of the World Commission on Environment and Development (WCED), created on the United Nations General Assembly's proposal, published in 1987

"[...]

Annex 1

Summary of proposed legal principles for environmental protection and sustainable development adopted by the WCED Experts' Group on Environmental Law

I. General principles, rights and responsibilities

Fundamental human right

1. All human beings have the fundamental right to an environment adequate for their health and well-being.

[...]

Prior notification, access and due process

6. States shall inform in a timely manner all persons likely to be significantly affected by a planned activity and to grant them equal access and due process in administrative and judicial proceedings.

[...]"

Resolution 45/94 on the need to ensure a healthy environment for the well-being of individuals, adopted by the United Nations General Assembly on 14 December 1990

"The General Assembly,

Recalling that, in accordance with the provisions of the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, everyone has the right to an adequate standard of living for his or her own health and well-being and that of his or her family and to the continuous improvement of living conditions;

Recognising the need to promote universal respect for, and observance of, human rights and fundamental freedoms in all their aspects;

Considering that a better and healthier environment can help contribute to the full enjoyment of human rights by all;

Reaffirming that in accordance with the Declaration of the United Nations Conference on the Human Environment, men and women have 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 that they bear a solemn responsibility to protect and improve the environment for present and future generations;

Bearing in mind the fact that increasing environmental degradation could endanger the very basis of life;

Bearing in mind also that the economic growth and development of the developing countries are essential in order to address the problems of the degradation and protection of the environment;

Emphasising the increasing role of the United Nations in addressing global environmental problems;

Recalling that the United Nations Conference on Environment and Development, to be held in Brazil in 1992, will elaborate strategies and measures to halt and reverse the effects of environmental degradation in the context of strengthened national and international efforts to promote sustainable and environmentally sound development in all countries;

Stressing the importance for all countries to take effective actions for the protection and enhancement of the environment in accordance with their respective capacities and responsibilities and taking into account the specific needs of developing countries and that, as the major sources of pollution, the

developed countries have the main responsibility for taking appropriate measures urgently;

Welcoming Commission on Human Rights Resolution 1990/41 of 6 March 1990 and Sub-Commission on Prevention of Discrimination and Protection of Minorities Resolution 1990/7 of 30 August 1990, in which they decided to study the problems of the environment and its relation to human rights,

1. Recognises that all individuals are entitled to live in an environment adequate for their health and well-being;
2. Calls upon member states and intergovernmental and non-governmental organisations dealing with environmental questions to enhance their efforts towards ensuring a better and healthier environment;
3. Encourages the Commission on Human Rights, with the assistance of its Sub-Commission on Prevention of Discrimination and Protection of Minorities, to continue studying the problems of the environment and its relation to human rights, with a view to submitting to the Preparatory Committee of the United Nations Conference on Environment and Development, through the Economic and Social Council, a report on the progress made on the matter;
4. Believes that appropriate organs of the United Nations, within their respective competences, should pursue active efforts in seeking to promote a better and healthier environment."

Programme for the further implementation of Agenda 21, adopted by the United Nations General Assembly on 27 June 1997

"[...]

108. Access to information and public participation in decision-making are fundamental to sustainable development. Further efforts are required to promote, in the light of country-specific conditions, the integration of environment and development policies, through appropriate legal and regulatory policies, instruments and enforcement mechanisms at the national, state, provincial and local levels. 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 the communities, and the opportunity to participate in decision-making processes. Governments and legislators, with the support, where appropriate, of competent international organisations, should establish judicial and administrative procedures for legal redress and remedy of actions affecting environment and development that may be unlawful or infringe on rights under the law, and should provide access to individuals, groups and organisations with a recognised legal interest. Access should be provided to effective judicial and administrative channels for affected individuals and groups to ensure that all authorities, both national and local, and other civil organisations remain accountable for their actions in accordance with their obligations, at the appropriate levels for the country concerned, taking into account the judicial and administrative systems of the country concerned.

[...]"

1.2.2. United Nations Conference on the Human Environment (UNCHE)

- Declaration on the human environment, adopted by the United Nations Conference on the Human Environment in Stockholm (Sweden) on 16 June 1972

Declaration of the United Nations Conference on the human environment, adopted in Stockholm (Sweden) on 16 June 1972

“The United Nations Conference on the Human Environment,

Having met in Stockholm from 5 to 16 June 1972,

Having considered the need for a common outlook and for common principles to inspire and guide the peoples of the world in the preservation and enhancement of the human environment,

I. Proclaims that:

1. Man is both creature and moulder of his environment, which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth. In the long and tortuous evolution of the human race on this planet a stage has been reached when, through the rapid acceleration of science and technology, man has acquired the power to transform his environment in countless ways and on an unprecedented scale. Both aspects of man’s environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights – even the right to life itself.

[...]

Principles

States the common conviction that:

Principle 1

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 he bears a solemn responsibility to protect and improve the environment for present and future generations. In this respect, policies promoting or perpetuating apartheid, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated.

[...]

Principle 19

Education in environmental matters, for the younger generation as well as adults, giving due consideration to the underprivileged, is essential in order to broaden the basis for an enlightened opinion and responsible conduct by

individuals, enterprises and communities in protecting and improving the environment in its full human dimension. It is also essential that mass media of communications avoid contributing to the deterioration of the environment, but, on the contrary, disseminate information of an educational nature on the need to protect and improve the environment in order to enable man to develop in every respect.

[...]"

1.2.3. United Nations Conference on Environment and Development (UNCED)

- Rio Declaration on environment and development, adopted by the United Nations Conference on Environment and Development in Rio de Janeiro (Brazil) on 14 June 1992
- Agenda 21, programme adopted by the United Nations Conference on Environment and Development in Rio de Janeiro (Brazil) on 14 June 1992

Rio Declaration on environment and development, adopted by the United Nations Conference on Environment and Development in Rio de Janeiro (Brazil) on 14 June 1992

"The United Nations Conference on Environment and Development,

[...]

With the goal of establishing a new and equitable global partnership through the creation of new levels of co-operation among states, key sectors of societies and people,

[...]

Principle 1

Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

[...]

Principle 3

The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

[...]

Principle 10

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. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

[...]"

Agenda 21, programme adopted by the United Nations Conference on Environment and Development in Rio de Janeiro (Brazil) on 14 June 1992

"[...]

Section 3. Strengthening the role of major groups

Preamble

23.1. Critical to the effective implementation of the objectives, policies and mechanisms agreed to by governments in all programme areas of Agenda 21 will be the commitment and genuine involvement of all social groups.

23.2. One of the fundamental prerequisites for the achievement of sustainable development is broad public participation in decision-making. Furthermore, in the more specific context of environment and development, the need for new forms of participation has emerged. This includes the need of individuals, groups and organisations to participate in environmental impact assessment procedures and to know about and participate in decisions, particularly those which potentially affect the communities in which they live and work. Individuals, groups and organisations should have access to information relevant to environment and development held by national authorities, including information on products and activities that have or are likely to have a significant impact on the environment, and information on environmental protection measures.

23.3. Any policies, definitions or rules affecting access to and participation by non-governmental organisations in the work of United Nations institutions or agencies associated with the implementation of Agenda 21 must apply equally to all major groups.

[...]"

1.2.4. Intergovernmental Conference on the Protection of the Atmosphere

- Declaration on the protection of the atmosphere, adopted by the Intergovernmental Conference on the Protection of the Atmosphere in The Hague (Netherlands) on 11 March 1989

Declaration on the protection of the atmosphere, adopted by the Intergovernmental Conference on the Protection of the Atmosphere in The Hague (Netherlands) on 11 March 1989

The conference was initiated by France, the Netherlands and Norway. The declaration was signed by representatives of the following twenty-four states in attendance at The Hague: Australia, Brazil, Canada, Côte d'Ivoire, Egypt, France, Federal Republic of Germany, Hungary, India, Indonesia, Italy, Japan, Jordan, Kenya, Malta, Norway, New Zealand, the Netherlands, Senegal, Spain, Sweden, Tunisia, Venezuela, and Zimbabwe.

"The right to live is the right from which all other rights stem. Guaranteeing this right is the paramount duty of those in charge of all States throughout the world.

Today, the very conditions of life on our planet are threatened by the severe attacks to which the Earth's atmosphere is subjected.

Authoritative scientific studies have shown the existence and scope of considerable dangers linked in particular to the warming of the atmosphere and to the deterioration of the ozone layer. The latter has already led to action, under the 1985 Vienna Convention for the Protection of the Ozone Layer and the 1987 Montreal Protocol, while the former is being addressed by the Intergovernmental Panel on Climatic Change established by UNEP and WMO, which has just begun its work. In addition the UN General Assembly adopted Resolution 43/53 on the Protection of the Global Climate in 1988, recognising climate change as a common concern of mankind.

According to present scientific knowledge, the consequences of these phenomena may well jeopardise ecological systems as well as the most vital interests of mankind at large.

Because the problem is planet-wide in scope, solutions can only be devised on a global level. Because of the nature of the dangers involved, remedies to be sought involve not only the fundamental duty to preserve the ecosystem, but also the right to live in dignity in a viable global environment, and the consequent duty of the community of nations vis-à-vis present and future generations to do all that can be done to preserve the quality of the atmosphere.

Therefore we consider that, faced with a problem the solution to which has three salient features, namely that it is vital, urgent and global, we are in a situation that calls not only for implementation of existing principles but also for a new approach, through the development of new principles of international law including new and more effective decision-making and enforcement mechanisms.

[...]

Without prejudice to the international obligations of each state, the signatories acknowledge and will promote the following principles:

- a. The principle of developing, within the framework of the United Nations, new institutional authority, either by strengthening existing institutions or by creating a new institution, which, in the context of the preservation of the Earth's atmosphere, shall be responsible for combating any further global warming of the atmosphere and shall involve such decision-making procedures as may be effective even if, on occasion, unanimous agreement has not been achieved;
- b. The principle that this institutional authority undertake or commission the necessary studies, be granted appropriate information upon request, ensure the circulation and exchange of scientific and technological information – including facilitation of access to the technology needed –, develop instruments and define standards to enhance or guarantee the protection of the atmosphere and monitor compliance herewith;
- c. The principle of appropriate measures to promote the effective implementation of and compliance with the decisions of the new institutional authority, decisions which will be subject to control by the International Court of Justice;
- d. The principle that countries to which decisions taken to protect the atmosphere shall prove to be an abnormal or special burden, in view, *inter alia*, of the level of their development and actual responsibility for the deterioration of the atmosphere, shall receive fair and equitable assistance to compensate them for bearing such burden. To this end mechanisms will have to be developed;
- e. The negotiation of the necessary legal instruments to provide an effective and coherent foundation, institutionally and financially, for the aforementioned principles.

[...]"

1.2.5. United Nations Environment Programme (UNEP)

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| <p>– UNEP administrative note on policy and procedures related to public availability of documentary information on global environment facilities (GEF) operations, adopted in September 1993</p> |
|---|

UNEP administrative note on policy and procedures related to public availability of documentary information on global environment facilities (GEF) operations, adopted in September 1993

"[...]

1. Availability of information

- a. It is UNEP's policy to adopt procedures that promote and ensure transparency in operations and openness in consultations with governments, non-governmental organisations, and the general public. The

public shall have access, upon written request, to UNEP documents, provided they are not exempted from disclosure according to the provisions of this Note. These include: i. Logbook; ii. New Project Ideas Register; iii. project briefs; iv. project summaries; v. appraisal reports by staff; vi. project documents; vii. environmental impact assessment; viii. scientific and technical comments and reviews of Gef projects; ix. project completion reports; x. evaluations reports; xi. minutes of decision-making meetings, including minutes of all Scientific and Technical Advisory Panel (Stap) and Implementation Committee (IC) meetings; xii. publications prepared by Stap, including its reviews of projects and reports to participants; xiii. operational directives and procedures regarding UNEP's participation in the Gef, including those on administration, and project development and management, and any other documents not exempted from disclosure according to the provisions of this Note.

- b. Unclassified information, documents and records which previously have been provided to the public as part of the normal services of UNEP will continue to be made available on the same basis as before. These include all public information material. Any UNEP officer who receives a request for documents through normal channels of contact with governments, the public and the media, which would not normally be made available, shall advise the requester that the request will be referred to the Gef Unit for processing under the provisions of this Note.
- c. All identifiable documents shall be made available to governments, the public and the media upon compliance with the procedures established in this Note, except to the extent that a determination is made to continue withholding documents in accordance with an appropriate exemption as provided in this Note.
- d. When UNEP receives a request for information on a document or correspondence that originated from a government or another public international organisation, it shall consult the government or international organisation and, if appropriate, refer the request to that government or international organisation. The requester shall be informed of this procedure.
- e. In response to a request for a document that is exempted from disclosure, UNEP will not refuse to confirm the existence or non-existence of the document, unless the fact of its existence or non-existence is itself exempt from disclosure.

[...]

2. Requests for information

- a. Requests for identifiable records in accordance with this Note may be made in person during regular business hours at UNEP Headquarters, Gigiri, Nairobi. The Gef Unit shall provide the necessary forms for making a request. Requests may also be made at the UNEP Office in Washington, DC.

- b. Requests by mail, telephone, fax, or electronic-mail should be addressed to the Gef Unit, UNEP, P.O. Box 30552, Nairobi, Kenya, telephone 254-2-621234, fax 254-2-520-625, 226-886, 226-890, and e-mail address via mpyhala@worldbank.org@internet. In addition, requests may be directed to the Associate Programme Officer (Gef/Stap), UNEP-Washington, 1889 F Street HW, Washington, DC 20006, telephone 202-289-8456, fax 202-289-4267 and 202-789-2122, and e-mail via EcoNet to rkhan.
- c. For the request to be processed, it must describe the material sufficiently to enable a professional employee of the Gef Unit who is familiar with the subject area of the request to locate the document with a reasonable amount of effort. Whenever a request does not reasonably describe the information, the requester shall be notified that unless additional information is provided, or the scope of the request narrowed, no further action will be taken. The burden of adequately identifying the document requested normally lies with the requester. Individuals and governments may seek assistance regarding any facet of their requests from the Gef Unit in UNEP-Nairobi or the Associate Programme Officer (Gef/Stap) in UNEP-Washington.

3. Public reading facilities

- a. Routine Gef documents (such as public information material, minutes of Stap and the IC, Stap Chairman's Reports, Gef Chairman's Reports, Stap reports and papers, Stap Roster of Experts, Stap Criteria for Eligibility and Priorities for Selection of Gef Projects, UNEP's Gef Logbook and new projects register, List of UNEP's Gef and Stap Documents Routinely Available to the Public, project documents) shall be made available to the public at UNEP's HQ Library in Nairobi and all out-posted offices where public reading facilities exist. Fees shall not be charged for access by the public to such facilities, but fees in accordance with this note may be charged for furnishing copies of the documents.
- b. UNEP shall post on the EcoNet electronic mail and conference network this note, as well as all routine UNEP and Stap Gef documents and a list of such documents, on a regular and timely basis. Documents may also be placed on other networks as technically feasible.

[...]"

1.2.6. Commission on Human Rights of the Economic and Social Council of the United Nations (Ecosoc), and Sub-Commission on Prevention of Discrimination and Protection of Minorities

- Decision 1989/108 on human rights and the environment, adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities on 31 August 1989
- Resolution 1990/41 on human rights and the environment, adopted by the Commission on Human Rights on 6 March 1990

- Resolution 1990/7 on human rights and the environment, adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities on 30 August 1990
- Resolution 1991/44 on human rights and the environment, adopted by the Commission on Human Rights on 5 March 1991
- Resolution 1994/65 on human rights and the environment, adopted by the Commission on Human Rights on 9 March 1994
- Draft principles on human rights and the environment, document of the Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, final report published on 6 July 1994
- Resolution 1994/27 on human rights and the environment, adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities on 26 August 1994
- Resolution 1995/14 on human rights and the environment, adopted by the Commission on Human Rights on 24 February 1995
- Resolution 1996/13 on human rights and the environment, adopted by the Commission on Human Rights on 11 April 1996
- Decision 1997/102 on human rights and the environment, adopted by the Commission on Human Rights on 16 April 1997

Decision 1989/108 on human rights and the environment, adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities on 31 August 1989

“The information on human rights and the environment provided to the Sub-Commission at its forty-first session by Friends of the Earth, the Sierra Club and the Association of Humanitarian Lawyers, and by certain members, together with the Environmental Perspective to the Year 2000 (General Assembly Resolution 42/186 of 11 December 1987), justified consideration of whether the Sub-Commission should study the problem of the environment and its relation to human rights.

At its 38th meeting, on 31 August 1989, the Sub-Commission decided, without a vote, therefore, to ask Mrs Fatma Ksentini to prepare, for submission to the Sub-Commission at its forty-second session, without financial implications, a concise note setting forth methods by which such a study could be made. It also decided to request the Secretary General to invite Governments, United Nations bodies concerned, specialised agencies, intergovernmental organisations and non-governmental organisations to submit relevant information and observations, preparatory to the working paper.”

Resolution 1990/41 on human rights and the environment, adopted by the Commission on Human Rights on 6 March 1990

“Noting that scientific and technological progress is one of the decisive factors in the development of human society;

Convinced of the paramount importance of the application of science and technology to economic and social progress and to the promotion and enjoyment of human rights and fundamental freedoms;

Aware that increasing environmental degradation caused by the negative influence of scientific and technological development has led in some cases to irreversible changes in the environment, which threaten life-sustaining ecosystems and undermine health, well-being, development prospects and the very survival of life on the planet;

Convinced that the preservation of life-sustaining ecosystems under conditions of rapid scientific and technological development is of vital importance for the protection of the human species and the promotion of human rights;

Noting that everyone has the right to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions;

Also noting that the States Parties to the International Covenant on Economic, Social and Cultural Rights recognised the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and agree, for that purpose, to take the steps necessary for the improvement of all aspects of environmental and industrial health;

Recalling General Assembly Resolution 44/228 of 22 December 1989 on a United Nations Conference on Environment and Development to be held in Brazil in 1992;

Noting Decision 1989/108 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities entitled 'Human Rights and the Environment',

1. Welcomes the decision of the Sub-Commission to have a note prepared for its forty-second session on methods by which a study on the problems of the environment and its relation to human rights could be made;
2. Requests the Secretary General to transmit this resolution to the Preparatory Committee of the United Nations Conference on Environment and Development, and to keep the Committee duly informed of the work in this field."

Resolution 1990/7 on human rights and the environment, adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities on 30 August 1990

"Recalling its decision 1989/108 of 31 August 1989 in which it requested Mrs Fatma Zohra Ksentini to prepare a concise note setting forth the methods by which a study on human rights and the environment could be undertaken;

Taking note of Commission on Human Rights Resolution 1990/41 of 6 March 1990, in which the Commission stressed the importance of the preservation of life-sustaining ecosystems to the promotion of human rights, wel-

comed Sub-Commission Decision 1989/108, and requested the Secretary General to keep the Preparatory Committee of the United Nations Conference on Environment and Development informed of the work in this field;

Taking note also of General Assembly Resolution 37/7 of 28 October 1982 proclaiming the World Charter for Nature, and the Stockholm Declaration of 16 June 1972;

Affirming the inextricable relationship between human rights and the environment;

Aware, as was the General Assembly in the declaration it adopted in its Resolution S/18-3 of 1 May 1990, of the importance of the elimination of poverty for the protection of the world's environment;

Recalling General Assembly Resolution 44/228 of 22 December 1989, regarding the United Nations Conference on Environment and Development to be held in Brazil in 1992;

Aware of the need to identify new trends in international law relating to the human rights dimension of environmental protection;

Having considered carefully the concise note of Mrs Ksentini (E/CN.4/Sub.2/1990/12),

1. Welcomes with appreciation the concise note prepared by Mrs Ksentini;
2. Entrusts Mrs Ksentini with the task of preparing a study on human rights and the environment;
3. Requests Mrs Ksentini to present a preliminary report to the Sub-Commission at its forty-third session, with a view to making a timely contribution to the Preparatory Committee of the United Nations Conference on Environment and Development;

[...]"

Resolution 1991/44 on human rights and the environment, adopted by the Commission on Human Rights on 5 March 1991

"Noting that scientific and technological progress is one of the decisive factors in the development of human society;

Convinced of the paramount importance of the application of science and technology to economic and social progress and to the promotion and enjoyment of human rights and fundamental freedoms;

Aware that increasing environmental degradation caused by the negative influence of scientific and technological development has led in some cases to irreversible changes in the environment, which threaten life-sustaining ecosystems and undermine health, well-being, development prospects and the very survival of life on the planet;

Convinced that the preservation of life-sustaining ecosystems under conditions of rapid scientific and technological development is of vital importance for the protection of the human species and the promotion of human rights;

Aware that poverty and underdevelopment constitute causes of environmental degradation and that therefore efforts towards promoting environmentally sustainable development are essential if everyone is to live in an environment adequate for his or her health and well-being;

Reaffirming that, in accordance with Principle 1 of the Declaration of the United Nations Conference on the Human Environment, held in Stockholm from 5 to 16 June 1972, men and women have 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 that they bear a solemn responsibility to protect and improve the environment for present and future generations;

Recalling that, in accordance with the provisions of the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, everyone has the right to an adequate standard of living for his own health and well-being and that of his family and to the continuous improvement of living conditions;

Noting that the States Parties to the International Covenant on Economic, Social and Cultural Rights recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and agree, for that purpose, to take the steps necessary for the improvement of all aspects of environmental and industrial hygiene;

Recalling General Assembly Resolution 44/228 of 22 December 1989 on a United Nations Conference on Environment and Development, to be held in Brazil in 1992;

Taking note of Commission on Human Rights Resolution 1990/41 of 6 March 1990 and Sub-Commission on Prevention of Discrimination and Protection of Minorities Resolution 1990/7 of 30 August 1990 and General Assembly Resolution 45/94 of 14 December 1990,

1. Recognises that all individuals are entitled to live in an environment adequate for their health and well-being;
2. Endorses the decisions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its Resolution 1990/7, to entrust Mrs Fatma Zohra Ksentini, Special Rapporteur, with the task of preparing a study on human rights and the environment;
3. Requests the Secretary General to invite governments, the United Nations organs, the specialised agencies and intergovernmental and non-governmental organisations, including indigenous peoples' organisations, to provide Mrs Ksentini with information relevant for the preparation of her report;
4. Recommends to the Preparatory Committee for the United Nations Conference on Environment and Development that Mrs Ksentini be invited

to participate as an observer at the sessions of the preparatory committee and the conference;

5. Requests the Special Rapporteur to complete a study on human rights and the environment and to submit the relevant report to the Sub-Commission at its forty-third session with a view to making a timely contribution to the Preparatory Committee of the United Nations Conference on Environment and Development;

[...]"

Resolution 1994/65 on human rights and the environment, adopted by the Commission on Human Rights on 9 March 1994

"Recalling General Assembly Resolutions 43/196 of 20 December 1988, 44/172 A and B of 19 December 1989, 44/228 of 22 December 1989, 45/211 of 21 December 1990, 46/168 of 19 December 1991 and 47/190 of 22 December 1992;

Recalling also its Resolution 1993/90 of 10 March 1993;

Reaffirming the Rio Declaration on environment and development (A/CONF.151/26, vol. I) and Agenda 21 (A/CONF.151/26, vol. II), adopted by the United Nations Conference on Environment and Development on 14 June 1992;

Noting the need to adopt an integrated and balanced approach to the issues related to sustainable development, democracy and human rights;

Taking note of the reports submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities by its Special Rapporteur on human rights and the environment, Mrs Fatma Zohra Ksentini (E/CN.4/Sub.2/1992/7 and Add.1 and E/CN.4/Sub.2/1993/7);

Conscious of the important work undertaken on environment and development issues by the Commission on Sustainable Development, the United Nations Environment Programme and other relevant forums;

Considering that the promotion of an environmentally healthy world contributes to the protection of the human rights to life and health of everyone, and reaffirming that in this connection States shall act in accordance with their common but differentiated responsibilities and respective capabilities;

Recognising that illicit dumping of toxic and dangerous substances and waste potentially constitute a serious threat to the human rights to life and health of everyone, bearing especially in mind the vulnerability and concern of developing countries, and that States should adopt and vigorously implement existing conventions relating to the dumping of toxic and dangerous products and waste, and co-operate in the prevention of illicit dumping;

Reaffirming that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies and the responsibility to ensure that activities within their juris-

diction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction;

Reaffirming also the importance of promoting, facilitating and financing, as appropriate, the access to and the transfer of environmentally sound technologies and corresponding know-how, in particular to developing countries, on favourable terms, including on concessional and preferential terms, as mutually agreed, taking into account the need to protect intellectual property rights, as well as the special needs of developing countries,

1. Reaffirms Principle No. 1 of the Rio Declaration on environment and development (A/CONF. 151/26, vol. I), which states that human beings are at the centre of concerns for sustainable development and that they are entitled to a healthy and productive life in harmony with nature;
2. Reiterates that the right to development must be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations;
3. Recognises that environmental damage has potentially negative effects on human rights and the enjoyment of life, health and a satisfactory standard of living;
4. Expresses its appreciation to the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Mrs Fatma Zohra Ksentini, for her second progress report (E/CN. 4/Sub.2/1993/7), reflecting the link between a healthy environment and the full enjoyment of human rights;
5. Recalls that everyone has the right to enjoy the benefit of scientific progress and its application, and calls for international co-operation to ensure that human rights and dignity are fully respected in this area of universal concern;
6. Also recalls Chapter 33 of Agenda 21 (A/CONF. 151/26, vol. II) on the provision of the new and additional financial resources to developing countries to achieve sustainable development;
7. Endorses the request of the Sub-Commission to the Special Rapporteur to prepare a final report on human rights and the environment with conclusions and recommendations, including recommendations for the follow-up by the Commission of her work;
8. Decides to continue its consideration of this question, including the recommendation of the Sub-Commission, at its fifty-first session under the agenda item entitled 'Question of the realisation in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, and study of special problems which developing countries face in their efforts to achieve these human rights, including: problems related to the right to enjoy an adequate standard of living, foreign debt, economic adjustment policies and their effect on the full enjoyment of human

rights and, in particular, on the implementation of the Declaration on the right to development”.

Draft principles on human rights and the environment, document of the Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, final report published on 6 July 1994

Part I

1. Human rights, an ecologically sound environment, sustainable development and peace are interdependent and indivisible.
2. All persons have the right to a secure, healthy and ecologically sound environment. This right and other human rights, including civil, cultural, economic, political and social rights, are universal, interdependent and indivisible.
3. All persons shall be free from any form of discrimination in regard to actions and decisions that affect the environment.
4. All persons have the right to an environment adequate to meet equitably the needs of present generations and that does not impair the rights of future generations to meet equitably their needs.

Part II

5. All persons have the right to freedom from pollution, environmental degradation and activities that adversely affect the environment, threaten life, health, livelihood, well-being or sustainable development within, across or outside national boundaries.
6. All persons have the right to protection and preservation of the air, soil, water, sea-ice, flora and fauna, and the essential processes and areas necessary to maintain biological diversity and ecosystems.
7. All persons have the right to the highest attainable standard of health free from environmental harm.
8. All persons have the right to safe and healthy food and water adequate to their well-being.
9. All persons have the right to a safe and healthy working environment.
10. All persons have the right to adequate housing, land tenure and living conditions in a secure, healthy and ecologically sound environment.
11. *a.* All persons have the right not to be evicted from their homes or land for the purpose of, or as a consequence of, decisions or actions affecting the environment, except in emergencies or due to a compelling purpose benefiting society as a whole and not attainable by other means.

b. All persons have the right to participate effectively in decisions and to negotiate concerning their eviction and the right, if evicted, to timely and adequate restitution, compensation and/or appropriate and sufficient accommodation or land.

12. All persons have the right to timely assistance in the event of natural or technological or other human-caused catastrophes.

13. Everyone has the right to benefit equitably from the conservation and sustainable use of nature and natural resources for cultural, ecological, educational, health, livelihood, recreational, spiritual and other purposes. This includes ecologically sound access to nature.

Everyone has the right to preservation of unique sites consistent with the fundamental rights of persons or groups living in the area.

14. Indigenous peoples have the right to control their lands, territories and natural resources and to maintain their traditional way of life. This includes the right to security in the enjoyment of their means of subsistence.

Indigenous peoples have the right to protection against any action or course of conduct that may result in the destruction or degradation of their territories, including land, air, water, sea-ice, wildlife or other resources.

Part III

15. All persons have the right to information concerning the environment. This includes information, howsoever compiled, on actions or courses of conduct that may affect the environment and information necessary to enable effective public participation in environmental decision-making. The information shall be timely, clear, understandable and available without undue financial burden to the applicant.

16. All persons have the right to hold and express opinions and to disseminate ideas and information regarding the environment.

17. All persons have the right to environmental and human rights education.

18. All persons have the right to active, free and meaningful participation in planning and decision-making activities and processes that may have an impact on the environment and development. This includes the right to a prior assessment of the environmental, developmental and human rights consequences of proposed actions.

19. All persons have the right to associate freely and peacefully with others for purposes of protecting the environment or the rights of persons affected by environmental harm.

20. All persons have the right to effective remedies and redress in administrative or judicial proceedings for environmental harm or the threat of such harm.

Part IV

21. All persons, individually and in association with others, have the duty to protect and preserve the environment.

22. All states shall respect and ensure the right to a secure, healthy and ecologically sound environment. Accordingly, they shall adopt administrative, legislative and other measures necessary to effectively implement the rights in this declaration.

These measures shall aim at the prevention of environmental harm, at the provision of adequate remedies, and at the sustainable use of natural resources and shall include, *inter alia*:

- Collection and dissemination of information concerning the environment;
- Prior assessment and control, licensing, regulation or prohibition of activities and substances potentially harmful to the environment;
- Public participation in environmental decision-making;
- Effective administrative and judicial remedies and redress for environmental harm or the threat of such harm;
- Monitoring, management and equitable sharing of natural resources;
- Measures to reduce wasteful processes of production and patterns of consumption;
- Measures aimed at ensuring that transnational corporations, wherever they operate, carry out their duties of environmental protection, sustainable development and respect for human rights; and
- Measures aimed at ensuring that the international organisations and agencies to which they belong observe the rights and duties in this Declaration.

23. States and all other Parties shall avoid using the environment as a means of war or inflicting significant, long-term or widespread harm on the environment, and shall respect international law providing protection for the environment in times of armed conflict and co-operate in its further development.

24. All international organisations and agencies shall observe the rights and duties in this Declaration.

Part V

25. In implementing the rights and duties in this Declaration, special attention shall be given to vulnerable persons and groups.

26. The rights in this Declaration may be subject only to restrictions provided by law and which are necessary to protect public order, health and the fundamental rights and freedoms of others.

27. All persons are entitled to a social and international order in which the rights in this Declaration can be fully realised."

Resolution 1994/27 on human rights and the environment, adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, on 26 August 1994

“Recalling its Resolution 1990/7 of 30 August 1990, in which it entrusted Mrs Fatma Zohra Ksentini with the task of undertaking a study on human rights and the environment;

Recalling also Commission on Human Rights Resolution 1994/65 of 5 March 1994, in which the Commission endorsed the request of the Sub-Commission that the Special Rapporteur include in her final report recommendations for follow-up by the Commission of her work;

Having examined the final report, including the annexes, prepared by the Special Rapporteur (E/CN.4/Sub.2/1994/9);

Convinced that continued work on human rights and the environment is essential for the full realisation of human rights and fundamental freedoms,

1. Expresses its deepest appreciation to the Special Rapporteur, Mrs Fatma Zohra Ksentini, for her comprehensive and profound final report on human rights and the environment;
2. Welcomes especially the conclusions and recommendations contained in the final report, as well as the draft principles on human rights and the environment;
3. Decides to transmit the final report to the Commission on Human Rights for its consideration, with a view to its publication and widest possible dissemination;
4. Invites the Commission on Human Rights to pay particular attention to the conclusions and recommendations contained in the report, taking into account its Resolution 1994/65 of 5 March 1994 and the comments and observations made at the forty-sixth session of the Sub-Commission;
5. [...]”

Resolution 1995/14 on human rights and the environment, adopted by the Commission on Human Rights on 24 February 1995

“Recalling General Assembly Resolutions 43/196 of 20 December 1988, 44/172 A and B of 19 December 1989, 44/228 of 22 December 1989, 45/211 of 21 December 1990, 46/168 of 19 December 1991 and 47/190 of 22 December 1992;

Recalling also its Resolutions 1993/90 of 10 March 1993 and 1994/65 of 9 March 1994;

Reaffirming the Rio Declaration on environment and development (A/CONF. 151/26, vol. I) and Agenda 21 (A/CONF. 151/26, vol. II), adopted by the United Nations Conference on Environment and Development on 14 June 1992;

Noting the need to adopt an integrated and balanced approach to the issues related to sustainable development, democracy and human rights;

Taking note of the reports submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities by its Special Rapporteur on human rights and the environment, Mrs Fatma Zohra Ksentini (E/CN.4/Sub.2/1992/7 and Add.1, E/CN.4/Sub.2/1993/7 and E/CN.4/Sub.2/1994/9 and Corr.1);

Taking into account Resolutions 1994/27 and 1994/37 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

Conscious of the mandate of the Commission on Sustainable Development for the implementation of Agenda 21 and of the important work undertaken on environment and development issues by the Commission on Sustainable Development, the United Nations Environment Programme and other relevant forums;

Considering that the promotion of an environmentally healthy world contributes to the protection of the human rights to life and health of everyone;

Reaffirming that states have common but differentiated responsibilities and capabilities, as defined in Agenda 21;

Recognising that illicit dumping of toxic and dangerous substances and waste potentially constitutes a serious threat to the human rights to life and health of everyone, bearing especially in mind the vulnerability and concern of developing countries, and that states should vigorously implement the existing conventions related to the dumping of toxic and dangerous products and waste and co-operate in the prevention of illicit dumping;

Reaffirming that states have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction;

Reaffirming also the importance of promoting, facilitating and financing, as appropriate, the access to, the transfer and the development of environmentally sound technologies and corresponding know-how, in particular to developing countries, on favourable terms, including on concessional and preferential terms, as mutually agreed, taking into account the need to protect intellectual property rights, including the traditional knowledge of indigenous people and local communities, as well as the special needs of developing countries for the implementation of Agenda 21,

1. Reaffirms Principle No. 1 of the Rio Declaration on environment and development (A/CONF.151/26, vol. I), which states that human beings are at the centre of concerns for sustainable development and that they are entitled to a healthy and productive life in harmony with nature;

2. Reiterates that the right to development must be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations;
3. Recognises that environmental damage has potentially negative effects on human rights and the enjoyment of life, health and a satisfactory standard of living;
4. Takes note of the final report of the Special Rapporteur on human rights and the environment of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Mrs Fatma Zohra Ksentini (E/CN.4/Sub.2/1994/9 and Corr.1);
5. Requests that the Special Rapporteur's final report be published by the United Nations in all the official languages;
6. Recalls that everyone should enjoy the benefit of scientific progress and its application and calls for international co-operation to ensure that human rights and dignity are fully respected in this area of universal concern;
7. Also recalls Chapter 33 of Agenda 21 (A/CONF.151/26, vol. II) on the provision of new and additional financial resources to developing countries to achieve sustainable development;
8. Requests the Secretary General to submit to the Commission on Human Rights, at its fifty-second session, a report containing the opinions of governments, specialised agencies and intergovernmental and non-governmental organisations on the issues raised in the report of the Special Rapporteur of the sub-commission;
9. Decides to continue its consideration of this question at its fifty-second session under the agenda item entitled 'Question of the realisation in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, and study of special problems which developing countries face in their efforts to achieve these human rights, including: problems related to the right to enjoy an adequate standard of living, foreign debt, economic adjustment policies and their effect on the full enjoyment of human rights and, in particular, on the implementation of the Declaration on the right to development!'

Resolution 1996/13 on human rights and the environment, adopted by the Commission on Human Rights on 11 April 1996

"Recalling its Resolution 1995/14 of 24 February 1995, in which it requested the Secretary General to submit to the Commission, at its fifty-second session, a report containing the opinions of governments, specialised agencies and intergovernmental and non-governmental organisations on the issues raised in the final report submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities by its Special Rapporteur on

human rights and the environment, Mrs Fatma Zohra Ksentini (E/CN.4/Sub, 2/1994/9 and Corr.1);

Recalling also its Resolutions 1993/90 of 10 March 1993 and 1994/65 of 9 March 1994,

Taking note of Resolutions 1994/27 and 1994/37 of 26 August 1994 and 1995/23 of 24 August 1995 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

Taking into account the report submitted by the Secretary General in accordance with its Resolution 1995/14 on human rights and the environment (E/CN.4/1996/23 and Add.1);

Aware that the Secretary General continues to receive opinions on the issues raised in the final report of the Special Rapporteur on human rights and the environment,

1. Requests the Secretary General to renew his requests for the opinions of Governments, specialised agencies and intergovernmental and non-governmental organisations and to submit a report to the Commission on Human Rights at its fifty-third session;

2. Decides to continue its consideration of this issue at its fifty-third session under the agenda item entitled 'Question of the realisation in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights:'

Decision 1997/102 on human rights and the environment, adopted by the Commission on Human Rights on 16 April 1997

"At its 36th meeting, on 16 April 1997, the Commission on Human Rights, taking note of the reports of the Secretary General submitted in accordance with its Resolutions 1995/14 and 1996/13 on the question of human rights and the environment (E/CN.4/1996/23 and Add.1 and E/CN.4/1997/18), and bearing in mind the plans for General Assembly consideration of Agenda 21, decided to invite the Secretary General to bring those reports and the Commission on Human Rights' own consideration of this question to the attention of the General Assembly at its special session on Agenda 21, the Commission on Sustainable Development, the United Nations Environment Programme, the United Nations Development Programme and other relevant international bodies and organisations, and to request the Secretary General to prepare a consolidated report based on the deliberations of the General Assembly and of those international bodies and organisations for its consideration of the question of human rights and the environment at its fifty-fifth session."

1.2.7. United Nations Educational Scientific and Cultural Organisation (Unesco)

- Declaration on the responsibilities of the present generation towards future generations, adopted by the General Conference of Unesco on 12 November 1997

Declaration on the responsibilities of the present generation towards future generations, adopted by the General Conference of Unesco on 12 November 1997

“The General Conference of the United Nations Educational, Scientific and Cultural Organisation, meeting in Paris from 21 October to 12 November 1997 at its 29th session,

Mindful of the will of the peoples, set out solemnly in the Charter of the United Nations, to ‘save succeeding generations from the scourge of war’ and to safeguard the values and principles enshrined in the Universal Declaration of Human Rights, and all other relevant instruments of international law;

Considering the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, both adopted on 16 December 1966, and the Convention on the Rights of the Child, adopted on 20 November 1989;

Concerned by the fate of future generations in the face of the vital challenges of the next millennium;

Conscious that, at this point in history, the very existence of humankind and its environment are threatened;

Stressing that full respect for human rights and ideals of democracy constitute an essential basis for the protection of the needs and interests of future generations;

Asserting the necessity for establishing new, equitable and global links of partnership and intra-generational solidarity and for promoting inter-generational solidarity for the perpetuation of humankind;

Recalling that the responsibilities of the present generations towards future generations have already been referred to in various instruments such as the Convention for the Protection of the World Cultural and Natural Heritage, adopted by the General Conference of Unesco on 16 November 1972, the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity, adopted in Rio de Janeiro on 5 June 1992, the Rio Declaration on Environment and Development, adopted by the United Nations Conference on Environment and Development on 14 June 1992, the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993, and the United Nations General Assembly resolutions relating to the protection of the global climate for present and future generations adopted since 1990;

Determined to contribute towards the solution of current world problems through increased international co-operation, to create such conditions as will ensure that the needs and interests of future generations are not jeopardised by the burden of the past, and to hand on a better world to future generations;

Resolved to strive to ensure that the present generations are fully aware of their responsibilities towards future generations;

Recognising that the task of protecting the needs and interests of future generations, particularly through education, is fundamental to the ethical mission of Unesco, whose constitution enshrines the ideals of 'justice and liberty and peace' founded on 'the intellectual and moral solidarity of mankind';

Bearing in mind that the fate of future generations depends to a great extent on decisions and actions taken today, and that present-day problems, including poverty, technological and material underdevelopment, unemployment, exclusion, discrimination and threats to the environment, must be solved in the interests of both present and future generations;

Convinced that there is a moral obligation to formulate behavioural guidelines for the present generations within a broad, future-oriented perspective,

Solemnly proclaims on this twelfth day of November 1997 this Declaration on the Responsibilities of the Present Generations Towards Future Generations

Article 1. Needs and interests of future generations

The present generations have the responsibility of ensuring that the needs and interests of present and future generations are fully safeguarded.

Article 2. Freedom of choice

It is important to make every effort to ensure, with due regard to human rights and fundamental freedoms, that future as well as present generations enjoy full freedom of choice as to their political, economic and social systems and are able to preserve their cultural and religious diversity.

Article 3. Maintenance and perpetuation of humankind

The present generations should strive to ensure the maintenance and perpetuation of humankind with due respect for the dignity of the human person. Consequently, the nature and form of human life must not be undermined in any way whatsoever.

Article 4. Preservation of life on Earth

The present generations have the responsibility to bequeath to future generations an Earth which will not one day be irreversibly damaged by human activity. Each generation inheriting the Earth temporarily should take care to use natural resources reasonably and ensure that life is not prejudiced by

harmful modifications of the ecosystems and that scientific and technological progress in all fields does not harm life on Earth.

Article 5. Protection of the environment

1. In order to ensure that future generations benefit from the richness of the Earth's ecosystems, the present generations should strive for sustainable development and preserve living conditions, particularly the quality and integrity of the environment.
2. The present generations should ensure that future generations are not exposed to pollution which may endanger their health or their existence itself.
3. The present generations should preserve for future generations natural resources necessary for sustaining human life and for its development.
4. The present generations should take into account possible consequences for future generations of major projects before these are carried out.

Article 6. Human genome and biodiversity

The human genome, in full respect of the dignity of the human person and human rights, must be protected and biodiversity safeguarded. Scientific and technological progress should not in any way impair or compromise the preservation of the human and other species.

Article 7. Cultural diversity and cultural heritage

With due respect for human rights and fundamental freedoms, the present generations should take care to preserve the cultural diversity of humankind. The present generations have the responsibility to identify, protect and safeguard the tangible and intangible cultural heritage and to transmit this common heritage to future generations.

Article 8. Common heritage of humankind

The present generations may use the common heritage of humankind, as defined in international law, provided that this does not entail compromising it irreversibly.

Article 9. Peace

1. The present generations should ensure that both they and future generations learn to live together in peace, security, respect for international law, human rights and fundamental freedoms.
2. The present generations should spare future generations the scourge of war. To that end, they should avoid exposing future generations to the harmful consequences of armed conflicts as well as all other forms of aggression and use of weapons, contrary to humanitarian principles.

Article 10. Development and education

1. The present generations should ensure the conditions of equitable, sustainable and universal socio-economic development of future generations, both in its individual and collective dimensions, in particular through a fair and prudent use of available resources for the purpose of combating poverty.
2. Education is an important instrument for the development of human persons and societies. It should be used to foster peace, justice, understanding, tolerance and equality for the benefit of present and future generations.

Article 11. Non-discrimination

The present generations should refrain from taking any action or measure which would have the effect of leading to or perpetuating any form of discrimination for future generations.

Article 12. Implementation

1. States, the United Nations system, other intergovernmental and non-governmental organisations, individuals, public and private bodies should assume their full responsibilities in promoting, in particular through education, training and information, respect for the ideals laid down in this declaration, and encourage by all appropriate means their full recognition and effective application.
2. In view of Unesco's ethical mission, the organisation is requested to disseminate the present declaration as widely as possible, and to undertake all necessary steps in its fields of competence to raise public awareness concerning the ideals enshrined therein."

1.3. Texts adopted by non-governmental organisations

1.3.1. World Conservation Union (IUCN)

- World Conservation Strategy, prepared by the International Union for Conservation of Nature and Natural Resources (IUCN), in collaboration with UNEP and WWF, FAO and Unesco, published in 1980
- Recommendation No. 1.42 on the collaborative management for conservation, adopted by the World Conservation Congress of the IUCN at Montreal (Canada) on 23 October 1996
- Recommendation No. 1.43 on public participation and the right to know, adopted by the World Conservation Congress of the IUCN at Montreal (Canada) on 23 October 1996
- Draft international covenant on environment and development, adopted by the Commission on Environmental Law of IUCN in cooperation with the International Council of Environmental Law in New York (United States) on 17 March 1995

World Conservation Strategy, prepared by the International Union for Conservation of Nature and Natural Resources (IUCN), in collaboration with UNEP and WWF, FAO and Unesco, published in 1980

1. Ultimately the behaviour of entire societies towards the biosphere must be transformed if the achievement of conservation objectives is to be assured. A new ethic, embracing plants and animals as well as people, is required for human societies to live in harmony with the natural world on which they depend for survival and well-being. The long-term task of environmental education is to foster or reinforce attitudes and behaviour compatible with this new ethic.

The problems

2. Lack of awareness of the benefits of conservation and of its relevance to everyday concerns prevents policy makers, development practitioners and the general public from seeing the urgent need to achieve conservation objectives. Ultimately, ecosystems and species are being destroyed because people do not see that it is in their interests not to destroy them. The benefits from natural ecosystems and their component plants and animals are regarded by all but a few as trivial and dispensable compared with the benefits from those activities that entail their destruction or degradation. Until people understand why they should safeguard ecosystems and species they will not do so.

3. There are two distinct problems:

Public participation in conservation development decisions is seldom adequate. Consequently the decisions may not sufficiently reflect the experience and wishes of the people affected, and the benefits of the programme or project may be fewer than expected.

Although there has been progress, there is insufficient environmental education. Informal education programmes, directed at the adult public, are haphazard, and formal programmes, directed at schoolchildren and students, are still too few and inadequate. Relatively little can be achieved and few achievements will last while the contribution of conservation objectives to development and the requirements of achieving those objectives remain poorly communicated. Despite the enormous growth of conservation literature, there are few information materials designed to persuade people of the contribution of conservation to development or the relevance of conservation to the concerns of, say, business people, trade unionists or health officials. There is a wealth of emotional appeals directed at affluent audiences and of didactic explanations of how ecosystems work. But the cases for the maintenance of ecological life-support systems and for the preservation of genetic diversity are too often made anecdotally and without sufficient documentation to convince the sceptical. Furthermore, they have not been documented fully enough or described with sufficient precision to provide guidance to policy makers on what ecological processes and genetic resources are indispensable and should be secured as a matter of priority.

Action required

Public participation

4. Local community involvement and consultation and other forms of public participation in planning, decision-making and management are valuable means of testing and integrating economic, social and ecological objectives. They also provide a safeguard against poorly-considered decisions and an indispensable means of educating both the public in the importance and problems of conservation, and policy makers, planners and managers in the concerns of the public. Participation tends to build public confidence and improve the public's understanding of management objectives. It provides additional data for planners and policy makers. Public participation is particularly important in rural development, for without the active involvement of the people – including identification by them of the problems that most need tackling and how to deal with them – little can be achieved.

5. The extent of public involvement in the development planning process depends on both the attitude of the government and the interest of the community. Ideally, however, public participation should be at all stages of the development process from policy-making to project formulation and review. At whatever stage it is involved, the public should be given time and information sufficient for it to influence decisions.

Environmental education campaigns and programmes

6. If the users of living resources (farmers, fishermen, foresters, industries based on living resources, recreational users, and so on) are unaware of the need to conserve the resources they are using, an education campaign should be prepared for them: the same goes for other groups that may have an impact on living resources, even if they do not use them so directly, if they are unaware of the need to manage their activities in ways that are as compatible as possible with conservation. If, however, government does not recognise the need to meet the conservation requirements concerned, special efforts will be needed to direct information on the importance of such requirements to the appropriate legislators and decision makers.

7. Advantage should be taken of circumstances when pro-conservation decisions are evidently the most profitable within the time-frame of concern of legislators and decision makers, namely:

- when the leaders are personally convinced that conservation policies are the right course to pursue;
- when the electorate is so convinced and makes it clear that it will vote for those policies;
- when influential groups within the country are educated in and committed to conservation policies;
- when pro-conservation decisions are an effective way of achieving other policy objectives.

8. Organisers of education programmes should determine the main target groups of such programmes, define precise programme objectives, and select the media and techniques that are most effective with the target groups. Results, together with the techniques and materials used, should be regularly evaluated against the stated objectives. The most important target groups are:

- legislators and administrators;
- development practitioners, industry and commerce, and trade unions;
- professional bodies and special interest groups;
- communities most affected by conservation projects;
- schoolchildren and students.

9. Education programmes directed at any of the first three groups require clear, succinct information materials showing the contribution of conservation to the achievement of the policies and goals that most concern the target audience. There is a particular need for well-documented accounts of the extent and manner in which societies at different stages of development depend on the achievement of each of the three objectives of conservation. Also needed are collections of case histories of successful conservation and sustainable development projects.

10. Whenever possible, education programmes should be included in all conservation and resource-use projects in order to improve local understanding and support for conservation and to enhance the projects' prospects of lasting success. These programmes should supplement programmes to train and equip local communities in improved resource-use practices. Existing agricultural and other extension services should be used to promote conservation: and literacy programmes should include conservation material.

11. School curricula should include environmental education both as an intrinsic part of other subjects (so that conservation attitudes can influence all activities) and as a separate subject (so that ecology can be taught more formally and its concepts more readily grasped). Inexpensive teaching materials (textbooks, audiovisual aids, posters, pamphlets, and so on) should be prepared. The materials should explain ecological concepts and the objectives of conservation, using local examples wherever possible. The effectiveness of teaching materials should be regularly evaluated. Environmental education should also be an important part of the out-of-school activities of children. Wildlife clubs should be encouraged and environmental education included in the activities of youth groups.

12. As well as focusing on special interest groups, the several mass media (radio, television, newspapers and periodicals) should be fully used to reach the general public. Advantage should be taken of those occasions when the public comes into contact with plants and animals – in national parks and other protected areas, in zoos and botanical gardens, and in natural history museums – to explain conservation objectives and their contribution to human survival and well-being. In addition, special areas should be set aside for training, demonstration and education in ecology and conservation (for

use by schools, universities and the general public). Such conservation education areas, besides serving their essential educational function, could also help take pressure off reserves protecting particularly fragile or unique ecosystems. Public concern for popular animals (such as whales) should be used to foster better understanding of the ecosystems of which those animals are part, and of how people both affect those ecosystems and benefit from them.

13. Certain living resource issues need much greater public exposure. As a matter of priority, an intensive public education campaign, explaining the effects of introduced species, should be directed at the pet trade and consumers, recreational hunting and fishing groups, governmental agricultural, wildlife and fisheries administrations, and at other bodies responsible either for allowing or for promoting introductions. Also understanding of and support for sustainable exploitation should be built up among both users and consumers of living resources; this is especially necessary with respect to those resources that are exploited commercially.

14. The need for environmental education is continuous because each new generation needs to learn for itself the importance of conservation. As such, individual campaigns and programmes should not be regarded as ends in themselves but as part of a long term, iterative process. It should also be recognised that any educational campaign is in competition for public attention with many others, including advertising campaigns. To win and retain as much of this attention as possible, it is essential for conservation to be seen as central to human interests and aspirations. At the same time, people – from heads of state to the members of rural communities – will most readily be brought to demand conservation if they themselves recognise the contribution of conservation to the achievement of their needs, as perceived by them, and the solution of their problems, as perceived by them.

[...]"

Recommendation No. 1.42 on the collaborative management for conservation, adopted by the World Conservation Congress of the IUCN in Montreal (Canada) on 23 October 1996

"Recalling Resolution 19.1 of the 19th Session of the General Assembly on the Strategy of IUCN – The World Conservation Union, and Resolution 19.23 on the importance of community-based approaches;

Noting that the building of partnerships is one of the great strengths of IUCN;

Recognising that the effective management of resources involves measures that acknowledge the rights and aspirations of different cultures and the conditions of different environments, and are specific to each of them;

Understanding that many individuals and institutions have a stake in how natural resources are managed and need to be involved in decisions affecting such management and that the concerns of those who depend on using

natural resources in traditional ways necessary for meeting their basic needs should have special weight in decisions affecting them;

Considering that, in the context of current transformations of the role and responsibilities of the state, there are strong pragmatic reasons for designing new institutional arrangements and involving civil society in the long-term stewardship of natural resources and public domains;

Concerned that powerful changes, such as the globalisation of trade and finance, the weakening of local resource management institutions, the loss of valuable local and traditional knowledge and practices, and the currently extensive dynamics of population (including movement or environmental refugees), can lead towards the degradation of natural resources and irreplaceable loss of biodiversity;

Concerned that in areas subjected to ecological degradation the consequences are most rapidly and severely felt by the poor and vulnerable sectors of society, in particular women and children;

Defining collaborative management (also referred to as co-management, or joint, participatory or multi-stakeholder management) as a partnership in which government agencies, local communities and resource users, non-governmental organisations and other stakeholders negotiate, as appropriate to each context, the authority and responsibility for the management of a specific area or set of resources;

Considering that such partnership involves an agreement on the functions, rights and responsibilities of each party, building upon the complementarity of their knowledge, skills, practices and resources;

Reaffirming the value of participatory democratic processes through which people are fully informed about the legislation, policies and rules of concern to them and directly involved in the decisions and actions that affect them;

Recognising that collaborative management can provide effective means to deal with complex interests and relationships, and with conflicts, that it can promote the participation of groups and communities which are frequently marginalised in conventional resource management and development processes, and that it can contribute to the broad objectives of participatory democracy and participatory development;

Noting also that collaborative management can promote the use of indigenous and local knowledge and skills, as well as further the protection and enhancement of the rights of indigenous peoples as well as minorities and disenfranchised groups;

Emphasising that management partnerships may provide effective incentives for local resource users to contribute to conservation initiatives;

Aware that the success of management partnerships requires a supportive social, political, legal, administrative, economic and technical framework, and that results depend more on evolving processes than on the application of fixed rules;

Confirming that, while successful and instructive cases of collaborative management agreements exist in different regions, this management option is still poorly understood and its potential benefits are still largely untapped;

The World Conservation Congress at its 1st Session in Montreal, Canada, 14 to 23 October 1996:

1. Urges all members and components of IUCN to develop a greater understanding of collaborative management processes through the analysis of present and past experiences and lessons learned from them;

2. Urges all IUCN members and partners to give due consideration to the approaches and methods of collaborative management, and to their application in all stages of resource conservation and management;

3. Requests the Director General, within available resources, Commissions, Councillors and members of IUCN to endorse, actively support and participate in the development and implementation of a Collaborative Management for Conservation Programme in the next triennium. The programme should:

- a. review and analyse existing knowledge and experiences in collaborative management in various regions and ecosystems, at different levels (for example, local, regional, multi-country); in various societies (for example, sedentary, nomadic, indigenous); under various land-tenure conditions (for example, protected area, public land, communal, private), and from different points of view (for example, those of governments, NGOs, local communities, indigenous peoples, gender and socio-economic groups);
- b. share such knowledge and experience among IUCN members and partners concerned with collaborative management approaches while fostering active communication among them;
- c. enhance the capacity of IUCN members to understand and effectively engage in collaborative management approaches;
- d. identify collaborative management 'observation sites' in each region where 'learning by doing' processes can be undertaken and followed;
- e. assist IUCN regional networks to identify and evaluate existing policies supporting or hindering collaborative management approaches and, if needed, to develop policy recommendations appropriate to the circumstances of each region;
- f. strengthen co-operation and exchange among regions, commissions and programme initiatives, such as on sustainable use and community forestry;
- g. inform and advise ongoing international fora and conventions on global environmental policy on the above matters;
- h. be monitored and evaluated and prepare recommendations before the next World Conservation Congress for future action by IUCN.

Note: The use of the term 'indigenous peoples' in this recommendation shall not be construed as having any implications as regards the rights which may attach to that term in international law."

Recommendation No. 1.43 on public participation and the right to know, adopted by the World Conservation Congress of the IUCN in Montreal (Canada) on 23 October 1996

“Whereas the public, including Environmental Citizens’ Organisations (ECOs), have a crucial role to play in promoting environmental protection and bringing about more environmentally sustainable forms of development;

Whereas the Rio Declaration on Environment and Development (1992) states that (Principle 10): ‘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. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided’;

Whereas providing individuals and organisations with effective access to the courts and administrative complaints processes will enable them to supplement the role of regulatory authorities and contribute to the enforcement of environmental law;

Believing that the rights to information and participation need to be guaranteed through legally binding measures in combination with effective mechanisms ensuring public participation, access to information and access to justice;

Emphasising its commitment to strengthening public participation in environmental decision-making and access to information at a global level, underlining the need for providing such information speedily, and noting, as an example, the existence of ten working day deadlines in some countries;

Underlining the rights of citizens to access to information about the environment, in the absence of a compelling reason for keeping such information from public scrutiny;

Stressing the active obligation of governments to keep the public informed on environmental matters in addition to responding to public requests for information;

Noting the UN/ECE Guidelines on Access to Environmental Information and Public Participation in Environmental Decision-Making endorsed at the 1995 Ministerial Conference, ‘Environment for Europe’ in Sofia, Bulgaria;

Welcoming the decision to develop a UN/ECE Convention on Access to Environmental Information and Public Participation in Environmental Decision-Making, for adoption at the fourth Pan-European Conference of Environment Ministers, to be held in Aarhus, Denmark, June 1998;

The World Conservation Congress at its 1st Session in Montreal, Canada, 14-23 October 1996:

1. Calls upon all states to consider the need to develop a global convention, within the framework of the United Nations, ensuring that the democratic right to information and participation are upheld throughout the world;
2. Calls on all states to adopt and implement national legislation to secure public access to environmental information and to facilitate and encourage public participation;
3. Suggests the following guidelines for national legislation, as well as for a global convention:
 - a. Provisions related to public access to environmental information should aim, *inter alia*, at:
 - i. the right of access to any person, without them having to prove an interest;
 - ii. requiring all public authorities holding environmentally relevant information and private bodies holding relevant public responsibilities to provide such information following a request;
 - iii. the definition of information covered be sufficiently broad to ensure that all environmentally significant information is covered;
 - iv. the exemption of information only be permitted when the information falls within exempted categories defined by law; the grounds for refusal to be interpreted in a restrictive way with the public interest served by disclosure weighed against the interests of non-disclosure in each case; reasons for a refusal to comply with a request for information be stated in writing;
 - v. the supply of information in the shortest time possible and within a period of time as defined by law; information, in principle, to be supplied in the form specified by the person making the request, provided it is held in that form;
 - vi. charges levied for providing information not exceeding the cost of reproduction and dissemination, if appropriate; fee waiver provisions for small amounts of easily accessible information also to be considered;
 - vii. a person refused information to be able to contest the decision through an appeals process which is timely, transparent and binding;
 - b. Measures are introduced to ensure that public authorities are themselves in possession of adequate environmental information; such measures should include the supply of information to public authorities through mechanisms such as toxic release reporting and mandatory general environmental auditing;
 - c. Provisions relating to public participation should aim, *inter alia*, at:

- i. extending the right to participate in principle to any natural or legal person as well as environmental organisations;
 - ii. sufficiently broadening the range of decisions in which public participation occurs to encompass all decisions having significant environmental implications;
 - iii. financial barriers to not prevent meaningful participation or lead to imbalances in participation;
 - iv. the early commencement of public consultation in a given decision-making process with due public notice given and a reasonable time allowed for public comment;
 - v. the publication of a reasoned decision, addressing the substantive arguments raised in the decision-making process;
 - vi. the public having the right to appeal a decision, or the manner in which it was arrived at, through an appeals process which precedes implementation of the decision;
- d. All states provide individuals and organisations with effective access to the courts and administrative appeals processes to contest any action considered to be in breach of environmental law, at a reasonable cost:
- i. rights of access to judicial or administrative proceedings should include, for any person;
 - a. the right of access to administrative review of an administrative decision or proposal, where the possibility of such a review exists within the national legal system;
 - b. the right to seek a judicial review of a decision or an act of a public body (including a failure to act);
 - c. the right to have legal redress directly against those considered to be in breach of environmental law;
 - ii. where judicial remedies are sought, states should provide for the possibility of effective interim relief;
4. Calls on governments and other decision-makers to develop, alongside the introduction of legislation, necessary infrastructure supportive of public participation and transparency;
5. Calls for undertaking capacity-building to stimulate effective public participation, both in relation to the bodies responsible for facilitating public involvement and in relation to those seeking to participate, notably ECOs, including:
- a. provision of the necessary education, training and resources to officials responsible for facilitating public participation in order to maximise their effectiveness in this role;
 - b. the creation, by governments, of a favourable climate for growth of an environmental movement, while recognising that the driving force for the growth of such a movement should come from the public.

Note: This recommendation was adopted by consensus. The delegation of the state member Switzerland indicated support for public participation but for international legal reasons, had there been a vote, the delegation would have abstained, referring to operative paragraph 3.d chapeau and 3.d.i. The delegation of the state member Germany indicated that had there been a vote the delegation would have abstained. The delegation of the state member United Kingdom supported the aim of the recommendation but for reasons outlined in the proceedings volume indicated that had there been a vote the delegation would have abstained."

Draft international covenant on environment and development, adopted by the Commission on Environmental Law of IUCN in cooperation with the International Council of Environmental Law in New York (United States) on 17 March 1995

"[...]

Article 12. Persons

1. Parties undertake to achieve progressively the full realisation of the right of everyone to an environment and a level of development adequate for their health, well-being and dignity.
2. All persons have a duty to protect and preserve the environment.
3. All persons, without being required to prove an interest, have the right to seek, receive, and disseminate information on activities or measures adversely affecting or likely to affect the environment and the right to participate in relevant decision-making processes.
4. All persons have the right to effective access to judicial and administrative proceedings, including for redress and remedy, in enforcing their rights under this Covenant.
5. Parties shall respect and ensure the rights and the fulfilment of the duties recognised in this article and shall devote special attention to the satisfaction of basic human needs, in particular the provision of potable water.
6. Parties shall develop or improve mechanisms to facilitate the involvement of indigenous peoples and local communities in environmental decision-making at all levels and shall take measures to enable them to pursue sustainable traditional practices.

[...]

Article 43. Information and knowledge

1. Parties shall facilitate the exchange of publicly available information relevant to the conservation and sustainable use of natural resources, taking into account the special needs of developing countries.
2. Parties shall require that access to indigenous knowledge be subject to the prior informed consent of the concerned communities and to specific regu-

lations recognising their rights to, and the appropriate economic value of, such knowledge.

Article 44. Education, training and public awareness

1. Parties shall disseminate environmental knowledge by providing to their public and, in particular, to indigenous peoples and local communities, information, educational materials, and opportunities for environmental training and education.

2. Parties shall co-operate with each other, and where appropriate with competent international and national organisations, to promote environmental education, training, capacity-building, and public awareness.

[...]

Article 52. Civil remedies

1. Parties shall ensure the availability of effective civil remedies that provide for cessation of harmful activities as well as for compensation to victims of environmental harm irrespective of the nationality or the domicile of the victims.

2. Parties that do not provide such remedies shall ensure that compensation is paid for the damage caused by their acts or omissions or by activities of persons under their jurisdiction or control.

3. In cases of significant environmental harm, if an effective remedy is not provided in accordance with paragraph 1, the State Party of the nationality of the victim shall espouse the victim's claim by presenting it to the State Party of origin of the harm. The State Party of origin shall not require the exhaustion of local remedies as a pre-condition for presentation of such claim.

Article 53. Recourse under domestic law and non-discrimination

1. Each State Party of origin shall ensure that any person in another State Party who is adversely affected by transboundary environmental harm has the right of access to administrative and judicial procedures equal to that afforded nationals or residents of the State Party of origin in cases of domestic environmental harm.

2. Each State Party shall ensure that adversely affected persons have a right of recourse for violations of environmental regulations by that Party or any person or entity associated with that Party.

[...]"

1.3.2. Institute of International Law (IIL) (Switzerland)

- Resolution on the environment, adopted by the Institute of International Law (IIL) in Strasbourg (France) on 4 September 1997
- Resolution on procedures for the adoption and implementation of rules in the field of environment, adopted by the Institute of International Law (IIL) in Strasbourg (France) on 4 September 1997
- Resolution on responsibility and liability under international law for environmental damage, adopted by the Institute of International Law (IIL) in Strasbourg (France) on 4 September 1997

Resolution on the environment, adopted by the Institute of International Law (IIL) in Strasbourg (France) on 4 September 1997

“The Institute of International Law,

Having considered during previous sessions the problems raised by the management of the environment as much as the level of international law as that of conflict of laws and of the harmonization of domestic legal systems;

Bearing in mind that the search for new forms of regulation, particularly in regard to the prevention and precautionary principles, is linked to the requirements of the sustainable development of human societies as determined by the powers which govern those societies;

Recalling that the Institute has already addressed environmental issues in its Resolutions adopted in Athens in 1979 and Cairo in 1987, dealing respectively with ‘International Law and the Pollution of Rivers and Lakes’ and ‘Transboundary Air Pollution’;

Recalling the desire of the Institute to contribute to the United Nations Decade of International Law;

Bearing in mind that this Resolution deals only with certain aspects of the general architecture of international environmental law and considering therefore that the environment as a general topic should continue to be one of the topics of the future work of the Institute in the fields of both public international law and private international law,

Adopts this Resolution:

[...]

Article 2

Every human being has the right to live in a healthy environment.

Article 3

The effective realisation of the right to live in a healthy environment should be integrated into the objectives of sustainable development.

[...]

Article 11

International procedures for the settlement of disputes relating to matters of environment should allow any interested persons to make known their points of view, even if they are not subjects of international law."

Resolution on procedures for the adoption and implementation of rules in the field of environment, adopted by the Institute of International Law (IIL) in Strasbourg (France) on 4 September 1997

"The Institute of International Law,

Noting that during the last decades international environmental law has evolved into a vast corpus juris composed of a considerable number and variety of principles and rules with different degrees of legal value;

Considering that the development of international environmental law has taken place in an unco-ordinated manner, producing overlappings, inconsistencies and lacunae and that its implementation has been uneven and in several areas unsatisfactory;

Convinced that the development and effective implementation of international environmental law are essential to solve the serious problems arising out of the degradation of the environment;

Realising that treaties and decisions adopted by international organisations appear to be the most practical instruments to promote the development of the international law in the field of the environment;

Convinced that existing procedures for the adoption of international environmental rules and mechanisms to ensure their implementation require adjustments in order to make them more responsive to the seriousness of environmental problems,

Adopts this Resolution:

I. Adoption of environmental rules

[...]

Article 6

States and international organisations should provide to interested non-governmental organisations opportunities to contribute effectively to the development and implementation of international environmental law through, inter alia, appropriate participation in the law-making process, provision of technical advice to States and international organisations, raising of public awareness of environmental problems and public support for regulation, and monitoring of compliance by States and non-State actors with environmental obligations.

Article 7

States and international organisations should also allow the scientific community, the industry and labour sectors and other non-State entities to participate, as appropriate, in the legal process of adopting environmental rules, and in their implementation and monitoring.

II. Implementation of environmental rules

Article 8

Environmental protection regimes should include the duty by participating States to submit periodically, to the competent international organisation, reports on the implementation of international environmental rules for their public review.

[...]

Article 12

In order to prevent disputes and to facilitate compliance with environmental obligations, multilateral environmental treaties and decisions of international organisations establishing regimes for the protection of the environment should provide for informal, non-confrontational procedures, open to States and, when appropriate, to other entities or persons.

Article 13

In order to ensure the enforcement within domestic legal systems of international environmental obligations, States shall make available to any interested person, judicial and non-judicial procedures for the settlement of disputes arising from violations of such obligations.

[...]

Article 17

In order to encourage the participation of all interested entities and persons in the discussion of environmental issues, States should co-operate with interested non-governmental organisations in disseminating information as complete as possible on environmental problems and issues and on national and international rules relating to them.

[...]

Article 19

States and environmental international organisations should give due publicity to implementation procedures, including publication and dissemination of reports submitted by States and reports of organs of international organisations on compliance by States with environmental obligations. Implementation activities of international environmental organisations

should be open, as appropriate, to interested non-governmental organisations.

Article 20

International organisations with competence in environmental matters should keep governments, interested non-governmental organisations and public opinion in general permanently informed on their activities and programmes.”

Resolution on responsibility and liability under international law for environmental damage, adopted by the Institute of International Law (IIL) in Strasbourg (France) on 4 September 1997

“The Institute of International Law,

Recalling the ‘Declaration on a Programme of Action on the Protection of the Global Environment’ adopted at the 65th Session of the Institute in Basle;

Mindful of the increasing activities that entail risks of environmental damage with transboundary and global impacts;

Taking into account the evolving principles and criteria governing State responsibility, responsibility for harm done and civil liability for environmental damage under both international and national law;

Noting in particular Principle 21 of the Stockholm Declaration and Principle 2 of the Rio Declaration on the responsibility of States to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction;

Realising that both responsibility and liability have in addition to the traditional role of ensuring restoration and compensation that of enhancing prevention of environmental damage;

Seeking to identify, harmonise and to the necessary extent develop the principles of international law applicable to responsibility and liability in the context of environmental damage;

Desiring to make useful recommendations for the negotiation and management of regimes on responsibility and liability for environmental damage established under international conventions in furtherance of the objectives of adequate environmental protection (environmental regimes);

Realising that international environmental law is developing significant new links with the concepts of intergenerational equity, the precautionary approach, sustainable development, environmental security and with human rights law, as well as with the principle of shared but differentiated responsibility, thereby also influencing the issues relating to responsibility and liability,

Adopts this Resolution:

[...]

Access to dispute prevention and remedies

Article 26

Access by States, international organisations and individuals to mechanisms facilitating compliance with environmental regimes, with particular reference to consultations, negotiations and other dispute prevention arrangements, should be provided for under such regimes.

In the event of preventive mechanisms being unsuccessful, expeditious access to remedies, as well as submission of claims relating to environmental damage, should also be provided for.

Article 27

Environmental regimes should make flexible arrangements to facilitate the standing of claimants, with particular reference to claims concerning the environment per se and damages to areas beyond the limits of national jurisdiction. This is without prejudice to the requirement of a direct legal interest of the affected or potentially affected party to make an environmental claim under international law.

[...]

Remedies available to interested entities and persons for domestic and transnational claims

Article 30

Environmental regimes should provide for equal access on a non-discriminatory basis to domestic courts and remedies by national and foreign entities and by all other interested persons.

[...]"

1.3.3. Conference of Non-Governmental Organisations: "Bridging the Gap"

– Agenda for action adopted by the Conference of non-governmental organisations on "Bridging the Gap", on the Danube, on 20 March 1990

Agenda for action adopted by the Conference of non-governmental organisations on "Bridging the Gap", on the Danube, on 20 March 1990

"[...]"

Awareness-raising and public participation

The imperative 'action now' called for in 'Our Common Future' requires an immense mobilisation of the world's people through awareness-raising, empowerment and public participation. A prerequisite for such a mobilisation is the participation of popular movements and other non-governmental groups.

1. The full recognition and legal protection of the environmental rights of individuals, groups and organisations, including unrestrained access to environmental information, is an essential requirement for the achievement of sustainable development.

We, therefore, expect the governments assembled in Bergen to commit themselves to initiate, without delay, negotiations on a Charter of Environmental Rights based on the preliminary draft [...]. This should serve as a basis for an additional protocol to the European Convention on Human Rights and ultimately be developed into a universal legal instrument. There is no reason why the ECE countries should wait until the 1992 UN conference to take action on this matter. We expect them instead to take the lead and set an example in the international community on this fundamental human rights issue.

2. The Bergen process is a first step in optimising democratic international decision-making related to environment and development issues. This model should further be improved through greater co-operation between environmental, developmental, solidarity, peace, labour, community, and other peoples' organisations together with the scientific community and industry. These groupings should be linked directly into both national and international decision-making processes.

In addition, new processes must be designed at the local level, incorporating traditional knowledge, cultural and community values. These processes must be open, inclusive and participatory in order to involve the greatest number of people possible, with special emphasis on women's participation. Peoples' organisations should take the lead in designing such new processes.

[...]

9. Prior assessment and public reporting of the likely environmental impacts and risks should be required before approving any policies, projects or industrial developments. Culturally appropriate mechanisms for peoples' participation in planning such policies, projects and industrial developments must be ensured. Assistance should be given to people, particularly at the community level, to enable them to participate meaningfully in such processes. These environmental impact assessments should be carried out by an independent body.

10. With profound economic changes taking place in eastern Europe, European Community and other ECE countries, the NGOs should be allowed to participate in the planning process to ensure that not only environmental concerns are taken into account, but also that sustainable development is an essential part of that process.

11. In order to support peoples' democratic participation and awareness on environment and development, it is necessary to show critically, through broad studies, how public participation and popular movements are crucial in solving environment and development problems on local, national and global levels. It is necessary that NGOs get governmental support for this purpose and that they co-operate with scientific institutions.

12. Every nation and national minority shall have the right to obtain information in its native language. If not, it is a difficult task to gain understanding, acceptance, and support for our aims. The above-mentioned principle must be particularly stressed not just because it is one of the basic human rights but also because it could make our efforts for substantiality ineffective.”

1.3.4. Environnement sans frontière

- Declaration on the human right to the environment, drawn up by “Environnement sans frontière” with the support of non-governmental organisations on environment and development in Paris (France) on 20 May 1992, and presented by the President of the French Republic to the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro (Brazil) on 14 June 1992

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“Preamble

Recognising that our Earth is a fragile entity in which all of humanity has a role to play; that the biological, social, cultural diversity represents the wealth of our Earth and the condition for its continued survival;

Recognising that the natural inheritance of the Earth has been handed down to us by our fathers and must be handed down to our children;

Noting with alarm that, twenty years after the Stockholm Conference and the hopes it raised, the environmental situation has seriously deteriorated, that the resources essential to life are now vanishing at an ever-increasing rate, and that the very survival of the whole planet is now in question;

Recognising the right of humankind to a safe and healthy environment, as the fundamental basis of all action to protect the environment;

Considering that the globalisation of environmental problems calls for action on a world-wide basis;

We request the solemn declaration by the representatives of the states assembled at the United Nations Conference on Environment and Development, of the following principles:

I. Principle of the right of humankind to a safe and healthy environment

Every human being, whether of this generation or of those to come, has a right to a healthy and diversified environment, allowing him to develop freely and live in full dignity.

II. Principle of individual and collective responsibility

Every person, every social organisation, every company, and every state has the responsibility in all circumstances to ensure respect for the environment in all its facets. No activity likely to endanger the environment in any serious or durable way can be allowed or encouraged, whoever might be its author, wherever it might be undertaken, or its effects felt.

III. Principles of education, information and participation

Everyone must be informed of the dangers threatening the environment, and the obligations stemming from them. Everyone has the right to be informed of projects or threats affecting his habitat, and to participate in the elaboration of decisions in such projects.

IV. Principles of prevention and precaution

Every authority, national and international, must commit itself to curtail any serious deterioration of the environment, and must commit itself to evaluating the ecological consequences of each significant project. When the conclusions of such evaluations remain uncertain, caution must take priority, so as to avoid any serious or even irreversible side-effects.

V. Principle of sustainable development

Everyone has a right to a standard of living sufficient to guarantee his health and well-being. Industrialised nations, as well as developing countries, have the obligation to use the resources of the Earth, individually or collectively, so that present and future generations will be able to draw full and fair benefit from it.

VI. Principle of solidarity

Solidarity between states and people must be declared and strengthened in order to protect the environment, our common heritage, and its biological diversity. In the name of equity amongst the people of the world, industrialised nations who have far too long exploited natural resources without real concern for their conservation have an urgent obligation to help the most deprived countries in their struggle against poverty, and owe them effective support so that they can participate fully in the conservation of the environment.

VII. Principle of international co-operation

Governments, inter-governmental organisations and non-governmental organisations must co-operate to strengthen the existing international structures and to create new structures, endowed with real means of action in support of the environment and sustainable development. In particular a

commission must be set up within the United Nations, enjoying the support of a committee of independent experts and the aid of concerned non-governmental organisations, to monitor the effective implementation of international regulations.

VIII. Principle of the duty of ecological assistance

Faced with an unforeseen deterioration or an environmental disaster the states which are in a position to intervene effectively must mobilise all means to bring aid to victims, prevent and repair damages to the environment.

In case the government concerned in such instances is incapable of providing an adequate solution, the Secretary General of the United Nations will decide to send emergency aid to the threatened or stricken area. The states whose help is requested must fully co-operate, between themselves and with the authorities of the country which can facilitate the access of aid.

IX. Principle of recognition of the action of non-governmental organisations

Non-governmental organisations for partnership and the protection of the environment must be recognised as full players in action supporting the environment and sustainable development. They undertake to strengthen the co-ordination of their efforts, notably by establishing in each region of the world regional observation stations to monitor changes in the state of the environment.

X. Code of ethics for man and the Earth

Every state and every person must act in accordance with the present declaration. States as well as international organisations and non-governmental organisations will specify more fully its content by elaborating together a code of ethics for the environment and sustainable development.”

1.3.5. Cousteau Society

- Declaration on human rights for future generations adopted by a Unesco-Cousteau Society Meeting of Experts, organised by the Tricontinental Institute for Parliamentary Democracy and Human Rights in La Laguna (Tenerife) on 26 February 1994

Declaration on human rights for future generations adopted by a Unesco-Cousteau Society Meeting of Experts, organised by the Tricontinental Institute for Parliamentary Democracy and Human Rights in La Laguna (Tenerife) on 26 February 1994

“[...]

Article 1. The right to a preserved Earth

Persons belonging to future generations have the right to an uncontaminated and undamaged Earth, including pure skies: they are entitled to its

enjoyment as the ground of human history, of culture and of social bonds that make each generation and individual a member of one human family.

Article 13. The intangibility of the human rights of persons belonging to future generations

Each generation must always ensure that the rights of those belonging to future generations are fully safeguarded and are not sacrificed for the sake of expediency of interests. None of the rights set forth in the Universal Declaration of Human Rights, the human rights covenants, regional instruments for the protection of human rights or any other instruments for the protection of human rights or any other existing or future instrument, and in particular in conventions for the protection of cultural property and the environment, can be interpreted or applied as implying for any state, group or person the right to engage in any activity or perform any act aimed at the destruction of the human rights of future generations. Consequently, persons belonging to future generations have the inalienable right, which may be opposed to all sources of power, to enjoy the benefits of and exercise all human rights, as guaranteed by the international community.

[...]"

1.3.6. Permanent People's Tribunal

– Charter of industrial hazards and human rights, adopted by the Permanent People's Tribunal in January 1996

Charter of industrial hazards and human rights, adopted by the Permanent People's Tribunal in January 1996

"[...]

Article 9. Right to environmental information

1. All persons have the right to be given reasonable notice of any proposal to establish, expand or modify a hazardous industry in such location or in such a manner as may put at risk public health or the living environment. To achieve the full realisation of this right, the following steps shall be taken:

- a. All states shall ensure that communities, individuals and non-governmental organisations have the right of access to full information regarding the proposal. This right shall be effective well in advance of official authorisation and shall not be abridged by claims of commercial secrecy.
- b. All states shall ensure that prior to official approval of any hazardous enterprise, independent and thorough assessments of the impact upon the environment and public health be conducted in consultation with the community. The methods and conclusions of such impact assessments shall be made available for public debate.

2. All persons have the right to be informed in their own language and in a manner which they are able to comprehend, of any possible hazards or risks associated with any product or process used by any enterprise with which they may come into contact.

3. All persons have the right to be informed of the safety record of any economic enterprises whose manufacturing or industrial processes could affect their living environment, including the number of accidents, the types of accidents that have occurred, the extent of injuries resulting from such accidents and any possible long-term adverse health effects.

4. All persons have the right to be informed of types and quantities of hazardous substances used and stored at the facility and emitted from the facility and contained in any final products. In particular, the right to information includes the right to regular toxic release inventories where appropriate. All persons living in the neighbourhood of hazardous facilities have the right to inspection of factory premises and to physical verification of hazardous substances and processes.

5. All persons who live in environments in which they may come into contact with materials or processes that are known to be seriously hazardous and which emanate from the activities of an economic enterprise, have the right to be examined regularly by an independent medical expert provided by the owner or occupier of the enterprise.

Article 10. Right to community participation

1. All persons have the right to participate in planning and decision-making processes affecting their living environment.

2. All persons have the right to planning and decision-making proceedings which are:

- a. public and open;
- b. accessible to all in timing and location;
- c. widely advertised in advance;
- d. not restricted by literacy, language or format of contributions.

3. All persons have the right to express their concerns and objections relating to hazards associated with establishing, modifying or expanding any economic enterprise.

4. All persons have the right to participate in the design and execution of ongoing studies to determine the nature of any hazards to the living environment resulting from an economic enterprise.

Article 11. Right to environmental monitoring

1. All persons have the right to regular and effective monitoring of their health and the living environment for possible immediate and long-term effects caused by hazardous or potentially hazardous economic enterprise.

2. All persons have the right to be consulted on the frequency, character and objectives of environmental monitoring. The right to organise non-professional monitoring strategies, such as lay epidemiology, shall be protected. The rights of women, whose experience in providing health care may reveal otherwise unidentified consequences of hazards, are particularly affirmed.

3. Any person who bona fide believes that his or her community environment is endangered by the actions of any economic enterprise has the right to an immediate and thorough investigation, to be carried out by an independent agency at no cost to the person acting bona fide.

Article 12. Right to community education

1. All persons have the right to the effective dissemination of information regarding hazards in the community. This right extends to instruction based upon the best available information and standards, drawn from both national and international sources.

2. States shall take effective steps to provide for:

- a. clear and systematic labelling of hazardous substances;
- b. appropriate education of the community, including children, on hazardous products and processes;
- c. training of police, medical professionals and other service providers on hazardous products and processes.

[...]

Article 18. Right to health and safety information

1. All workers have the right to be given reasonable notice of any proposed changes to their working environments which may pose a threat to worker health and safety.

2. All workers have the right to be informed in their own language and in a manner they are able to comprehend, of any known health hazard associated with any substance, material or process with which they come into contact during the course of their employment.

3. All workers have the right to be informed of the safety record of the work environment in which they are employed, including the number and type of accidents that have occurred, the extent of the injuries resulting therefrom and any known long-term adverse health risks that result from the substances, materials and processes used by the employer. Workers have the right to be regularly informed of the safety records of any economic enterprise affiliated by common ownership to the economic enterprise in which they work, and which uses any similar substance, material or process to that used in their work environment.

4. All workers employed in hazardous work environments have the right to be examined by an independent medical expert provided by the employer at the commencement of employment and thereafter at periodic intervals defined on the basis of the most conservative estimate of potential risks, but

in any case not exceeding one year and to be furnished with the resulting medical information.

Article 19. Right to worker participation

1. All workers have the right to participate effectively in management decision-making affecting health and safety.
2. All workers have the right to elect safety representatives. Such representatives have the right to participate in joint committees, composed of worker and management representatives in equal number, which meet regularly to address health and safety matters.
3. All workers have the right to participate in the design and execution of ongoing health and safety studies in their working environments to determine the nature of any risks to health and safety.
4. All workers have the right to establish and associate with community hazards centres and information networks. Governments and employers have a responsibility to support such organisations and programmes.

Article 20. Right to health and safety monitoring

1. All workers have the right to a work environment that is regularly and effectively monitored for possible harmful effects to the health and safety of the workers employed therein.
2. Notwithstanding the duty of employers to monitor working environments, the right of workers to seek independent or worker-based monitoring shall not be infringed. This right includes the right to regular monitoring for possible adverse, long-term effects which may result from contact with the substances, materials or processes used in the working environment.
3. Any worker who bona fide believes that his or her health and safety is being or will be endangered by any substance, material or process used in the work environment has the right to an immediate and thorough investigation, to be carried out by the employer, an independent agency or by other means, at no cost to the worker.

Article 21. Right to instruction and practical training

1. All workers in contact with hazardous or potentially hazardous substances, materials or processes have the right to ongoing instruction and practical training regarding management of the hazard. The right to instruction and practical training based on the best available information, drawn from both national and international sources, is affirmed.
2. All workers and supervisors have the right to know and be fully instructed about the proper use and handling of any hazardous materials, the proper execution of any processes, the precautions necessary to protect health, safety and the living environment, and any procedures which should be followed in the event of an emergency.

[...]

Article 26. Right to medical information

All persons immediately or subsequently affected by hazardous activities, including persons unborn at the time of the exposure to hazard, have the right to obtain relevant documents pertaining to injuries, including medical records, test results and other information.

This right may be exercised at the earliest opportunity and may not be made subject to delay or non-compliance by either government or industry. Such disclosure shall not be made in a manner so as to prejudice the affected person's right of access to any service, insurance, employment or any social or welfare opportunities.

[...]

Article 31. Right to fair procedure

All persons adversely affected by hazardous activities shall have the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Included in this right is the right to the due process of law, including:

- a. the right to opt out of class actions;
- b. the right to reasonable notice and communication before an out-of-court settlement in a civil suit is reached;
- c. the right to bring a lawsuit notwithstanding the period of limitation set by administrative, legislative or judicial or any other means."

1.3.7. International Water Tribunal

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| <p>– Declaration of Amsterdam, adopted by the Second Water Tribunal in Amsterdam (Netherlands) on 27 June 1991</p> |
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Declaration of Amsterdam, adopted by the Second Water Tribunal in Amsterdam (Netherlands) on 27 June 1991

"Preamble

The Board of the 'Stichting International Water Tribunal', established in Amsterdam on June 29, 1981, at their meeting in Amsterdam on 27 June 1991, having considered the outcome of the Legal Working Group (Amsterdam, 2-3 March 1991) and having consulted the International Advisory Board:

Considering that water is an essential element of the biosphere and therefore ought to be under the stewardship of humankind;

Recognising that all members of present and future generations have the fundamental right to a sustainable livelihood and a healthy environment;

Recognising that each individual human being, collectivity and entity has the duty to safeguard water by taking preventive measures that avoid risk, loss and injury;

Recognising that it is of vital importance to take into account the interests of individuals, collectivities and entities which may be affected by activities involving a water resource;

Has agreed as follows:

Part I. General provisions

Article 1

All members of present and future generations have the fundamental right to a sustainable livelihood including the availability of water of sufficient quantity and quality.

Article 2

1. Each individual human being, collectivity and entity which has an interest in a water resource has the fundamental right to have that interest duly taken into account, and accounted for, when decisions are taken with respect to activities that may in any way affect that interest.

2. Each individual human being, collectivity and entity which has an interest in a water resource has the right to effective participation in decision-making processes concerning activities that may in any way effect that water resource.

Article 3

1. Each individual human being, collectivity and entity that intends to undertake an activity which may in any way involve a water resource has the duty to ensure that such an activity does not affect the fundamental rights protected by this Declaration.

2. Each individual human being, collectivity and entity that intends to undertake an activity which may in any way involve a water resource shall adopt a precautionary approach.

Part II. Rights of those whose interests may be affected

Article 4

Each individual human being, collectivity and entity has the right to be informed adequately of an activity that may affect its fundamental rights protected by this Declaration.

Article 5

Each individual human being, collectivity and entity has the right to be consulted prior to a decision being taken with respect to the undertaking of an activity which may affect its fundamental rights protected by this Declaration.

Article 6

1. Each individual human being, collectivity and entity has the right of review of any decisions taken with regard to an activity which may affect its fundamental rights protected by this Declaration.
2. All decisions resulting from the proceedings referred to in paragraph 1 of this article shall be subject to judicial appeal.
3. Each individual human being, collectivity and entity has standing before, the right of access to, and due process in administrative, judicial and other proceedings that may affect its fundamental rights protected by this Declaration.
4. The practices and customs of individual human beings, collectivities and entities whose fundamental rights, as protected by this Declaration, may be affected shall be taken into account and given due consideration in proceedings involving those fundamental rights.

Article 7

Each individual human being, collectivity and entity whose fundamental rights protected by this Declaration have been affected or may be affected, has the right to obtain measures to prevent further or future damage, restitution and/or equitable compensation.

Part III. Obligations of those exercising control over activities

Article 8

Prior to taking any decision regarding the undertaking of an activity, each individual human being, collectivity and entity undertaking or planning to undertake that activity has the duty to provide adequate information on the activity and its impact to, and to consult with, all individual human beings, collectivities and entities whose fundamental rights protected by this Declaration may be affected.

Article 9

1. Each individual human being, collectivity and entity planning to undertake an activity has the duty to assess the possible effects which that activity may have on the fundamental rights protected by this Declaration, and to ensure that, in the final decision on the planned activity, due account is taken of the outcome of the environmental impact assessment.
2. In this assessment process, the participation of individual human beings, collectivities and entities whose fundamental rights protected by this Declaration may be affected, shall be ensured.
3. The justification and data behind the results of the assessments and any decision taken on the basis of the assessment shall be made public and available to the individual human beings, collectivities and entities whose fundamental rights protected by this Declaration may be affected.

Article 10

1. Each individual human being, collectivity or entity undertaking an activity has the duty to monitor, through the collection of data, the activity and its effects.
2. The data obtained shall be made publicly available.

Article 11

The entities exercising control over those engaged in an activity which may in any way involve a water resource shall provide administrative, judicial and other appropriate procedures in order to ensure:

- a. the effective participation in the decision-making process of those individual human beings, collectivities and entities, whose fundamental rights protected by this Declaration may be affected;
- b. the appropriate review of any decision taken with respect to activities that may in any way affect fundamental rights protected by this Declaration;
- c. the effective implementation of the duties contained in Article 3;
- d. that individual human beings, collectivities and entities shall be held liable in accordance with Article 12 if they have engaged in activities affecting the fundamental rights protected by this Declaration.

Article 12

1. Each individual human being, collectivity or entity which has undertaken an activity, or authorised an activity, and thereby affected fundamental rights protected by this Declaration shall be liable.
2. Each individual human being, collectivity and entity which has been found liable pursuant to paragraph 1 shall, in accordance with Article 7, take measures in order to prevent further or future damage, provide restitution and/or equitable compensation."

1.3.8. International Court of the Environment Foundation (ICEF)

– Project for the International Court of the Environment, presented by ICEF at the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro (Brazil) on 14 June 1992

Project for the International Court of the Environment, presented by ICEF at the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro (Brazil) on 14 June 1992

[...]

Statute of the International Environmental Agency and the International Court of the Environment

"The States Parties to this Convention,

Considering the Universal Declaration of Human Rights proclaimed by the United Nations General Assembly on 10 December 1948;

Considering that this Declaration aims at guaranteeing the universal and effective recognition and application of the rights provided for in it;

Considering that the environment is one of the fundamental human rights and that life is the very basis of fundamental freedoms;

Considering that environmental protection is, at the same time, a fundamental duty of all mankind, particularly with regard to future generations, including the utilisation of resources compatible with the needs of life in general on the planet;

Considering that the principles of the European Convention on Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 and the Protocol to the Convention signed in Paris on 20 March 1952 must be extended to the entire world because they constitute a common universal heritage and the basis for democratic, just and peaceful governments in a new international order;

Considering that Article 13 of the United Nations Declaration on Social Progress and Development (1969), declares that 'the protection and improvement of the human environment' is one of the aims in attaining social development and progress;

Considering that, under Article 22 of the Declaration of the United Nations Conference on the Human Environment (1972) held in Stockholm, states are under a duty to 'co-operate' in further developing international environmental law and, under Article 21, have 'the responsibility to ensure that activities within their jurisdiction or control do not produce damage to the environment of other states or of areas beyond the limits of national jurisdiction';

Considering that Article 30 of the 1974 Resolution of the General Assembly, known as the Charter of Economic Rights and Duties of States declares that all states are responsible for the protection, preservation and improvement of the environment for present and future generations;

Considering that Article 19 of the Report on State Responsibility, approved by the International Law Commission in 1976, considers the concept of the international crime of a state as an offence against the entire international community to be applicable to serious acts of pollution and degradation of the planet (serious violations of the fundamentally important international obligation to protect and preserve the human environment – 'environmental crimes');

Considering that the Third United Nations Conference on the Law of the Sea recognises the sea-bed as 'a common heritage of mankind' and set up a special International Sea-Bed Authority;

Considering that Principle 10 of the Rio Declaration states that states shall make 'effective access to judicial and administrative proceedings, including redress and remedy' available; information widely available;

Considering the various environmental disasters that have occurred without adequate reparation for the environmental damage done: the *Torrey Canyon* in 1967; the *Amodo Cadiz* in 1978; the collision of the *Atlantic Express* with the *Aegean Captain* outside Tobago in 1979; the *Exxon Valdez* in 1989; Seveso in 1976; Bhopal in 1984; Chernobyl in 1986; Sandoz in 1988; Haven in 1991 and the burning oil wells in the Gulf in 1991;

Considering that an answer must be found for objectively supranational problems (the oceans, space, the Antarctica, the Amazon, the ozone layer, the greenhouse effect, transfrontier pollution, genetic manipulation, toxic products, and so on) on the same level in terms of regulations, sanctions and organs for prevention, management and control and that the entire international community must assume responsibility for saving life on the earth by creating new more effective regulations and permanently structured administrative and judicial bodies;

Considering that, for this purpose, the role of existing state and international institutions must be strengthened and new organs be created for the environment on a global level: an International Environmental Agency within the United Nations and an International Court of the Environment within the United Nations;

Have agreed as follows:

Principles

Article 1

Everyone has a fundamental right to the environment and an absolute duty to preserve life on earth for the benefit of present and future generations.

Article 2

Everyone has the right of access to environmental information and the duty to provide any environmental information in his possession.

Article 3

Everyone has the right to participate in procedures that may involve the environment, subject to the fact that the public authorities are deemed to have final responsibility with regard to the environmental decision-making process.

Article 4

Everyone, whether an individual or an association, has the right to take legal action to prevent activities that are harmful to the environment and to seek compensation for any environmental damage.

Article 5

Everyone is under a duty to utilise natural resources with equity and care, by ensuring the maximum saving of energy, the minimum consumption of

resources and by actively and efficiently co-operating in reducing the amount and kinds of waste produced and in its recycling and reutilisation.

Article 6

The states shall recognise and guarantee the human right to the environment, and foster conditions that make this right effective.

Article 7

The states are legally responsible to the entire international community for acts that cause substantial damage to the environment in their own territory, in that of other states or in areas beyond the limits of national jurisdiction and shall adopt all measures to prevent such damage.

Article 8

The states, in particular, shall:

- a. adopt all policies in accordance with the global principle of complete compatibility with the equilibrium of the earth's ecosystem;
- b. adopt all policies in accordance with an equitable principle for the utilisation of the Earth's common resources by all peoples;
- c. adopt all policies in accordance with a principle respecting the right to the environment of future generations;
- d. prohibit all activities that may cause irreversible damage to the basic natural processes of the biosphere and, as a precautionary measure, suspend those activities whose effects cannot be determined until all such uncertainty has been removed;
- e. take action to restore degraded ecosystems;
- f. prevent the transfer of environmental harm and risks to other parts of the world;
- g. prevent military action that procures irreversible environmental damage;
- h. adopt environmental standards that have been recommended at an international level and, in their absence, other standards aimed at preventing or significantly reducing the various kinds of pollution and at guaranteeing the equitable utilisation of resources;
- i. adopt procedures for environmental impact assessment with regard to legislation, planning and programming and for public and private works of great impact on the environment;
- j. urgently implement control and monitoring systems that are global, continuous, transparent, well publicised and comprehensible to everyone;
- k. prohibit forms of propaganda for the manufacturing and production and for utilisation of resources considered to be incompatible with the requirements of education and the right to correct and complete environmental information;

- l.* conserve terrestrial, coastal and marine habitats together with the species of flora and fauna subject to special protection;
- m.* conserve the quality of agricultural land and related products against the excessive use of pesticides;
- n.* adopt the principle of ecological compatibility for rivers and lakes whereby they are given the capacity to resist and regenerate by requiring that productive and agricultural activities be authorised;
- o.* make the scientific and technical information necessary for protecting the environment available;
- p.* co-operate in research and monitoring and assist in cases of environmental disasters;
- q.* economic initiatives with other states and especially with the south of the planet to environmental impact assessment;
- r.* encourage the conservation of large ecosystems through the creation of international parks and reserves, acknowledging that all of nature is a legal and economic resource and a common heritage and that national sovereignty is an obligation at the service of human values.

International warranty organs

Article 9. International environmental agency

An international environmental agency shall be established as a permanent organ.

Composition

The agency shall consist of fifteen members, appointed by the United Nations General Assembly from among persons of high moral character and qualifications, from a list of 100 candidates submitted to the Secretary General of the United Nations.

Functions

The functions of the agency shall be:

- a.* to control and monitor the state of the environment on the planet;
- b.* to promote and carry out research, also with the assistance of independent experts, research centres and universities, on the actual state of the environment on the planet and on the evolution of large terrestrial, marine and atmospheric ecosystems;
- c.* to plan global initiatives for environmental protection and restoration;
- d.* to manage the World Environmental Fund;
- e.* to establish acceptable standards regarding polluting activities, which the single states may only make stricter;
- f.* to promote any other useful initiative for environmental protection, including a vast world-wide educational campaign on the environment;

- g. to publish an official report once every three years on the ecological evolution of the planet.

Term of office

The members shall be in office for a period of seven years and are not eligible for re-appointment. They shall elect a director with the role of representing and co-ordinating the activities of the agency. The director may only be re-elected once.

Article 10. International court of the environment

An international court of the environment shall be established as a permanent organ.

Organisation of the court

The court shall be composed of fifteen independent judges, elected by the United Nations General Assembly from a list submitted by the Secretary General.

The judges shall be in office for a period of seven years and shall be eligible for re-election.

The president of the court shall be directly elected by the United Nations Secretary General and shall be eligible for re-election.

The judges shall enjoy the prerogative of absolute independence with regard to their states of origin and shall receive a salary which will be paid out of the budget of the United Nations.

Functions

The functions of the court shall be:

- a. to protect the environment as a fundamental human right in the name of the international community;
- b. to decide any international environmental disputes involving the responsibility of states to the international community which have not been settled through conciliation or arbitration within a period of eighteen months;
- c. to decide any disputes concerning environmental damage, caused by private or public parties, including the state, where it is presumed that due to its size, characteristics and kind, this damage affects interests that are fundamental for safeguarding and protecting the human environment on Earth;
- d. to adopt urgent and precautionary measures when any environmental disaster concerning the international community is involved;
- e. to provide, at the request of the organs of the United Nations and other members of the international community, advisory opinions on important questions regarding the environment on a global level;

- f.* to arbitrate, upon request, without prejudice to its judicial role;
- g.* to carry out, upon request, investigations and inspections with the assistance of independent technical and scientific bodies when there is environmental risk or damage and, ex officio, when considered necessary and urgent.

Preliminary rulings

A national court may request the court to give a preliminary ruling on the international or national nature of the question brought before it.

Procedure

The procedure of the court shall provide that:

- a.* a court hearing shall be public;
- b.* all parties shall have the right to a defence;
- c.* a judgment shall state the reasons on which it is based and shall be final;
- d.* civil remedies shall include an interlocutory or perpetual injunction, or an order directing the party against whom judgment is made to pay the costs of restoring the damaged environment, where this is possible, and, failing that, to compensation for damages, with an order to pay the relative sum into the World Environmental Fund;
- e.* the enforcement of judgments shall be entrusted to the United Nations Security Council.

The court shall sit with five judges. The presiding judge and the *juge-rapporteur* shall be nominated by the president of the court.

Procedural rules

The court shall draw up its own rules and determine its own procedure.

Locus Standi

The following parties may appear before the court:

- a.* individuals;
- b.* non-governmental organisations and environmental associations;
- c.* states;
- d.* supranational organisations, such as the European Union;

- e. international organisations under the United Nations and the individual organs of the United Nations.

Legal action by an individual or non-governmental organisation or environmental association shall be subject to two conditions:

- a. that a claim has been made before the national courts and has been held to be inadmissible because there is no judicial remedy under national law or has been dismissed on the merits; and
- b. that the claim, having been filtered in terms of its admissibility, not as a matter of whether there is a cause of action, which is admitted as a general principle, but with regard to the international importance of the question raised (the same principle of inadmissibility shall be applied by the International Court of the Environment in camera and cannot be appealed against).

Individuals or associations may bring an action for the violation of the human right to the environment on the grounds that they have been prevented from gaining access to information, from participating in environmental decision-making processes or from taking legal action or for serious environmental risk, harm or damage of international importance, caused by any party whatsoever in violation of international law.

Sanctions

Whenever the court finds in favour of an individual or association, it shall adopt any measures considered necessary for remedying the violated right, or ordering, in accordance with the circumstances, whatever the party, or even the state, guilty of the alleged violation is or is not required to do.

If the claim by an individual or association is related to environmental damage, the judgment which orders the offender to pay the costs of restoring the damaged environment shall redress the claims of the claimant and of the international community.

If the claim for compensation for general environmental damage by an individual or association is upheld, an order shall be made in favour of the World Environmental Fund, while any claim for residual individual damage may only be made before the national courts and the claimant shall only have the right to costs before the international court.

Individuals or associations may bring an action for the violation of the human right to the environment on the grounds that they have been prevented from gaining access to information, from participating in environmental decision-making processes or from taking legal action or for serious environmental risk, harm or damage of international importance caused by any party whatsoever in violation of international law."

1.3.9. Inter Action Council

- Universal Declaration of Human Responsibilities, proposed by the Inter Action Council in September 1997

Universal Declaration of Human Responsibilities, proposed by the Inter Action Council in September 1997

“Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world and implies obligations or responsibilities;

Whereas the exclusive insistence on rights can result in conflict, division, and endless dispute, and the neglect of human responsibilities can lead to lawlessness and chaos;

Whereas the rule of law and the promotion of human rights depend on the readiness of men and women to act justly;

Whereas global problems demand global solutions which can only be achieved through ideas, values, and norms respected by all cultures and societies;

Whereas all people, to the best of their knowledge and ability, have a responsibility to foster a better social order, both at home and globally, a goal which cannot be achieved by laws, prescriptions, and conventions alone;

Whereas human aspirations for progress and improvement can only be realised by agreed values and standards applying to all people and institutions at all times,

Now, therefore, the General Assembly proclaims this Universal Declaration of Human Responsibilities as a common standard for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall contribute to the advancement of communities and to the enlightenment of all their members. We, the peoples of the world thus renew and reinforce commitments already proclaimed in the Universal Declaration of Human Rights: namely, the full acceptance of the dignity of all people; their inalienable freedom and equality, and their solidarity with one another. Awareness and acceptance of these responsibilities should be taught and promoted throughout the world.

Fundamental principles for humanity

[...]

Article 4

All people, endowed with reason and conscience, must accept a responsibility to each and all, to families and communities, to races, nations, and reli-

gions in a spirit of solidarity: What you do not wish to be done to yourself, do not do to others.

Non-violence and respect for life

Article 5

Every person has a responsibility to respect life. No one has the right to injure, to torture or to kill another human person. This does not exclude the right of justified self-defense of individuals or communities.

[...]

Article 7

Every person is infinitely precious and must be protected unconditionally. The animals and the natural environment also demand protection. All people have a responsibility to protect the air, water and soil of the Earth for the sake of present inhabitants and future generations.

[...]"

1.3.10 Institute for Human Rights, Environment and Development (INHURED)

– Recommendation on economic rights, environment and the right to development, adopted by the first International Conference on Human Rights Law-Making and Transition to Democracy, organised by the Institute for Human Rights, Environment and Development (INHURED) in Katmandu (Nepal) on 31 July 1991

Recommendation on economic rights, environment and the right to development, adopted by the first International Conference on Human Rights Law-Making and Transition to Democracy, organised by the Institute for Human Rights, Environment and Development (INHURED) in Katmandu (Nepal) on 31 July 1991

"Realising that the conditions for the establishment and practice of human rights can be ensured only through a democratic system of representation and governance;

[...]

Recognising further that the exercise of basic human rights is intrinsically dependent upon an equitable, participatory, and just mode of development;

Understanding that a ravaged, exploited and damaged environment cannot sustain human life conducive to the principles of human dignity, freedom and essential and inalienable rights;

Maintaining that a preserved and balanced natural environment is the foundation upon which a social environment of human rights can be created,

We, the participants of the First International Conference on Human Rights Law-Making and the Transition to Democracy, recommend that:

1. the development planning process be decentralised and made truly participatory, democratic, and relevant to the needs of the people and further that mechanisms be created within the planning process which will enable local communities to be empowered to initiate specific development projects for themselves;
2. as citizenship is not only a political but also an economic right, laws should be made according to the constitutional provisions on citizenship and the Government should devise a clear, systematic, unambiguous and egalitarian system of distribution;
3. all existing anti-democratic laws be urgently repealed and new laws be made according to the directive principles and policies of the State for the implementation of the International Covenant on Economic, Social and Cultural Rights;
4. a systematic and genuine land reform programme be devised and implemented and existing land redistribution schemes be streamlined and reviewed for defects;
5. agro-industries which are environmentally sound be promoted;
6. a national environment-friendly irrigation scheme be undertaken through state initiatives;
7. existing labour laws be revised and amended in the interest of ensuring minimum wages and other rights of workers in the industrial sector, including the right to organise and associate freely;
8. industries be dispersed throughout the country and that medium-sized towns be promoted in lieu of large cities to ensure a minimum quality of life;
9. laws and policies be devised and properly implemented to ensure free and compulsory primary education, especially in the rural areas;
10. informal, non-formal, and vocational education be promoted to improve the capabilities and skills of the working people for their empowerment;
11. the social and economic exploitation of women at all levels be addressed vigorously by the State;
12. the under-representation of women in education, government, public sector, and private sector be corrected by legislation, policy, and practice;
13. measures be taken to ensure minimum levels of health and hygiene, with priority for the rural areas;
14. measures be taken to ensure the availability of basic needs, such as food, shelter and clothing, to the masses of the people;
15. the mechanism for price regulation be put into practice to protect the economic conditions of the majority of the people who belong to the low-income groups;

16. the State draw up a plan on the basis of which effective prevention and protection from natural disasters, and compensation to the victims can be managed properly;

[...]

18. a greater degree of freedom of information be allowed in matters relating to the allocation and utilisation of foreign aid;

19. sustainable, affordable and environmentally sound alternatives to the existing energy sources be developed and promoted;

20. an emergency environmental restoration programme be implemented with particular emphasis on sustainable development and community control over natural resources;

[...]"

1.3.11 International Seminar "The right to the environment"

– Declaration of Bizkaia on the Right to the Environment and follow-up resolution, adopted by a group of international experts during a seminar promoted by the Provincial Council of Bizkaia and sponsored by Unesco and the United Nations High Commissioner for Human Rights, at Bilbao (Portugal) on 12 February 1999

Declaration of Bizkaia on the Right to the Environment and follow-up resolution, adopted by a group of international experts during a seminar promoted by the Provincial Council of Bizkaia and sponsored by Unesco and the United Nations High Commissioner for Human Rights, at Bilbao (Portugal) on 12 February 1999

Declaration of Bizkaia on the Right to the Environment

"The International Seminar on the Right to the Environment, held in Bilbao from 10 to 13 February 1999, under the auspices of Unesco and the United Nations High Commissioner for Human Rights,

Recalling that Principle 1 of the 1972 United Nations Declaration on the Human Environment proclaimed that 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 that he bears a solemn responsibility to protect and improve the environment for present and future generations;

Recalling that subsequently the 1992 Rio de Janeiro Declaration on the Environment and Development indicated that human beings are at the centre of concerns for sustainable development, and that they are entitled to a healthy and productive life in harmony with nature;

Recalling that regional instruments such as the African Charter on Human and People's Rights of 1981, the San Salvador Protocol on Economic, Social

and Cultural Rights of 1988 and the Convention of the United Nations Economic Commission for Europe on Access to Information, Public Participation and Access to Justice in Environmental Matters, adopted by the Fourth Ministerial Conference "Environment for Europe" held in Denmark, from 23 to 25 June 1998, have also developed the principle thus proclaimed;

Noting the Convention on Biological Diversity of 1992, the United Nations Framework Convention on Climate Change of 1992, the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa of 1994, and Convention 169 of the International Labour Organisation concerning Indigenous and Tribal Peoples in Independent Countries of 1989;

Noting that Resolution 45/94, passed on 14 December 1990 by the General Assembly of the United Nations, declares that all persons have the right to live in an environment which is adequate to ensure their health and welfare;

Noting that the Institute of International Law declared in its session in Strasbourg in 1997 that all human beings have the right to live in a healthy environment;

Noting that an increasing number of national constitutions proclaim the right to the environment;

Emphasising that the right to the environment is inherent to the dignity of all persons and is necessarily linked to the guaranteeing of other human rights including in particular the right to development;

Emphasising the universality, indivisibility and interdependence of all human rights;

Acknowledging that the right to the environment may be exercised, individually or in association with other persons, before public authorities and must be protected by the joint action of all those involved in the life of society: individuals, communities, public authorities and private bodies;

Noting that the right to the environment cannot be exercised unless sufficient quality information is available;

Emphasising the need for a human right to the environment to be recognised in legal instruments of universal scope;

Requests the international community, in particular the United Nations and other universal and regional organisations, that they examine the Declaration of Bizkaia on the Right to the Environment and adopt suitable measures for the recognition of this right.

Article 1. Right to the environment

1. Everyone has the right, individually or in association with others, to enjoy a healthy and ecologically balanced environment.
2. The right to the environment may be exercised before public bodies and private entities, whatever their legal status under national and international law.

3. The right to the environment must be exercised in a way which is compatible with other human rights, including the right to development.
4. Everyone has the right to the environment without any discrimination based on race, colour, sex, language, religion, political opinion or of any other nature.

Article 2. Duty to protect the environment

1. Everyone, individually or in association with others, has a duty to protect the environment and to foster environmental protection at both national and international levels.
2. Public authorities and international organisations are responsible for protecting and, if applicable, restoring the environment by all means within the scope of their competence. This responsibility should be carried out specifically through the following actions:
 - a. the protection, conservation, restoration, if necessary, and prevention of the deterioration of the biosphere, geosphere, hydrosphere and atmosphere;
 - b. the rational and sustainable use of natural resources;
 - c. the promotion of patterns of production and consumption which are conducive to sustainable development;
 - d. the integration of environment protection requirements into public policies and private activities, reflecting the non-discriminatory principle.
3. All states, particularly neighbouring states, should co-operate in the defence of the environment and in the fight against pollution, whatever its source.
4. States should endeavour to ensure that no unfavourable and irreversible modifications are introduced in the environment, which may damage the health of persons, or general well-being.

Article 3. Right to the environment and future generations

1. Future generations have the right to inherit a healthy and ecologically balanced environment.
2. States have an obligation to monitor the quality and diversity of the environment and, specifically, to assess in advance long-term environmental consequences of the implementation of major projects.

Article 4. Administrative transparency and the right to the environment

1. The decision-making processes of public authorities and international organisations in matters concerned with the environment should be governed by the principle of transparency. This principle requires the recognition of the rights of participation and access to information and the right to be informed.

2. Everyone has the right, individually or in association with others, directly or through representatives, to participate in the formulation of public policies and any other decisions concerning the environment.

3. Everyone has the right of access to information on the environment with no obligation to prove a particular interest. This right may be constrained only for justified, legally established reasons.

4. The right to be informed should be guaranteed also by the publication and distribution of regular reports on the state of the environment.

Article 5. Right to effective recourse

Any person or group of persons whose right to a healthy and ecologically balanced environment has been violated or who possess information on such violations should have effective recourse to national and international authorities.

Article 6. Right to reparation

Any person or group of persons who have suffered a violation of their right to a healthy and ecologically balanced environment and who have suffered environmental damage should have the right to demand and obtain appropriate redress, without prejudice to the restoration of the environment.

Article 7. Environmental education and public awareness-raising

1. Education and awareness-raising at all levels and through all means should prepare persons to play a useful role in protecting the environment.

2. States and international organisations should adopt the educational measures needed to ensure respect for and protection of the right of persons to a healthy and ecologically balanced environment.

3. The measures referred to in the foregoing point should include teaching and educational programmes in co-operation with non-governmental organisations.

Article 8. Shared responsibility

In accordance with the principles of international solidarity and common but differentiated responsibility for the protection of the environment, developed countries should strengthen co-operation with developing countries.

Article 9. Implementation of the right to the environment

1. States and international organisations should adopt all measures required to guarantee the right to a healthy and ecologically balanced environment recognised in this declaration.

2. Public authorities should develop and keep up-to-date environmental information within their competence and establish systems for collection

and classification of such information. Furthermore, that information should cover existing or planned activities which may affect the environment.

3. Similarly, states and international organisations should, through international co-operation and solidarity, eradicate poverty, since it is closely linked to the right to the environment, and should adopt such measures as may be necessary and adequate to achieve this goal.

4. In the implementation of the measures needed to guarantee the effective exercise of the right to the environment, special attention should be paid to vulnerable persons and groups.

Drawn up in Bilbao, 12 February 1999.

Follow-up resolution to the Declaration of Bizkaia on the Right to the Environment

At the expert seminar on the right to the environment held in Bilbao from 10 to 13 February 1999 under the auspices of Unesco and the United Nations High Commissioner for Human Rights,

Taking note that a suitable follow-up is required to the Declaration of Bizkaia on the Right to the Environment adopted on 12 February 1999,

The organising bodies: Provincial Council of Bizkaia, Basque Institute of Public Administration, Unesco Etxea – Unesco Centre in the Basque Country and the Pedro Arrupe Human Rights Institute of the University of Deusto,

Recommend that the following initiatives and measures be implemented with reference to the Declaration of Bizkaia on the Right to the Environment.

A. At the level of the Spanish state

1. Towns halls, general assemblies and provincial councils should adopt the Declaration of Bizkaia on the Right to the Environment.
2. The Basque Government and Parliament should adopt the Declaration of Bizkaia and propose that it be adopted also by the competent bodies of the other autonomous communities.
3. The authorities of the Basque Country should propose that the Declaration of Bizkaia be examined by the Spanish Parliament and other institutions, with a view to its being enshrined in legislation and regulations.

B. At European level

1. The Declaration of Bizkaia should be sent to the Parliamentary Assembly of the Council of Europe so that the human right to a healthy, ecologically balanced environment may be incorporated into the relevant instruments of law.
2. The Declaration of Bizkaia should be sent to all the institutions of the European Union with authority in environmental matters. In particular the

European Parliament should examine whether the Declaration of Bizkaia can be transformed into a document of Community law.

C. At international level

1. The Declaration of Bizkaia on the Right to the Environment should be sent to the Inter-Parliamentary Assembly so that appropriate steps may be taken with a view to the adopting of the declaration, as well as to the Organisation of American States and to the Organisation of African Unity.
2. The Declaration should be submitted to the Director General of Unesco and to the United Nations High Commissioner for Human Rights so that such processes as they may deem appropriate may be commenced for the recognition of the right to the environment as a human right.
3. The Declaration of Bizkaia should likewise be sent to other specialist bodies of the United Nations with a view to its application within the scope of their competence.

Drawn up in Bilbao, 13 February 1999."

2. The regional European framework

2.1. Legally binding instruments

2.1.1. Council of Europe

2.1.1.1. Adopted texts

- Convention for the Protection of Human Rights and Fundamental Freedoms, adopted in Rome (Italy) on 4 November 1950
- Additional Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, adopted in Paris (France) on 20 March 1952
- European Social Charter, adopted in Turin (Italy) on 18 October 1961
- Convention on the Conservation of European Wildlife and Natural Habitats, adopted in Bern (Switzerland) on 19 September 1979
- Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment, adopted in Lugano (Switzerland) on 21 June 1993
- Revised European Social Charter, adopted in Strasbourg (France) on 3 May 1996
- Convention on the Protection of the Environment through Criminal Law, adopted in Strasbourg (France) on 4 November 1998
- European Landscape Convention, adopted in Florence (Italy) on 20 October 2000

Convention for the Protection of Human Rights and Fundamental Freedoms, adopted in Rome (Italy) on 4 November 1950

“The governments signatory hereto, being members of the Council of Europe,

Considering the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10th December 1948;

Considering that this Declaration aims at securing the universal and effective recognition and observance of the rights therein declared;

Considering that the aim of the Council of Europe is the achievement of greater unity between its members and that one of the methods by which that aim is to be pursued is the maintenance and further realisation of human rights and fundamental freedoms;

Reaffirming their profound belief in those fundamental freedoms which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the human rights upon which they depend;

Being resolved, as the governments of European countries which are like-minded and have a common heritage of political traditions, ideals, freedom and the rule of law, to take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration;

Have agreed as follows:

[...]

Article 2

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

- a. in defence of any person from unlawful violence;
- b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- c. in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 3

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

[...]

Article 5

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- a. the lawful detention of a person after conviction by a competent court;
- b. the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
- c. the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
- d. the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

- e. the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
 - f. the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
 3. Everyone arrested or detained in accordance with the provisions of paragraph 1.c of this article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
 4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
 5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation.

Article 6

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
 - a. to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - b. to have adequate time and facilities for the preparation of his defence;
 - c. to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
 - d. to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

- e. to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

[...]

Article 8

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 9

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 10

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 11

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

[...]

Article 13

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

[...]"

Additional Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, adopted in Paris (France) on 20 March 1952

"The governments signatory hereto, being members of the Council of Europe,

Being resolved to take steps to ensure the collective enforcement of certain rights and freedoms other than those already included in Section I of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as 'the Convention'),

Have agreed as follows:

Article 1

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

[...]"

European Social Charter, adopted in Turin (Italy) on 18 October 1961

Preamble

The governments signatory hereto, being members of the Council of Europe, Considering that the aim of the Council of Europe is the achievement of greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and of facilitating their economic and social progress, in particular by the maintenance and further realisation of human rights and fundamental freedoms;

Considering that in the European Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November 1950, and the Protocol thereto signed at Paris on 20th March 1952, the member States of the Council of Europe agreed to secure to their populations the civil and political rights and freedoms therein specified;

Considering that the enjoyment of social rights should be secured without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin;

Being resolved to make every effort in common to improve the standard of living and to promote the social well-being of both their urban and rural populations by means of appropriate institutions and action,

Have agreed as follows:

Part I

The Contracting Parties accept as the aim of their policy, to be pursued by all appropriate means, both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised:

[...]

3. All workers have the right to safe and healthy working conditions.

[...]

11. Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.

[...]

Part II

[...]

Article 3. The right to safe and healthy working conditions

With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Contracting Parties undertake:

1. to issue safety and health regulations;

2. to provide for the enforcement of such regulations by measures of supervision;

3. to consult, as appropriate, employers' and workers' organisations on measures intended to improve industrial safety and health.

[...]

Article 11. The right to protection of health

With a view to ensuring the effective exercise of the right to protection of health, the Contracting Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia:

1. to remove as far as possible the causes of ill-health;

2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;

3. to prevent as far as possible epidemic, endemic and other diseases.

[...]"

Convention on the Conservation of European Wildlife and Natural Habitats, adopted in Bern (Switzerland) on 19 September 1979

"[...]

Article 3

[...]

3. Each Contracting Party shall promote education and disseminate general information on the need to conserve species of wild flora and fauna and their habitats.

[...]

Article 13

3.

[...]

Any body or agency technically qualified in the protection, conservation or management of wild fauna and flora and their habitats, and belonging to one of the following categories:

a. international agencies or bodies, either governmental or non-governmental, and national governmental agencies or bodies;

b. national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located,

may inform the Secretary General of the Council of Europe, at least three months before the meeting of the Committee, of its wish to be represented

at that meeting by observers. They shall be admitted unless, at least one month before the meeting, one third of the Contracting Parties have informed the Secretary General of their objection.

[...]"

Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment, adopted in Lugano (Switzerland) on 21 June 1993

"[...]

Article 14. Access to information held by public authorities

1. Any person shall, at his request and without his having to prove an interest, have access to information relating to the environment held by public authorities.

The Parties shall define the practical arrangements under which such information is effectively made available.

2. The right of access may be restricted under internal law where it affects:
- the confidentiality of the proceedings of public authorities, international relations and national defence;
 - public security;
 - matters which are or have been sub judice, or under enquiry (including disciplinary enquiries), or which are the subject of preliminary investigation proceedings;
 - commercial and industrial confidentiality, including intellectual property;
 - the confidentiality of personal data and/or files;
 - material supplied by a third party without that party being under a legal obligation to do so; or
 - material, the disclosure of which would make it more likely that the environment to which that material related would be damaged.

Information held by public authorities shall be supplied in part where it is possible to separate out information on items concerning the interests referred to above.

3. A request for information may be refused where it would involve the supply of unfinished documents or data or internal communications, or where the request is manifestly unreasonable or formulated in too general a manner.

4. A public authority shall respond to a person requesting information as soon as possible and at the latest within two months. The reasons for a refusal to provide the information requested must be given.

5. A person who considers that his request for information has been unreasonably refused or ignored, or has been inadequately answered by a public

authority, may seek a judicial or administrative review of the decision, in accordance with the relevant internal legal system.

6. The Parties may make a charge for supplying the information, but such a charge may not exceed a reasonable cost.

Article 15. Access to information held by bodies with public responsibilities for the environment

On the same terms and conditions as those set out in Article 14 any person shall have access to information relating to the environment held by bodies with public responsibilities for the environment and under the control of a public authority. Access shall be given via the competent public administration or directly by the bodies themselves.

Article 16. Access to specific information held by operators

1. The person who suffered the damage may, at any time, request the court to order an operator to provide him with specific information, in so far as this is necessary to establish the existence of a claim for compensation under this Convention.

2. Where, under this Convention, a claim for compensation is made to an operator, whether or not in the framework of judicial proceedings, this operator may request the court to order another operator to provide him with specific information, in so far as this is necessary to establish the extent of his possible obligation to compensate the person who has suffered the damage, or of his own right to compensation from the other operator.

3. The operator shall be required to provide information under paragraphs 1 and 2 of this article concerning the elements which are available to him and dealing essentially with the particulars of the equipment, the machinery used, the kind and concentration of the dangerous substances or waste as well as the nature of genetically modified organisms or micro-organisms.

4. These measures shall not affect measures of investigation which may legally be ordered under internal law.

5. The court may refuse a request which places a disproportionate burden on the operator, taking into account all the interests involved.

6. In addition to the restrictions under Article 14, paragraph 2 of this Convention, which shall apply *mutatis mutandis*, the operator may refuse to provide information where such information would incriminate him.

7. Any reasonable charge shall be paid by the person requesting the information. The operator may require an appropriate guarantee for such payment. However a court, when allowing a claim for compensation, may establish that this charge shall be borne by the operator, except to the extent that the request resulted in unnecessary costs.

[...]

Article 18. Requests by organisations

1. Any association or foundation which according to its statutes aims at the protection of the environment and which complies with any further conditions of internal law of the Party where the request is submitted may, at any time, request:

- a. the prohibition of a dangerous activity which is unlawful and poses a grave threat of damage to the environment;
- b. that the operator be ordered to take measures to prevent an incident or damage;
- c. that the operator be ordered to take measures, after an incident to prevent damage; or
- d. that the operator be ordered to take measures of reinstatement.

2. internal law may stipulate cases where the request is inadmissible.

3. Internal law may specify the body, whether administrative or judicial, before which the request referred to in paragraph 1 above should be made. In all cases provision shall be made for a right of review.

4. Before deciding upon a request mentioned under paragraph 1 above the requested body may, in view of the general interests involved, hear the competent public authorities.

5. When the internal law of a Party requires that the association or foundation has its registered seat or the effective centre of its activities in its territory, the Party may declare at any time, by means of a notification addressed to the Secretary General of the Council of Europe, that, on the basis of reciprocity, an association or foundation having its seat or centre of activities in the territory of another Party and complying in that other Party with the other conditions mentioned in paragraph 1 above shall have the right to submit requests in accordance with paragraphs 1 to 3 above. The declaration will become effective on the first day of the month following the expiration of a period of three months after the date of its reception by the Secretary General.

[...]"

Revised European Social Charter, adopted in Strasbourg (France) on 3 May 1996

"Preamble

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is the achievement of greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and of facilitating their economic and social progress, in particular by the maintenance and further realisation of human rights and fundamental freedoms;

Considering that in the European Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950, and the Protocols thereto, the member States of the Council of Europe agreed to secure to their populations the civil and political rights and freedoms therein specified;

Considering that in the European Social Charter opened for signature in Turin on 18 October 1961 and the Protocols thereto, the member States of the Council of Europe agreed to secure to their populations the social rights specified therein in order to improve their standard of living and their social well-being;

Recalling that the Ministerial Conference on Human Rights held in Rome on 5 November 1990 stressed the need, on the one hand, to preserve the indivisible nature of all human rights, be they civil, political, economic, social or cultural and, on the other hand, to give the European Social Charter fresh impetus;

Resolved, as was decided during the Ministerial Conference held in Turin on 21 and 22 October 1991, to update and adapt the substantive contents of the Charter in order to take account in particular of the fundamental social changes which have occurred since the text was adopted;

Recognising the advantage of embodying in a Revised Charter, designed progressively to take the place of the European Social Charter, the rights guaranteed by the Charter as amended, the rights guaranteed by the Additional Protocol of 1988 and to add new rights,

Have agreed as follows:

Part I

The Parties accept as the aim of their policy, to be pursued by all appropriate means both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised:

[...]

3. All workers have the right to safe and healthy working conditions.

[...]

11. Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.

[...]

22. The workers have the right to take part in the determination and improvement of the working conditions and working environment in the undertaking.

[...]

Part II

[...]

Article 3. The right to safe and healthy working conditions

With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake, in consultation with employers' and workers' organisations:

1. to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. The primary aim of this policy shall be to improve occupational safety and health and to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, particularly by minimising the causes of hazards inherent in the working environment;
2. to issue safety and health regulations;
3. to provide for the enforcement of such regulations by measures of supervision;
4. to promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions.

[...]

Article 11. The right to protection of health

With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia:

1. to remove as far as possible the causes of ill-health;
2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;
3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.

[...]

Article 22. The right to take part in the determination and improvement of the working conditions and working environment

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

- a. to the determination and the improvement of the working conditions, work organisation and working environment;
- b. to the protection of health and safety within the undertaking;

- c. to the organisation of social and socio-cultural services and facilities within the undertaking;
- d. to the supervision of the observance of regulations on these matters.

[...]"

Convention on the Protection of the Environment through Criminal Law, adopted in Strasbourg (France) on 4 November 1998

"[...]

Article 11. Rights for groups to participate in proceedings

Each Party may, at any time, in a declaration addressed to the Secretary General of the Council of Europe, declare that it will, in accordance with domestic law, grant any group, foundation or association which, according to its statutes, aims at the protection of the environment, the right to participate in criminal proceedings concerning offences established in accordance with this Convention.

[...]"

European Landscape Convention, adopted in Florence (Italy) on 20 October 2000

"Preamble

The member States of the Council of Europe signatory hereto,

- [...]
- Concerned to achieve sustainable development based on a balanced and harmonious relationship between social needs, economic activity and the environment;
- Noting that the landscape has an important public interest role in the cultural, ecological, environmental and social fields, and constitutes a resource favourable to economic activity and whose protection, management and planning can contribute to job creation;
- Aware that the landscape contributes to the formation of local cultures and that it is a basic component of the European natural and cultural heritage, contributing to human well-being and consolidation of the European identity;

[...]

- Wishing to respond to the public's wish to enjoy high quality landscapes and to play an active part in the development of landscapes;
- Believing that the landscape is a key element of individual and social well-being and that its protection, management and planning entail rights and responsibilities for everyone;
- [...]

Have agreed as follows:

[...]

Article 5. General measures

Each Party undertakes:

[...]

- c. to establish procedures for the participation of the general public, local and regional authorities, and other parties with an interest in the definition and implementation of the landscape policies mentioned in paragraph b above;
- d. to integrate landscape into its regional and town planning policies and in its cultural, environmental, agricultural, social and economic policies, as well as in any other policies with possible direct or indirect impact on landscape.

Article 6. Specific measures

A. Awareness-raising

Each Party undertakes to increase awareness among the civil society, private organisations, and public authorities of the value of landscapes, their role and changes to them.

B. Training and education

Each Party undertakes to promote:

- a. training for specialists in landscape appraisal and operations;
- b. multidisciplinary training programmes in landscape policy, protection, management and planning, for professionals in the private and public sectors and for associations concerned;
- c. school and university courses which, in the relevant subject areas, address the values attaching to landscapes and the issues raised by their protection, management and planning.

C. Identification and assessment

1. With the active participation of the interested parties, as stipulated in Article 5c, and with a view to improving knowledge of its landscapes, each Party undertakes:

- a. i. to identify its own landscapes throughout its territory;
- ii. to analyse their characteristics and the forces and pressures transforming them;
- iii. to take note of changes;
- b. to assess the landscapes thus identified, taking into account the particular values assigned to them by the interested parties and the population concerned.

2. These identification and assessment procedures shall be guided by the exchanges of experience and methodology, organised between the Parties at European level pursuant to Article 8.

[...]"

2.1.1.2. Draft texts

- Draft additional protocol to the Convention on Human Rights and Fundamental Freedoms of 4 November 1950, presented by the Minister of the Federal Republic of Germany at the European Ministerial Conference on the Environment in Vienna (Austria) on 28 March 1973 and recommended to the deliberation of the competent organs of the Council of Europe

Draft additional protocol to the Convention on Human Rights and Fundamental Freedoms of 4 November 1950, presented by the Minister of the Federal Republic of Germany at the European Ministerial Conference on the Environment in Vienna (Austria) on 28 March 1973 and recommended to the deliberation of the competent organs of the Council of Europe

"The governments signatory hereto, members of the Council of Europe,

Resolved, in accordance with the mandate given them in Article 1, paragraph b of the Statutes of the Council of Europe to continue to develop human rights and fundamental freedoms, and to work, in keeping with the needs of modern society, for the improvement of the level of legal guarantee of the conditions of human life achieved in Europe by the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on November 4, 1950 (referred to below as the Convention) and by the five additional protocols to the Convention,

Considering that protection of the life of individuals is an integral part of the original goals of human rights and is already recognised in principle in Article 2 of the Convention,

Considering that at the present time the protection of life essentially requires the existence of a natural environment favourable to human health,

Have agreed as follows:

Article 1. Right to health

1. No one should be exposed to intolerable damage or threats to his health or to intolerable impairment of his well-being as a result of adverse changes in the natural conditions of life.

2. An impairment of well-being may, however, be deemed to be tolerable if it is necessary for the maintenance and development of the economic conditions of the community and if there is no alternative way of making it possible to avoid this impairment.

Article 2. Protection against private persons

1. If adverse changes in the natural conditions of life are likely to occur in his vital sphere as a result of the action of other parties, any individual is entitled to demand that the competent agencies examine the situation, and that they remedy such situation in all cases where Article 1 applies.

2. Any individual acting under paragraph 1 shall, within reasonable time, receive detailed information stating what measures – if any – have been taken to prevent those adverse changes.

Article 3. Connecting with the Convention

As between the High Contracting Parties the provisions of Articles 1 and 2 of this Protocol shall be regarded as additional articles to the Convention and all provisions of the Convention shall apply accordingly.

Article 4. Signature and entry into force

1. This Protocol shall be open for signature by the members of the Council of Europe who are the signatories of the Convention; it shall be ratified at the same time as or after the ratification of the Convention. It shall enter into force after the deposit of five instruments of ratification. As regards any signatory ratifying subsequently, the Protocol shall enter into force at the date of the deposit of its instrument of ratification.

2. The instruments of ratification shall be deposited with the Secretary General of the Council of Europe, who will notify all members of the names of those who have ratified."

2.1.2. Economic Commission for Europe of the United Nations (UN/ECE)

- Convention on Environmental Impact Assessment in a Transboundary Context, adopted in Espoo (Finland) on 25 February 1991
- Convention on the Transboundary Effects of Industrial Accidents, adopted in Helsinki (Finland) on 17 March 1992
- Convention on the Protection and Use of Transboundary Watercourses and International Lakes, adopted in Helsinki (Finland) on 17 March 1992
- Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, adopted in Aarhus (Denmark) on 25 June 1998

Convention on Environmental Impact Assessment in a Transboundary Context, adopted in Espoo (Finland) in 25 February 1991

"[...]

Article 2. General provisions

[...]

2. Each Party shall take the necessary legal, administrative or other measures to implement the provisions of this Convention, including, with respect to proposed activities listed in Appendix I that are likely to cause significant adverse transboundary impact, the establishment of an environmental impact assessment procedure that permits public participation and preparation of the environmental impact assessment documentation described in Appendix II.

[...]

6. The Party of origin shall provide, in accordance with the provisions of this Convention, an opportunity to the public in the areas likely to be affected to participate in relevant environmental impact assessment procedures regarding proposed activities and shall ensure that the opportunity provided to the public of the affected Party is equivalent to that provided to the public of the Party of origin.

[...]

Article 3. Notification

[...]

8. The concerned Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed of, and be provided with possibilities for making comments or objections on, the proposed activity, and for the transmittal of these comments or objections to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin.

Article 4. Preparation of environmental impact assessment documentation

[...]

2. The Party of origin shall furnish the affected Party, as appropriate through a joint body where one exists, with the environmental impact assessment documentation. The concerned Parties shall arrange for distribution of the documentation to the authorities and the public of the affected Party in the areas likely to be affected and for the submission of comments to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin within a reasonable time before the final decision is taken on the proposed activity.

[...]"

Convention on the Transboundary Effects of Industrial Accidents, adopted in Helsinki (Finland) on 17 March 1992

"[...]

Article 9. Information to, and participation of the public

1. The Parties shall ensure that adequate information is given to the public in the areas capable of being affected by an industrial accident arising out of

a hazardous activity. This information shall be transmitted through such channels as the Parties deem appropriate, shall include the elements contained in Annex VIII hereto and should take into account matters set out in Annex V, paragraph 2, subparagraphs 1 to 4 and 9.

2. The Party of origin shall, in accordance with the provisions of this Convention and whenever possible and appropriate, give the public in the areas capable of being affected an opportunity to participate in relevant procedures with the aim of making known its views and concerns on prevention and preparedness measures, and shall ensure that the opportunity given to the public of the affected Party is equivalent to that given to the public of the Party of origin.

3. The Parties shall, in accordance with their legal systems and, if desired, on a reciprocal basis provide natural or legal persons who are being or are capable of being adversely affected by the transboundary effects of an industrial accident in the territory of a Party, with access to, and treatment in the relevant administrative and judicial proceedings, including the possibilities of starting a legal action and appealing a decision affecting their rights, equivalent to those available to persons within their own jurisdiction.

[...]

Annex V. Analysis and evaluation

1. The analysis and evaluation of the hazardous activity should be performed with a scope and to a depth which vary depending on the purpose for which they are carried out.

2. The following table illustrates, for the purposes of the related Articles, matters which should be considered in the analysis and evaluation, for the purposes listed:

Purpose of analysis – Emergency planning under Article 8

| Purpose of analysis | Matters to be considered |
|------------------------------------|--|
| Emergency planning under Article 8 | <p>(1) The quantities and properties of hazardous substances on the site;</p> <p>(2) Brief descriptive scenarios of a representative sample of industrial accidents possibly arising from the hazardous activity, including an indication of the likelihood of each;</p> <p>(3) For each scenario:</p> <p>(a) The approximate quantity of a release;</p> <p>(b) The extent and severity of the resulting consequences both for people and for the non-human environment in favourable and unfavourable conditions, including the extent of resulting hazard zones;</p> |

| | |
|---|--|
| | <p>(c) The time-scale within which the industrial accident could develop from the initiating event;</p> <p>(d) Any action which could be taken to minimize the likelihood of escalation.</p> <p>(4) The size and distribution of the population in the vicinity, including any large concentrations of people potentially in the hazard zone;</p> <p>(5) The age, mobility and susceptibility of that population. In addition to items (1) to (5) above:</p> |
| Information to the public under Article 9 | <p>In addition to items 1 to 4 above:</p> <p>9. The people who may be affected by an industrial accident.</p> |

[...]

Annex VIII. Information to the public pursuant to Article 9

1. The name of the company, address of the hazardous activity and identification by position held of the person giving the information;
2. An explanation in simple terms of the hazardous activity, including the risks;
3. The common names or the generic names or the general danger classification of the substances and preparations which are involved in the hazardous activity, with an indication of their principal dangerous characteristics;
4. General information resulting from an environmental impact assessment, if available and relevant;
5. The general information relating to the nature of an industrial accident that could possibly occur in the hazardous activity, including its potential effects on the population and the environment;
6. Adequate information on how the affected population will be warned and kept informed in the event of an industrial accident;
7. Adequate information on the actions the affected population should take and on the behaviour they should adopt in the event of an industrial accident;
8. Adequate information on arrangements made regarding the hazardous activity, including liaison with the emergency services, to deal with industrial accidents, to reduce the severity of the industrial accidents and to mitigate their effects;
9. General information on the emergency services' off-site contingency plan, drawn up to cope with any off-site effects, including the transboundary effects of an industrial accident;

10. General information on special requirements and conditions to which the hazardous activity is subject according to the relevant national regulations and/or administrative provisions, including licensing or authorisation systems;

11. Details of where further relevant information can be obtained.

[...]"

Convention on the Protection and Use of Transboundary Watercourses and International Lakes, adopted in Helsinki (Finland) on 17 March 1992

"[...]

Article 8. Protection of information

The provisions of this Convention shall not affect the rights or the obligations of Parties in accordance with their national legal systems and applicable supranational regulations to protect information related to industrial and commercial secrecy, including intellectual property, or national security.

[...]

Article 16. Public information

1. The Riparian Parties shall ensure that information on the conditions of transboundary waters, measures taken or planned to be taken to prevent, control and reduce transboundary impact, and the effectiveness of those measures, is made available to the public. For this purpose, the Riparian Parties shall ensure that the following information is made available to the public:

- a. Water-quality objectives;
- b. Permits issued and the conditions required to be met;
- c. Results of water and effluent sampling carried out for the purposes of monitoring and assessment, as well as results of checking compliance with the water-quality objectives or the permit conditions.

2. The Riparian Parties shall ensure that this information shall be available to the public at all reasonable times for inspection free of charge, and shall provide members of the public with reasonable facilities for obtaining from the Riparian Parties, on payment of reasonable charges, copies of such information.

[...]"

Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, adopted in Aarhus (Denmark) on 25 June 1998

"Preamble

The Parties to this Convention,

Recalling principle 1 of the Stockholm Declaration on the Human Environment;

Recalling also, principle 10 of the Rio Declaration on Environment and Development;

Recalling further General Assembly resolutions 37/7 of 28 October 1982 on the World Charter for Nature and 45/94 of 14 December 1990 on the need to ensure a healthy environment for the well-being of individuals;

Recalling the European Charter on Environment and Health adopted at the First European Conference on Environment and Health of the World Health Organisation in Frankfurt-am-Main, Germany, on 8 December 1989;

Affirming the need to protect, preserve and improve the state of the environment and to ensure sustainable and environmentally sound development;

Recognising that adequate protection of the environment is essential to human well-being and the enjoyment of basic human rights, including the right to life itself;

Recognising also that every person has the right to live in an environment adequate to his or her health and well-being, and the duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations;

Considering that, to be able to assert this right and observe this duty, citizens must have access to information, be entitled to participate in decision-making and have access to justice in environmental matters, and acknowledging in this regard that citizens may need assistance in order to exercise their rights;

Recognising that, in the field of the environment, improved access to information and public participation in decision-making enhance the quality and the implementation of decisions, contribute to public awareness of environmental issues, give the public the opportunity to express its concerns and enable public authorities to take due account of such concerns;

Aiming thereby to further the accountability of and transparency in decision-making and to strengthen public support for decisions on the environment;

Recognising the desirability of transparency in all branches of government and inviting legislative bodies to implement the principles of this Convention in their proceedings;

Recognising also that the public needs to be aware of the procedures for participation in environmental decision-making, have free access to them and know how to use them;

Recognising further the importance of the respective roles that individual citizens, non-governmental organisations and the private sector can play in environmental protection;

Desiring to promote environmental education to further the understanding of the environment and sustainable development and to encourage widespread public awareness of, and participation in, decisions affecting the environment and sustainable development;

Noting, in this context, the importance of making use of the media and of electronic or other, future forms of communication;

Recognising the importance of fully integrating environmental considerations in governmental decision-making and the consequent need for public authorities to be in possession of accurate, comprehensive and up-to-date environmental information;

Acknowledging that public authorities hold environmental information in the public interest;

Concerned that effective judicial mechanisms should be accessible to the public, including organisations, so that its legitimate interests are protected and the law is enforced;

Noting the importance of adequate product information being provided to consumers to enable them to make informed environmental choices;

Recognising the concern of the public about the deliberate release of genetically-modified organisms into the environment and the need for increased transparency and greater public participation in decision-making in this field;

Convinced that the implementation of this Convention will contribute to strengthening democracy in the region of the United Nations Economic Commission for Europe (ECE);

Conscious of the role played in this respect by ECE and recalling, inter alia, the ECE Guidelines on Access to Environmental Information and Public Participation in Environmental Decision-making endorsed in the Ministerial Declaration adopted at the Third Ministerial Conference 'Environment for Europe' in Sofia, Bulgaria, on 25 October 1995;

Bearing in mind the relevant provisions in the Convention on Environmental Impact Assessment in a Transboundary Context done at Espoo, Finland, on 25 February 1991, and the Convention on the Transboundary Effects of Industrial Accidents and the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, both done at Helsinki on 17 March 1992, and other regional conventions;

Conscious that the adoption of this Convention will have contributed to the further strengthening of the 'Environment for Europe' process and to the

results of the Fourth Ministerial Conference in Aarhus, Denmark, in June 1998,

Have agreed as follows:

Article 1. Objective

In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.

Article 2. Definitions

For the purposes of this Convention,

1. 'Party' means, unless the text otherwise indicates, a Contracting Party to this Convention;
2. 'Public authority' means:
 - a. government at national, regional and other level;
 - b. natural or legal persons performing public administrative functions under national law, including specific duties, activities or services in relation to the environment;
 - c. any other natural or legal persons having public responsibilities or functions, or providing public services, in relation to the environment, under the control of a body or person falling within subparagraphs a or b above;
 - d. the institutions of any regional economic integration organisation referred to in Article 17 which is a Party to this Convention.

This definition does not include bodies or institutions acting in a judicial or legislative capacity;

3. 'Environmental information' means any information in written, visual, aural, electronic or any other material form on:
 - a. the state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
 - b. factors, such as substances, energy, noise and radiation, and activities or measures, including administrative measures, environmental agreements, policies, legislation, plans and programmes, affecting or likely to affect the elements of the environment within the scope of subparagraph a above, and cost-benefit and other economic analyses and assumptions used in environmental decision-making;
 - c. the state of human health and safety, conditions of human life, cultural sites and built structures, inasmuch as they are or may be affected by the state of the elements of the environment or, through these ele-

ments, by the factors, activities or measures referred to in sub-paragraph b above;

4. 'The public' means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organisations or groups;

5. 'The public concerned' means the public affected or likely to be affected by, or having an interest in, the environmental decision-making; for the purposes of this definition, non-governmental organisations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest.

Article 3. General Provisions

1. Each Party shall take the necessary legislative, regulatory and other measures, including measures to achieve compatibility between the provisions implementing the information, public participation and access-to-justice provisions in this Convention, as well as proper enforcement measures, to establish and maintain a clear, transparent and consistent framework to implement the provisions of this Convention.

2. Each Party shall endeavour to ensure that officials and authorities assist and provide guidance to the public in seeking access to information, in facilitating participation in decision-making and in seeking access to justice in environmental matters.

3. Each Party shall promote environmental education and environmental awareness among the public, especially on how to obtain access to information, to participate in decision-making and to obtain access to justice in environmental matters.

4. Each Party shall provide for appropriate recognition of and support to associations, organisations or groups promoting environmental protection and ensure that its national legal system is consistent with this obligation.

5. The provisions of this Convention shall not affect the right of a Party to maintain or introduce measures providing for broader access to information, more extensive public participation in decision-making and wider access to justice in environmental matters than required by this Convention.

6. This Convention shall not require any derogation from existing rights of access to information, public participation in decision-making and access to justice in environmental matters.

7. Each Party shall promote the application of the principles of this Convention in international environmental decision-making processes and within the framework of international organisations in matters relating to the environment.

8. Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalised, persecuted or harassed in any way for their involvement. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings.

9. Within the scope of the relevant provisions of this Convention, the public shall have access to information, have the possibility to participate in decision-making and have access to justice in environmental matters without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities.

Article 4. Access to environmental information

1. Each Party shall ensure that, subject to the following paragraphs of this article, public authorities, in response to a request for environmental information, make such information available to the public, within the framework of national legislation, including, where requested and subject to subparagraph b below, copies of the actual documentation containing or comprising such information:

- a. without an interest having to be stated;
- b. in the form requested unless:
 - i. it is reasonable for the public authority to make it available in another form, in which case reasons shall be given for making it available in that form; or
 - ii. the information is already publicly available in another form.

2. The environmental information referred to in paragraph 1 above shall be made available as soon as possible and at the latest within one month after the request has been submitted, unless the volume and the complexity of the information justify an extension of this period up to two months after the request. The applicant shall be informed of any extension and of the reasons justifying it.

3. A request for environmental information may be refused if:

- a. the public authority to which the request is addressed does not hold the environmental information requested;
- b. the request is manifestly unreasonable or formulated in too general a manner; or
- c. the request concerns material in the course of completion or concerns international communications of public authorities where such an exemption is provided for in national law or customary practice, taking into account the public interest served by disclosure.

4. A request for environmental information may be refused if the disclosure would adversely affect:

- a. the confidentiality of the proceedings of public authorities, where such confidentiality is provided for under national law;
- b. international relations, national defence or public security;
- c. the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;

- d.* the confidentiality of commercial and industrial information, where such confidentiality is protected by law in order to protect a legitimate economic interest. Within this framework, information on emissions which is relevant for the protection of the environment shall be disclosed;
- e.* intellectual property rights;
- f.* the confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for in national law;
- g.* the interests of a third party which has supplied the information requested without that party being under or capable of being put under a legal obligation to do so, and where that party does not consent to the release of the material; or
- h.* the environment to which the information relates, such as the breeding sites of rare species.

The aforementioned grounds for refusal shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and taking into account whether the information requested relates to emissions into the environment.

5. Where a public authority does not hold the environmental information requested, this public authority shall, as promptly as possible, inform the applicant of the public authority to which it believes it is possible to apply for the information requested or transfer the request to that authority and inform the applicant accordingly.

6. Each Party shall ensure that, if information exempted from disclosure under paragraphs 3.c and 4 above can be separated out without prejudice to the confidentiality of the information exempted, public authorities make available the remainder of the environmental information that has been requested.

7. A refusal of a request shall be in writing if the request was in writing or the applicant so requests. A refusal shall state the reasons for the refusal and give information on access to the review procedure provided for in accordance with Article 9. The refusal shall be made as soon as possible and at the latest within one month, unless the complexity of the information justifies an extension of this period up to two months after the request. The applicant shall be informed of any extension and of the reasons justifying it.

8. Each Party may allow its public authorities to make a charge for supplying information, but such charge shall not exceed a reasonable amount. Public authorities intending to make such a charge for supplying information shall make available to applicants a schedule of charges which may be levied or waived and when the supply of information is conditional on the advance of such a charge.

Article 5. Collection and dissemination of environmental information

1. Each Party shall ensure that:
 - a. public authorities possess and update environmental information which is relevant to their functions;
 - b. mandatory systems are established so that there is an adequate flow of information to public authorities about proposed and existing activities which may significantly affect the environment;
 - c. in the event of any imminent threat to human health or the environment, whether caused by human activities or due to natural causes, all information which could enable the public to take measures to prevent or mitigate harm arising from the threat and is held by a public authority is disseminated immediately and without delay to members of the public who may be affected.
2. Each Party shall ensure that, within the framework of national legislation, the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible, inter alia, by:
 - a. providing sufficient information to the public about the type and scope of environmental information held by the relevant public authorities, the basic terms and conditions under which such information is made available and accessible, and the process by which it can be obtained;
 - b. establishing and maintaining practical arrangements, such as:
 - i. publicly accessible lists, registers or files;
 - ii. requiring officials to support the public in seeking access to information under this Convention; and
 - iii. the identification of points of contact; and
 - c. providing access to the environmental information contained in lists, registers or files as referred to in subparagraph b.i above free of charge.
3. Each Party shall ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks. Information accessible in this form should include:
 - a. reports on the state of the environment, as referred to in paragraph 4 below;
 - b. texts of legislation on or relating to the environment;
 - c. as appropriate, policies, plans and programmes on or relating to the environment, and environmental agreements; and
 - d. other information, to the extent that the availability of such information in this form would facilitate the application of national law implementing this Convention,provided that such information is already available in electronic form.
4. Each Party shall, at regular intervals not exceeding three or four years, publish and disseminate a national report on the state of the environment,

including information on the quality of the environment and information on pressures on the environment.

5. Each Party shall take measures within the framework of its legislation for the purpose of disseminating, *inter alia*:

- a. legislation and policy documents such as documents on strategies, policies, programmes and action plans relating to the environment, and progress reports on their implementation, prepared at various levels of government;
- b. international treaties, conventions and agreements on environmental issues; and
- c. other significant international documents on environmental issues, as appropriate.

6. Each Party shall encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products, where appropriate within the framework of voluntary eco-labelling or eco-auditing schemes or by other means.

7. Each Party shall:

- a. publish the facts and analyses of facts which it considers relevant and important in framing major environmental policy proposals;
- b. publish, or otherwise make accessible, available explanatory material on its dealings with the public in matters falling within the scope of this Convention; and
- c. provide in an appropriate form information on the performance of public functions or the provision of public services relating to the environment by government at all levels.

8. Each Party shall develop mechanisms with a view to ensuring that sufficient product information is made available to the public in a manner which enables consumers to make informed environmental choices.

9. Each Party shall take steps to establish progressively, taking into account international processes where appropriate, a coherent, nationwide system of pollution inventories or registers on a structured, computerised and publicly accessible database compiled through standardised reporting. Such a system may include inputs, releases and transfers of a specified range of substances and products, including water, energy and resource use, from a specified range of activities to environmental media and to on-site and off-site treatment and disposal sites.

10. Nothing in this article may prejudice the right of Parties to refuse to disclose certain environmental information in accordance with Article 4, paragraphs 3 and 4.

Article 6. Public participation in decisions on specific activities

1. Each Party:

- a. shall apply the provisions of this article with respect to decisions on whether to permit proposed activities listed in annex I;
 - b. shall, in accordance with its national law, also apply the provisions of this article to decisions on proposed activities not listed in annex I which may have a significant effect on the environment. To this end, parties shall determine whether such a proposed activity is subject to these provisions; and
 - c. may decide, on a case-by-case basis if so provided under national law, not to apply the provisions of this article to proposed activities serving national defence purposes, if that party deems that such application would have an adverse effect on these purpose.
2. The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, inter alia, of:
- a. the proposed activity and the application on which a decision will be taken;
 - b. the nature of possible decisions or the draft decision;
 - c. the public authority responsible for making the decision;
 - d. the envisaged procedure, including, as and when this information can be provided:
 - i. the commencement of the procedure;
 - ii. the opportunities for the public to participate;
 - iii. the time and venue of any envisaged public hearing;
 - iv. an indication of the public authority from which relevant information can be obtained and where the relevant information has been deposited for examination by the public;
 - v. an indication of the relevant public authority or any other official body to which comments or questions can be submitted and of the time schedule for transmittal of comments or question; and
 - vi. an indication of what environmental information relevant to the proposed activity is available; and
 - e. the fact that the activity is subject to a national or transboundary environmental impact assessment procedure.
3. The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public in accordance with paragraph 2 above and for the public to prepare and participate effectively during the environmental decision-making.
4. Each Party shall provide for early public participation, when all options are open and effective public participation can take place.
5. Each Party should, where appropriate, encourage prospective applicants to identify the public concerned to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit.

6. Each Party shall require the competent public authorities to give the public concerned access for examination, upon request where so required under national law, free of charge and as soon as it becomes available, to all information relevant to the decision-making referred to in this article that is available at the time of the public participation procedure, without prejudice to the right of Parties to refuse to disclose certain information in accordance with Article 4, paragraphs 3 and 4. The relevant information shall include at least, and without prejudice to the provisions of Article 4:

- a. a description of the site and the physical and technical characteristics of the proposed activity, including an estimate of the expected residues and emissions;
- b. a description of the significant effects of the proposed activity on the environment;
- c. a description of the measures envisaged to prevent and/or reduce the effects, including emissions;
- d. a non-technical summary of the above;
- e. an outline of the main alternatives studied by the applicant; and
- f. in accordance with national legislation, the main reports and advice issued to the public authority at the time when the public concerned shall be informed in accordance with paragraph 2 above.

7. Procedures for public participation shall allow the public to submit, in writing or, as appropriate, at a public hearing or enquiry with the applicant, any comments, information, analyses or opinions that it considers relevant to the proposed activity.

8. Each Party shall ensure that in the decision due account is taken of the outcome of the public participation.

9. Each Party shall ensure that, when the decision has been taken by the public authority, the public is promptly informed of the decision in accordance with the appropriate procedures. Each Party shall make accessible to the public the text of the decision along with the reasons and considerations on which the decision is based.

10. Each Party shall ensure that, when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 and 9 of this article are applied *mutatis mutandis*, and where appropriate.

11. Each Party shall, within the framework of its national law, apply, to the extent feasible and appropriate, provisions of this article to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Article 7. Public participation concerning plans, programmes and policies relating to the environment

Each Party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes

relating to the environment, within a transparent and fair framework, having provided the necessary information to the public. Within this framework, Article 6, paragraphs 3, 4 and 8, shall be applied. The public which may participate shall be identified by the relevant public authority, taking into account the objectives of this Convention. To the extent appropriate, each Party shall endeavour to provide opportunities for public participation in the preparation of policies relating to the environment.

Article 8. Public participation during the preparation of executive regulations and/or generally applicable legally binding normative instruments

Each Party shall strive to promote effective public participation at an appropriate stage, and while options are still open, during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment. To this end, the following steps should be taken:

- a. time-frames sufficient for effective participation should be fixed;
- b. draft rules should be published or otherwise made publicly available; and
- c. the public should be given the opportunity to comment, directly or through representative consultative bodies.

The result of the public participation shall be taken into account as far as possible.

Article 9. Access to justice

1. Each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information under Article 4 has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of that article, has access to a review procedure before a court of law or another independent and impartial body established by law.

In the circumstances, where a Party provides for such a review by a court of law, it shall ensure that such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law.

Final decisions under this paragraph 1 shall be binding on the public authority holding the information. Reasons shall be stated in writing, at least where access to information is refused under this paragraph.

2. Each Party shall, within the framework of its national legislation, ensure that members of the public concerned

- a. having a sufficient interest
or, alternatively,
- b. maintaining impairment of a right, where the administrative procedural law of a Party requires this as a precondition,

have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of Article 6 and, where so provided for under national law and without prejudice to paragraph 3 below, of other relevant provisions of this Convention.

What constitutes a sufficient interest and impairment of a right shall be determined in accordance with the requirements of national law and consistently with the objective of giving the public concerned wide access to justice within the scope of this Convention. To this end, the interest of any non-governmental organisation meeting the requirements referred to in Article 2, paragraph 5, shall be deemed sufficient for the purpose of subparagraph a above. Such organisations shall also be deemed to have rights capable of being impaired for the purpose of subparagraph b above.

The provisions of this paragraph 2 shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

3. In addition and without prejudice to the review procedures referred to in paragraphs 1 and 2 above, each Party shall ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.

4. In addition and without prejudice to paragraph 1 above, the procedures referred to in paragraphs 1, 2 and 3 above shall provide adequate and effective remedies, including injunctive relief as appropriate, and be fair, equitable, timely and not prohibitively expensive. Decisions under this article shall be given or recorded in writing. Decisions of courts, and whenever possible of other bodies, shall be publicly accessible.

5. In order to further the effectiveness of the provisions of this article, each Party shall ensure that information is provided to the public on access to administrative and judicial review procedures and shall consider the establishment of appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice.

Article 10. Meeting of the Parties

1. The first meeting of the Parties shall be convened no later than one year after the date of the entry into force of this Convention. Thereafter, an ordinary meeting of the Parties shall be held at least once every two years, unless otherwise decided by the Parties, or at the written request of any Party, provided that, within six months of the request being communicated to all Parties by the Executive Secretary of the Economic Commission for Europe, the said request is supported by at least one third of the Parties.

2. At their meetings, the Parties shall keep under continuous review the implementation of this Convention on the basis of regular reporting by the Parties, and, with this purpose in mind, shall:

- a. review the policies for and legal and methodological approaches to access to information, public participation in decision-making and access to justice in environmental matters, with a view to further improving them;
- b. exchange information regarding experience gained in concluding and implementing bilateral and multilateral agreements or other arrangements having relevance to the purposes of this Convention and to which one or more of the Parties are a Party;
- c. seek, where appropriate, the services of relevant ECE bodies and other competent international bodies and specific committees in all aspects pertinent to the achievement of the purposes of this Convention;
- d. establish any subsidiary bodies as they deem necessary;
- e. prepare, where appropriate, protocols to this Convention;
- f. consider and adopt proposals for amendments to this Convention in accordance with the provisions of Article 14;
- g. consider and undertake any additional action that may be required for the achievement of the purposes of this Convention;
- h. at their first meeting, consider and by consensus adopt rules of procedure for their meetings and the meetings of subsidiary bodies;
- i. at their first meeting, review their experience in implementing the provisions of Article 5, paragraph 9, and consider what steps are necessary to develop further the system referred to in that paragraph, taking into account international processes and developments, including the elaboration of an appropriate instrument concerning pollution release and transfer registers or inventories which could be annexed to this Convention.

3. The Meeting of the Parties may, as necessary, consider establishing financial arrangements on a consensus basis.

4. The United Nations, its specialised agencies and the International Atomic Energy Agency, as well as any State or regional economic integration organisation entitled under Article 17 to sign this Convention but which is not a Party to this Convention, and any intergovernmental organisation qualified in the fields to which this Convention relates, shall be entitled to participate as observers in the meetings of the Parties.

5. Any non-governmental organisation, qualified in the fields to which this Convention relates, which has informed the Executive Secretary of the Economic Commission for Europe of its wish to be represented at a meeting of the Parties shall be entitled to participate as an observer unless at least one third of the Parties present in the meeting raise objections.

6. For the purposes of paragraphs 4 and 5 above, the rules of procedure referred to in paragraph 2.h above shall provide for practical arrangements for the admittance procedure and other relevant terms.

Article 11. Right to vote

1. Except as provided for in paragraph 2 below, each Party to this convention shall have one vote.

2. Regional economic integration organisations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to this Convention. Such organisations shall not exercise their right to vote if their member states exercise theirs, and vice versa.

Article 12. Secretariat

The Executive Secretary of the Economic Commission for Europe shall carry out the following secretariat functions:

- a. the convening and preparing of meetings of the Parties;
- b. the transmission to the Parties of reports and other information received in accordance with the provisions of this Convention; and
- c. such other functions as may be determined by the Parties.

Article 13. Annexes

The annexes to this Convention shall constitute an integral part thereof.

Article 14. Amendments to the Convention

1. Any Party may propose amendments to this Convention.
2. The text of any proposed amendment to this Convention shall be submitted in writing to the Executive Secretary of the Economic Commission for Europe, who shall communicate it to all Parties at least ninety days before the meeting of the Parties at which it is proposed for adoption.
3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.
4. Amendments to this Convention adopted in accordance with paragraph 3 above shall be communicated by the Depositary to all Parties for ratification, approval or acceptance. Amendments to this Convention other than those to an annex shall enter into force for Parties having ratified, approved or accepted them on the ninetieth day after the receipt by the Depositary of notification of their ratification, approval or acceptance by at least three-fourths of these Parties. Thereafter they shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval or acceptance of the amendments.

5. Any Party that is unable to approve an amendment to an annex to this Convention shall so notify the Depositary in writing within twelve months from the date of the communication of the adoption. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and, upon deposit of an instrument of acceptance with the Depositary, the amendments to such an annex shall become effective for that Party.

6. On the expiry of twelve months from the date of its communication by the Depositary as provided for in paragraph 4 above an amendment to an annex shall become effective for those Parties which have not submitted a notification to the Depositary in accordance with the provisions of paragraph 5 above, provided that not more than one third of the Parties have submitted such a notification.

7. For the purposes of this article, 'Parties present and voting' means Parties present and casting an affirmative or negative vote.

Article 15. Review of compliance

The Meeting of the Parties shall establish, on a consensus basis, optional arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance with the provisions of this Convention. These arrangements shall allow for appropriate public involvement and may include the option of considering communications from members of the public on matters related to this Convention.

Article 16. Settlement of disputes

1. If a dispute arises between two or more Parties about the interpretation or application of this Convention, they shall seek a solution by negotiation or by any other means of dispute settlement acceptable to the Parties to the dispute.

2. When signing, ratifying, accepting, approving or acceding to this convention, or at any time thereafter, a Party may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 above, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

- a. submission of the dispute to the International Court of Justice;
- b. arbitration in accordance with the procedure set out in annex II.

3. If the Parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 above, the dispute may be submitted only to the International Court of Justice, unless the Parties agree otherwise.

Article 17. Signature

This Convention shall be open for signature at Aarhus (Denmark) on 25 June 1998, and thereafter at United Nations Headquarters in New York until 21 December 1998, by States members of the Economic Commission for Europe as well as States having consultative status with the Economic

Commission for Europe pursuant to paragraphs 8 and 11 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organisations constituted by sovereign States members of the Economic Commission for Europe to which their member States have transferred competence over matters governed by this Convention, including the competence to enter into treaties in respect of these matters.

Article 18. Depositary

The Secretary General of the United Nations shall act as the Depositary of this Convention.

Article 19. Ratification, acceptance, approval and accession

1. This Convention shall be subject to ratification, acceptance or approval by signatory States and regional economic integration organisations.

2. This Convention shall be open for accession as from 22 December 1998 by the States and regional economic integration organisations referred to in Article 17.

3. Any other State, not referred to in paragraph 2 above, that is a member of the United Nations may accede to the Convention upon approval by the Meeting of the Parties.

4. Any organisation referred to in Article 17 which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under this Convention. If one or more of such an organisation's member States is a Party to this Convention, the organisation and its member States shall decide on their respective responsibilities for the performance of their obligations under this Convention. In such cases, the organisation and the member States shall not be entitled to exercise rights under this Convention concurrently.

5. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organisations referred to in Article 17 shall declare the extent of their competence with respect to the matters governed by this Convention. These organisations shall also inform the Depositary of any substantial modification to the extent of their competence.

Article 20. Entry into force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the sixteenth instrument of ratification, acceptance, approval or accession.

2. For the purposes of paragraph 1 above, any instrument deposited by a regional economic integration organisation shall not be counted as additional to those deposited by States members of such an organisation.

3. For each State or organisation referred to in Article 17 which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession,

the Convention shall enter into force on the ninetieth day after the date of deposit by such State or organisation of its instrument of ratification, acceptance, approval or accession.

Article 21. Withdrawal

At any time after three years from the date on which this Convention has come into force with respect to a Party, that Party may withdraw from the Convention by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the Depositary.

Article 22. Authentic texts

The original of this Convention, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary General of the United Nations.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Aarhus (Denmark), this twenty-fifth day of June, one thousand nine hundred and ninety-eight.

Annexes

Annex I. List of activities referred to in Article 6, paragraph 1.a

1. Energy sector:

- mineral oil and gas refineries;
- installations for gasification and liquefaction;
- thermal power stations and other combustion installations with a heat input of 50 megawatts (MW) or more;
- coke oven;
- nuclear power stations and other nuclear reactors including the dismantling or decommissioning of such power stations or reactors¹ (except research installations for the production and conversion of fissionable and fertile materials whose maximum power does not exceed 1 kW continuous thermal load);
- installations for the reprocessing irradiated nuclear fuel;
- installations designed:
 - for the production or enrichment of nuclear fuel;
 - for the processing irradiated nuclear fuel or high-level radioactive waste;
 - for the final disposal of irradiated nuclear fuel;

1. Nuclear power stations and other nuclear reactors cease to be such an installation when all nuclear fuel and other radioactively contaminated elements have been removed permanently from the installation site.

- solely for the final disposal of radioactive waste;
 - solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.
2. Production and processing of metals:
- metal ore (including sulphide ore) roasting or sintering installations;
 - installations for the production of pig-iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2.5 tons per hour;
 - installations for the processing of ferrous metals:
 - i. hot-rolling mills with a capacity exceeding 20 tons of crude steel per hour;
 - ii. smitheries with hammers the energy of which exceeds 50 kilojoules per hammer, where the calorific power used exceeds 20 MW;
 - iii. application of protective fused metal coats with an input exceeding 2 tons of crude steel per hour;
 - ferrous metal foundries with a production capacity exceeding 20 tons per day;
 - installations:
 - i. for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes;
 - ii. for the smelting, including the alloying, of non-ferrous metals, including recovered products (refining, foundry casting, etc.), with a melting capacity exceeding 4 tons per day for lead and cadmium or 20 tons per day for all other metals;
 - installations for surface treatment of metals and plastic materials using an electrolytic or chemical process where the volume of the treatment vats exceeds 30 m³.
3. Mineral industry:
- installations for the production of cement clinker in rotary kilns with a production capacity exceeding 500 tons per day or lime in rotary kilns with a production capacity exceeding 50 tons per day or in other furnaces with a production capacity exceeding 50 tons per day;
 - installations for the production of asbestos and the manufacture of asbestos-based products;
 - installations for the manufacture of glass including glass fibre with a melting capacity exceeding 20 tons per day;
 - installations for melting mineral substances including the production of mineral fibres with a melting capacity exceeding 20 tons per day;

- installations for the manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tons per day, and/or with a kiln capacity exceeding 4 m³ and with a setting density per kiln exceeding 300 kg/m³.

4. Chemical industry: Production within the meaning of the categories of activities contained in this paragraph means the production on an industrial scale by chemical processing of substances or groups of substances listed in subparagraphs a to g:

- a. chemical installations for the production of basic organic chemicals, such as:
 - i. simple hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic);
 - ii. oxygen-containing hydrocarbons such as alcohols, aldehydes, ketones, carboxylic acids, esters, acetates, ethers, peroxides, epoxy resins;
 - iii. sulphurous hydrocarbons;
 - iv. nitrogenous hydrocarbons such as amines, amides, nitrous compounds, nitro compounds or nitrate compounds, nitriles, cyanates, isocyanates;
 - v. phosphorous-containing hydrocarbons;
 - vi. halogenic hydrocarbons;
 - vii. organometallic compounds;
 - viii. basic plastic materials (polymers, synthetic fibres and cellulose-based fibres);
 - ix. synthetic rubbers;
 - x. dyes and pigments;
 - xi. surface-active agents and surfactants;
- b. chemical installations for the production of basic inorganic chemicals, such as:
 - i. gases, such as ammonia, chlorine or hydrogen chloride, fluorine or hydrogen fluoride, carbon oxides, sulphur compounds, nitrogen oxides, hydrogen, sulphur dioxide, carbonyl chloride;
 - ii. acids, such as chromic acid, hydrofluoric acid, phosphoric acid, nitric acid, hydrochloric acid, sulphuric acid, oleum, sulphurous acids;
 - iii. bases, such as ammonium hydroxide, potassium hydroxide, sodium hydroxide;
 - iv. salts, such as ammonium chloride, potassium chlorate, potassium carbonate, sodium carbonate, perborate, silver nitrate;
 - v. non-metals, metal oxides or other inorganic compounds such as calcium carbide, silicon, silicon carbide;

- c. chemical installations for the production of phosphorous-, nitrogen- or potassium-based fertilizers (simple or compound fertilizers);
 - d. chemical installations for the production of basic plant health products and of biocides;
 - e. installations using a chemical or biological process for the production of basic pharmaceutical products;
 - f. chemical installations for the production of explosives;
 - g. chemical installations in which chemical or biological processing is used for the production of protein feed additives, ferments and other protein substances.
5. Waste management:
- installations for the incineration, recovery, chemical treatment or land-fill of hazardous waste;
 - installations for the incineration of municipal waste with a capacity exceeding 3 tons per hour;
 - installations for the disposal of non-hazardous waste with a capacity exceeding 50 tons per day;
 - landfills receiving more than 10 tons per day or with a total capacity exceeding 25 000 tons, excluding landfills of inert waste.
6. Waste-water treatment plants with a capacity exceeding 150 000 populations equivalent.
7. Industrial plants for the:
- a. production of pulp from timber or similar fibrous materials;
 - b. production of paper and board with a production capacity exceeding 20 tons per day.
8. a. Construction of lines for long-distance railway traffic and of airports¹ with a basic runway length of 2 100 m or more;
- b. construction of motorways and express roads;²
- c. construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section or road, would be 10 km or more in a continuous length.
9. a. Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1 350 tons;

1. For the purposes of this Convention, 'airport' means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organisation (Annex 14).

2. For the purposes of this Convention, 'express road' means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15 November 1975.

- b. trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1350 tons.
10. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.
11. a. Works for the transfer of water resources between river basins where this transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres/year;
- b. in all other cases, works for the transfer of water resources between river basins where the multi-annual average flow of the basin of abstraction exceeds 2000 million cubic metres/year and where the amount of water transferred exceeds 5 per cent of this flow.

In both cases transfers of piped drinking water are excluded.

12. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tons/day in the case of petroleum and 500000 cubic metres/day in the case of gas.
13. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stores exceeds 10 million cubic metres.
14. Pipelines for the transport of gas, oil or chemicals with a diameter of more than 800 mm and a length of more than 40 km.
15. Installations for the intensive rearing of poultry or pigs with more than:
- a. 40000 places for poultry;
 - b. 2000 places for production pigs (over 30 kg); or
 - c. 750 places for sows.
16. Quarries and opencast mining where the surface of the site exceeds 25 hectares, or peat extraction, where the surface of the site exceeds 150 hectares.
17. Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.
18. Installations for the storage of petroleum, petro-chemical, or chemical products with a capacity of 200000 tons or more.
19. Other activities:
- plants for the pretreatment (operations such as washing, bleaching, mercerisation) or dyeing of fibres or textiles where the treatment capacity exceeds 10 tons per day;
 - plants for the tanning of hides and skins where the treatment capacity exceeds 12 tons of finished products per day;
 - a. slaughterhouses with a carcass production capacity greater than 50 tons per day;

- b. treatment and processing intended for the production of food products from:
 - i. animal raw materials (other than milk) with a finished product production capacity greater than 75 tons per day;
 - ii. vegetable raw materials with a finished product production capacity greater than 300 tons per day (average value on a quarterly basis);
- c. treatment and processing of milk, the quantity of milk received being greater than 200 tons per day (average value on an annual basis);
- installations for the disposal or recycling of animal carcasses and animal waste with a treatment capacity exceeding 10 tons per day;
- installations for the surface treatment of substances, objects or products using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating, with a consumption capacity of more than 150 kg per hour or more than 200 tons per year;
- installations for the production of carbon (hard-burnt coal) or electrographite by means of incineration or graphitisation.

20. Any activity not covered by paragraphs 1 to 19 above where public participation is provided for under an environmental impact assessment procedure in accordance with national legislation.

21. The provision of Article 6, paragraph 1.a of this Convention, does not apply to any of the above projects undertaken exclusively or mainly for research, development and testing of new methods or products for less than two years unless they would be likely to cause a significant adverse effect on environment or health.

22. Any change to or extension of activities, where such a change or extension in itself meets the criteria/thresholds set out in this annex, shall be subject to Article 6, paragraph 1.a of this Convention. Any other change or extension of activities shall be subject to Article 6, paragraph 1b of this Convention.

Annex II. Arbitration

1. In the event of a dispute being submitted for arbitration pursuant to Article 16, paragraph 2, of this Convention, a party or parties shall notify the secretariat of the subject matter of arbitration and indicate, in particular, the articles of this Convention whose interpretation or application is at issue. The secretariat shall forward the information received to all parties to this Convention.

2. The arbitral tribunal shall consist of three members. Both the claimant party or parties and the other party or parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the president of the arbitral tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of these

parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

3. If the president of the arbitral tribunal has not been designated with two months of the appointment of the second arbitrator, the Executive Secretary of the Economic Commission for Europe shall, at the request of either party to the dispute, designate the president within a further two-month period.

4. If one of the parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other party may so inform the Executive Secretary of the Economic Commission for Europe, who shall designate the president of the arbitral tribunal within a further two-month period. Upon designation, the president of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. If it fails to do so within that period, the president shall so inform the Executive Secretary of the Economic Commission for Europe, who shall make this appointment within a further two-month period.

5. The arbitral tribunal shall render its decision in accordance with international law and the provisions of this Convention.

6. Any arbitral tribunal constituted under the provisions set out in this annex shall draw up its own rules of procedure.

7. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority vote of its members.

8. The tribunal may take all appropriate measures to establish the facts.

9. The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

- a. provide it with all relevant documents, facilities and information;
- b. enable it, where necessary, to call witnesses or experts and receive their evidence.

10. The parties and the arbitrators shall protect the confidentiality of any information that they receive in confidence during the proceedings of the arbitral tribunal.

11. The arbitral tribunal may, at the request of one of the parties, recommend interim measures of protection.

12. If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to render its final decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings.

13. The arbitral tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

14. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in

equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

15. Any party to this Convention which has an interest of a legal nature in the subject matter of the dispute, and which may be affected by a decision in the case, may intervene in the proceedings with the consent of the tribunal.

16. The arbitral tribunal shall render its award within five months of the date on which it is established, unless it finds it necessary to extend the time limit for a period which should not exceed five months.

17. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon all parties to the dispute. The award will be transmitted by the arbitral tribunal to the parties to the dispute and to the secretariat. The secretariat will forward the information received to all parties to this Convention.

18. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either part to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first."

2.1.3. European Community (EC)/European Union (EU)

- Directive 76/160/EEC concerning the quality of bathing water, adopted by the Council of the European Communities on 8 December 1976
- Directive 82/501/EEC on the major-accident hazards of certain industrial activities adopted by the Council of the European Communities on 24 June 1982
- Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work adopted by the Council of the European Communities on 19 September 1983
- Directive 84/360/EEC on the combating of air pollution from industrial plants, adopted by the Council of the European Communities on 28 June 1984
- Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, adopted by the Council of the European Communities on 27 June 1985
- Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work, adopted by the Council of the European Communities on 12 June 1989
- Directive 89/618/Euratom on informing the general public about health protection measures to be applied and steps to be taken in the event of a radiological emergency, adopted by the Council of the European Communities on 27 November 1989

- Directive 90/219/EEC on the contained use of genetically modified micro-organisms, adopted by the Council of the European Communities on 23 April 1990
- Regulation No. 1210/90/EEC on the establishment of the European Environment Agency and the European environment information and observation network, adopted by the Council of the European Communities on 7 May 1990
- Directive 90/313/EEC on the freedom of access to information on the environment, adopted by the Council of the European Communities on 7 June 1990
- Directive 90/394/EEC on the protection of workers from the risks related to exposure to carcinogens at work, adopted by the Council of the European Communities on 28 June 1990
- Regulation No. 880/92/EEC on a Community eco-label award scheme, adopted by the Council of the European Communities on 23 March 1992
- Regulation No. 1836/93/EEC allowing voluntary participation by companies in the industrial sector in a Community eco-management and audit scheme, adopted by the Council of the European Communities on 29 June 1993
- Directive 96/61/EC concerning integrated pollution prevention and control, adopted by the Council of the European Union on 24 September 1996
- Directive 96/82/EC on the control of major-accident hazards involving dangerous substances, adopted by the Council of the European Union on 9 December 1996
- Directive 97/11/EC amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, adopted by the Council of the European Union on 3 March 1997

Directive 76/160/EEC concerning the quality of bathing water, adopted by the Council of the European Communities on 8 December 1976

"The Council of the European Communities,

[...]

Whereas, in order to protect the environment and public health, it is necessary to reduce the pollution of bathing water and to protect such water against further deterioration;

[...]

Whereas public interest in the environment and in the improvement of its quality is increasing; whereas the public should therefore receive objective information on the quality of bathing water,

Has adopted this Directive

[...]

Article 3

1. Member States shall set, for all bathing areas or for each individual bathing area, the values applicable to bathing water for the parameters given in the Annex. In the case of the parameters for which no values are given in the Annex, Member States may decide not to fix any values pursuant to the first subparagraph, until such time as figures have been determined.

2. The values set pursuant to paragraph 1 may not be less stringent than those given in column 1 of the Annex.

3. Where values appear in column G of the Annex, whether or not there is a corresponding value in column 1 of the Annex, Member States shall endeavour subject to Article 7, to observe them as guidelines.

Article 4

1. Member States shall take all necessary measures to ensure that, within ten years following the notification of this Directive, the quality of bathing water conforms to the limit values set in accordance with Article 3.

2. Member States shall ensure that, in bathing areas specially equipped for bathing to be created by the competent authorities of the Member States after the notification of this Directive, the 'I values' laid down in the Annex are observed from the time when bathing is first permitted. However, for bathing areas created during the two years following the notification of this Directive, these values need not be observed until the end of that period.

[...]

4. As regards sea water in the vicinity of frontiers and water crossing frontiers which affect the quality of the bathing water of another Member State, the consequences for the common quality objectives for bathing areas so affected shall be determined in collaboration by the riparian Member States concerned.

[...]"

Directive 82/501/EEC on the major-accident hazards of certain industrial activities, adopted by the Council of the European Communities on 24 June 1982

"The Council of the European Communities,

[...]

Whereas the training and information of persons working on an industrial site can play a particularly important part in preventing major accidents and bringing the situation under control in the event of such accidents;

Whereas, in the case of industrial activities which involve or may involve substances that are particularly dangerous in certain quantities, it is necessary for the manufacturer to provide the competent authorities with information including details of the substances in question and high-risk installations and situations, with a view to reducing the hazards of major accidents and enabling the necessary steps to be taken to reduce their consequences;

Whereas it is necessary to lay down that any person outside the establishment liable to be affected by a major accident should be appropriately informed of the safety measures to be taken and of the correct behaviour to be adopted in the event of an accident;

Whereas, if a major accident occurs, the manufacturer must immediately inform the competent authorities and communicate the information necessary for assessing the impact of that accident;

Whereas Member States should forward information to the Commission regarding major accidents occurring on their territory, so that the Commission can analyse the hazards from major accidents;

Whereas this directive does not preclude the conclusion by a Member State of agreements with third countries concerning the exchange of information to which it is privy at internal level other than that obtained through the Community arrangements for the exchange of information set up by this directive;

[...]

Article 4

Member States shall take the measures necessary to ensure that all manufacturers are required to prove to the competent authority at any time, for the purposes of the controls referred to in Article 7.2, that they have identified existing major-accident hazards, adopted the appropriate safety measures, and provided the persons working on the site with information, training and equipment in order to ensure their safety.

Article 5

1. Without prejudice to Article 4, Member States shall introduce the necessary measures to require the manufacturer to notify the competent authorities specified in Article 7:

- if, in an industrial activity as defined in Article 1, paragraph 2.a, first indent, one or more of the dangerous substances listed in Annex III are involved, or it is recognised that they may be involved, in the quantities laid down in the said Annex, such as:
- substances stored or used in connection with the industrial activity concerned;

- products of manufacture;
- by-products; or
- residues;
- or if, in an industrial activity as defined in Article 1. paragraph 2.a, second indent, one or more of the dangerous substances listed in Annex II are stored in the quantities laid down in the second column of the same Annex.

The notification shall contain the following:

- a. information relating to substances listed, respectively, in Annex II and Annex III, that is to say:
 - the data and information listed in Annex V;
 - the stage of the activity in which the substances are involved or may be involved;
 - the quantity (order of magnitude);
 - the chemical and/or physical behaviour under normal conditions of use during the process;
 - the forms in which the substances may occur or into which they may be transformed in the case of abnormal conditions which can be foreseen;
 - if necessary, other dangerous substances whose presence could have an effect on the potential hazard presented by the relevant industrial activity;
- b. information relating to the installations, that is to say:
 - the geographical location of the installations and predominant meteorological conditions and sources of danger arising from the location of the site;
 - the maximum number of persons working on the site of the establishment and particularly of those persons exposed to the hazard;
 - a general description of the technological processes;
 - a description of the sections of the establishment which are important from the safety point of view, the sources of hazard and the conditions under which a major accident could occur, together with a description of the preventive measures planned;
 - the arrangements made to ensure that the technical means necessary for the safe operation of the plant and to deal with any malfunctions that arise are available at all times;
- c. information relating to possible major accident situations, that is to say:
 - emergency plans, including safety equipment, alarm systems and resources available for use inside the establishments in dealing with a major accident;
 - any information necessary to the competent authorities to enable them to prepare emergency plans for use outside the establishment in accordance with Article 7, paragraph 1;

- the names of the person and his deputies or the qualified body responsible for safety and authorised to set the emergency plans in motion and to alert the competent authorities specified in Article 7.
2. In the case of new installations, the notification referred to in paragraph 1 must reach the competent authorities a reasonable length of time before the industrial activity commences.
3. The notification specified in paragraph 1 shall be updated periodically to take account of new technical knowledge relative to safety and of developments in knowledge concerning the assessment of hazards.
4. In the case of industrial activities for which the quantities, by substance, laid down in Annex II or III, as appropriate, are exceeded in a group of installations belonging to the same manufacturer which are less than 500 metres apart, the Member States shall take the necessary steps to ensure that the manufacturer supplies the amount of information required for the notification referred to in paragraph 1, without prejudice to Article 7, having regard to the fact that the installations are a short distance apart and that any major-accident hazards may therefore be aggravated.

Article 6

In the event of modification of an industrial activity which could have significant consequences as regards major-accident hazards, the Member States shall take appropriate measures to ensure that the manufacturer:

- revises the measures specified in Articles 3 and 4;
- informs the competent authorities referred to in Article 7 in advance, if necessary, of such modification in so far as it affects the information contained in the notification specified in Article 5.

Article 7

1. The Member States shall set up or appoint the competent authority or authorities who, account being taken of the responsibility of the manufacturer, are responsible for:

- receiving the notification referred to in Article 5 and the information referred to in the second indent of Article 6;
- examining the information provided;
- ensuring that an emergency plan is drawn up for action outside the establishment in respect of whose industrial activity notification has been given;

and, if necessary,

- requesting supplementary information;
- ascertaining that the manufacturer takes the most appropriate measures, in connection with the various operations involved in the industrial activity for which notification has been given, to prevent major accidents and to provide the means for limiting the consequences thereof.

2. The competent authorities shall organise inspections or other measures of control proper to the type of activity concerned, in accordance with national regulations.

Article 8

1. Member States shall ensure that persons liable to be affected by a major accident originating in a notified industrial activity within the meaning of Article 5 are informed in an appropriate manner of the safety measures and of the correct behaviour to adopt in the event of an accident.

2. The Member States concerned shall at the same time make available to the other Member States concerned, as a basis for all necessary consultation within the framework of their bilateral relations, the same information as that which is disseminated to their own nationals.

[...]

Article 10

1. Member States shall take the necessary measures to ensure that, as soon as a major accident occurs, the manufacturer shall be required:

- a. to inform the competent authorities specified in Article 7 immediately;
- b. to provide them with the following information as soon as it becomes available:
 - the circumstances of the accident;
 - the dangerous substances involved within the meaning of Article 1, paragraph 2.d;
 - the data available for assessing the effects of the accident on man and the environment;
 - the emergency measures taken;
- c. to inform them of the steps envisaged:
 - to alleviate the medium and long-term effects of the accident;
 - to prevent any recurrence of such an accident.

2. The Member States shall require the competent authorities:

- a. to ensure that any emergency and medium and long-term measures which may prove necessary are taken;
- b. to collect, where possible, the information necessary for a full analysis of the major accident and possibly to make recommendations.

Article 11

1. Member States shall inform the Commission as soon as possible of major accidents which have occurred within their territory and shall provide it with the information specified in Annex VI as soon as it becomes available.

2. Member States shall inform the Commission of the name of the organisation which might have relevant information on major accidents and which is

able to advise the competent authorities of the other Member States which have to intervene in the event of such an accident.

3. Member States may notify the Commission of any substance which in their view should be added to Annexes II and III and of any measures they may have taken concerning such substances. The Commission shall forward this information to the other Member States.

Article 12

The Commission shall set up and keep at the disposal of the Member States a register containing a summary of the major accidents which have occurred within the territory of the Member States, including an analysis of the causes of such accidents, experience gained and measures taken, to enable the Member States to use this information for prevention purposes.

Article 13

1. Information obtained by the competent authorities in pursuance of Articles 5, 6, 7, 9, 10 and 12 and by the Commission in pursuance of Article 11 may not be used for any purpose other than that for which it was requested.

2. However this Directive shall not preclude the conclusion by a Member State of agreements with third countries concerning the exchange of information to which it is privy at internal level other than that obtained through the Community machinery for the exchange of information set up by the Directive.

3. The Commission and its officials and employees shall not divulge the information obtained in pursuance of this Directive. The same requirement shall apply to officials and employees to the competent authorities of the Member States as regards any information they obtain from the Commission.

Nevertheless, such information may be supplied:

- in the case of Articles 12 and 18,
- when a Member State carries out or authorises the publication of information concerning that Member State itself.

4. Paragraphs 1, 2 and 3 shall not preclude the publication by the Commission of general statistical data or information on matters of safety containing no specific details regarding particular undertakings or groups of undertakings and not jeopardising industrial secrecy.

[...]"

Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work, adopted by the Council of the European Communities on 19 September 1983

“The Council of the European Communities,

[...]

Article 14

1. In the case of all activities referred to in Article 3, paragraph 1, appropriate measures shall be taken to ensure that workers and their representatives in the undertaking or establishment receive adequate information concerning:

- the potential risks to health from exposure to dust arising from asbestos or materials containing asbestos;
- the existence of statutory limit values and the need for the atmosphere to be monitored;
- hygiene requirements, including the need to refrain from smoking;
- the precautions to be taken as regards the wearing and use of protective equipment and clothing;
- special precautions designed to minimise exposure to asbestos.

2. In addition to the measures referred to in paragraph 1, and subject to Article 3, paragraph 3, appropriate measures shall be taken to ensure that:

- a. workers and/or their representatives in the undertaking or establishment have access to the results of asbestos-in-air concentration measurements and can be given explanations of the significance of those results;
- b. if the results exceed the limit values laid down in Article 8 the workers concerned and their representatives in the undertaking or establishment are informed as quickly as possible of the fact and the reason for it and the workers and/or their representatives in the undertaking or establishment are consulted on the measures to be taken or, in an emergency, are informed of the measures which have been taken.

[...]”

Directive 84/360/EEC on the combating of air pollution from industrial plants, adopted by the Council of the European Communities on 28 June 1984

“The Council of the European Communities,

[...]

Article 9

1. Member States shall take the necessary measures to ensure that applications for authorisation and the decisions of the competent authorities are

made available to the public concerned in accordance with procedures provided for in the national law.

2. Paragraph 1 shall apply without prejudice to specific national or Community provisions concerning the assessment of the environmental effects of public and private projects and subject to observance of the provisions regarding commercial secrecy.

[...]"

Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, adopted by the Council of the European Communities on 27 June 1985

"The Council of the European Communities,

[...]

Article 5

1. In the case of projects which, pursuant to Article 4, must be subjected to an environmental impact assessment in accordance with Articles 5 to 10, Member States shall adopt the necessary measures to ensure that the developer supplies in an appropriate form the information specified in Annex III inasmuch as:

- a. the Member States consider that the information is relevant to a given stage of the consent procedure and to the specific characteristics of a particular project or type of project and of the environmental features likely to be affected;
- b. the Member States consider that a developer may reasonably be required to compile this information having regard, inter alia, to current knowledge and methods of assessment.

2. The information to be provided by the developer in accordance with paragraph 1 shall include at least:

- a description of the project comprising information on the site, design and size of the project;
- a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- the data required to identify and assess the main effects which the project is likely to have on the environment;
- a non-technical summary of the information mentioned in indents 1 to 3.

3. Where they consider it necessary, Member States shall ensure that any authorities with relevant information in their possession make this information available to the developer.

Article 6

1. Member States shall take the measures necessary to ensure that the authorities likely to be concerned by the project by reason of their specific environmental responsibilities are given an opportunity to express their opinion on the request for development consent. Member States shall designate the authorities to be consulted for this purpose in general terms or in each case when the request for consent is made. The information gathered pursuant to Article 5 shall be forwarded to these authorities. Detailed arrangements for consultation shall be laid down by the Member States.

2. Member States shall ensure that:

- any request for development consent and any information gathered pursuant to Article 5 are made available to the public;
- the public concerned is given the opportunity to express an opinion before the project is initiated.

3. The detailed arrangements for such information and consultation shall be determined by the Member States, which may in particular, depending on the particular characteristics of the projects or sites concerned:

- determine the public concerned;
- specify the places where the information can be consulted;
- specify the way in which the public may be informed, for example by bill-posting within a certain radius, publication in local newspapers, organisation of exhibitions with plans, drawings, tables, graphs, models;
- determine the manner in which the public is to be consulted, for example, by written submissions, by public enquiry;
- fix appropriate time limits for the various stages of the procedure in order to ensure that a decision is taken within a reasonable period.

[...]"

Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work, adopted by the Council of the European Communities on 12 June 1989

"The Council of the European Communities,

[...]

Article 10. Worker information

1. The employer shall take appropriate measures so that workers and/or their representatives in the undertaking and/or establishment receive, in accordance with national laws and/or practices which may take account, inter alia, of the size of the undertaking and/or establishment, all the necessary information concerning:

- a. the safety and health risks and protective and preventive measures and activities in respect of both the undertaking and/or establishment in general and each type of workstation and/or job;
- b. the measures taken pursuant to Article 8, paragraph 2.

2. The employer shall take appropriate measures so that employers of workers from any outside undertakings and/or establishments engaged in work in his undertaking and/or establishment receive, in accordance with national laws and/or practices, adequate information concerning the points referred to in paragraphs 1.a and 1.b which is to be provided to the workers in question.

3. The employer shall take appropriate measures so that workers with specific functions in protecting the safety and health of workers, or workers' representatives with specific responsibility for the safety and health of workers shall have access, to carry out their functions and in accordance with national laws and/or practices, to:

- a. the risk assessment and protective measures referred to in Article 9, paragraphs 1.a and 1.b;
- b. the list and reports referred to in Article 9, paragraphs 1.c and 1.d;
- c. the information yielded by protective and preventive measures, inspection agencies and bodies responsible for safety and health.

Article 11. Consultation and participation of workers

1. Employers shall consult workers and/or their representatives and allow them to take part in discussions on all questions relating to safety and health at work.

This presupposes:

- the consultation of workers;
- the right of workers and/or their representatives to make proposals;
- balanced participation in accordance with national laws and/or practices.

2. Workers or workers' representatives with specific responsibility for the safety and health of workers shall take part in a balanced way, in accordance with national laws and/or practices, or shall be consulted in advance and in good time by the employer with regard to:

- a. any measure which may substantially affect safety and health;
- b. the designation of workers referred to in Articles 7, paragraph 1 and 8, paragraph 2 and the activities referred to in Article 7, paragraph 1;
- c. the information referred to in Article 9, paragraph 1 and Article 10;
- d. the enlistment, where appropriate, of the competent services or persons outside the undertaking and/or establishment, as referred to in Article 7, paragraph 3;
- e. the planning and organisation of the training referred to in Article 12.

3. Workers' representatives with specific responsibility for the safety and health of workers shall have the right to ask the employer to take appropriate measures and to submit proposals to him to that end to mitigate hazards for workers and/or to remove sources of danger.

4. The workers referred to in paragraph 2 and the workers' representatives referred to in paragraphs 2 and 3 may not be placed at a disadvantage because of their respective activities referred to in paragraphs 2 and 3.

5. Employers must allow workers' representatives with specific responsibility for the safety and health of workers adequate time off work, without loss of pay, and provide them with the necessary means to enable such representatives to exercise their rights and functions deriving from this Directive.

6. Workers and/or their representatives are entitled to appeal, in accordance with national law and/or practice, to the authority responsible for safety and health protection at work if they consider that the measures taken and the means employed by the employer are inadequate for the purposes of ensuring safety and health at work.

Workers' representatives must be given the opportunity to submit their observations during inspection visits by the competent authority.

Article 12. Training of workers

1. The employer shall ensure that each worker receives adequate safety and health training, in particular in the form of information and instructions specific to his workstation or job:

- on recruitment;
- in the event of a transfer or a change of job;
- in the event of the introduction of new work equipment or a change in equipment;
- in the event of the introduction of any new technology.

The training shall be:

- adapted to take account of new or changed risks; and
- repeated periodically if necessary.

2. The employer shall ensure that workers from outside undertakings and/or establishments engaged in work in his undertaking and/or establishment have in fact received appropriate instructions regarding health and safety risks during their activities in his undertaking and/or establishment.

3. Workers' representatives with a specific role in protecting the safety and health of workers shall be entitled to appropriate training.

4. The training referred to in paragraphs 1 and 3 may not be at the workers' expense or at that of the workers' representatives.

[...]"

Directive 89/618/Euratom on informing the general public about health protection measures to be applied and steps to be taken in the event of a radiological emergency, adopted by the Council of the European Communities on 27 November 1989

“The Council of the European Communities,

[...]

Article 5. Prior information

1. Member States shall ensure that the population likely to be affected in the event of a radiological emergency is given information about the health-protection measures applicable to it and about the action it should take in the event of such an emergency.
2. The information supplied shall at least include the elements set out in Annex I.
3. This information shall be communicated to the population referred to in paragraph 1 without any request being made.
4. Member States shall update the information and circulate it at regular intervals and whenever significant changes in the arrangements that it describes take place. This information shall be permanently available to the public.

Article 6. Information in the event of a radiological emergency

1. Member States shall ensure that, when a radiological emergency occurs, the population actually affected is informed without delay of the facts of the emergency, of the steps to be taken and, as appropriate to the case in point, of the health-protection measures applicable to it.
2. The information provided shall cover the points contained in Annex II which are relevant to the type of radiological emergency.

Article 7. Information of persons who might be involved in the organisation of emergency assistance in the event of a radiological emergency

1. Member States shall ensure that any persons who are not on the staff of the facilities and/or not engaged in the activities defined in Article 2, paragraph 2 but who might be involved in the organisation of emergency assistance in the event of a radiological emergency are given adequate and regularly updated information on the health risks their intervention might involve and on the precautionary measures to be taken in such an event; this information shall take into account the range of potential radiological emergencies.
2. As soon as a radiological emergency occurs, this information shall be supplemented appropriately, having regard to the specific circumstances.

[...]”

Directive 90/219/EEC on the contained use of genetically modified micro-organisms, adopted by the Council of the European Communities on 23 April 1990

“The Council of the European Communities,

[...]

Whereas it may be considered appropriate to consult the public on the contained use of genetically modified micro-organisms;

Whereas appropriate measures should be taken to inform any person liable to be affected by an accident on all matters relating to safety;

[...]

Article 13

Where a Member State considers it appropriate, it may provide that groups or the public shall be consulted on any aspect of the proposed contained use.

Article 14

The competent authorities shall ensure that, where necessary, before an operation commences:

[...]

- b.* Information on safety measures and on the correct behaviour to adopt in the case of an accident is supplied in an appropriate manner, and without their having to request it, to persons liable to be affected by the accident. The information shall be repeated and updated at appropriate intervals. It shall also be made publicly available.

The Member States concerned shall at the same time make available to other Member States concerned, as a basis for all necessary consultation within the framework of their bilateral relations, the same information as that which is disseminated to their nationals.

[...]”

Regulation 1210/90/EEC on the establishment of the European Environment Agency and the European environment information and observation network, adopted by the Council of the European Communities on 7 May 1990

“The Council of the European Communities,

[...]

Whereas, in accordance with Decision 85/338/EEC, the Commission has undertaken a work programme concerning an experimental project for gathering, co-ordinating and ensuring the consistency of information on the state of the environment and natural resources in the Community; whereas it is

now appropriate to take the necessary decisions regarding a permanent environmental information and observation system;

Whereas collection, processing and analysis of environmental data at European level are necessary in order to provide objective, reliable and comparable information which will enable the Community and the Member States to take the requisite measures to protect the environment, to assess the results of such measures and to ensure that the public is properly informed about the state of the environment;

Whereas there already exist in the Community and the Member States facilities providing such information and services;

Whereas they should form the basis for setting up a European environment information and observation network which would be co-ordinated at Community level by a European Environment Agency;

[...]

Has adopted this Regulation:

Article 1

1. This Regulation establishes the European Environment Agency and aims at the setting-up of a European environment information and observation network.

2. To achieve the aims of environmental protection and improvement laid down by the Treaty and by successive Community action programmes on the environment, the objective shall be to provide the Community and the Member States with:

- objective, reliable and comparable information at European level enabling them to take the requisite measures to protect the environment, to assess the results of such measures and to ensure that the public is properly informed about the state of the environment;
- to that end, the necessary technical and scientific support.

Article 2

For the purposes of achieving the objective set out in Article 1, the tasks of the Agency shall be:

- i. to establish, in co-operation with the Member States, and co-ordinate the network referred to in Article 4. In this context, the Agency shall be responsible for the collection, processing and analysis of data, in particular in the fields referred to in Article 3. It shall also be responsible for continuing the work started under Decision 85/338/EEC;
- ii. to provide the Community and the Member States with the objective information necessary for framing and implementing sound and effective environmental policies; to that end, in particular to provide the Commission with the information that it needs to be able to carry out successfully its tasks of identifying, preparing and evaluating measures and legislation in the field of the environment;

- iii. to record, collate and assess data on the state of the environment, to draw up expert reports on the quality, sensitivity and pressures on the environment within the territory of the Community, to provide uniform assessment criteria for environmental data to be applied in all Member States. The Commission shall use this information in its task of ensuring the implementation of Community legislation on the environment;
- iv. to help ensure that environmental data at European level are compatible and, if necessary, to encourage by appropriate means improved harmonisation of methods of measurement;
- v. to promote the incorporation of European environmental information into international environment monitoring programmes such as those established by the United Nations and its specialised agencies;
- vi. to ensure the broad dissemination of reliable environmental information. In addition, the Agency shall publish a report on the state of the environment every three years;
- vii. to stimulate the development and application of environmental forecasting techniques so that adequate preventive measures can be taken in good time;
- viii. to stimulate the development of methods of assessing the cost of damage to the environment and the costs of environmental preventive, protection and restoration policies;
- ix. to stimulate the exchange of information on the best technologies available for preventing or reducing damage to the environment;
- x. to co-operate with the bodies and programmes referred to in Article 15.

Article 3

1. The principal areas of activity of the Agency shall, as far as possible, include all elements enabling it to gather the information making it possible to describe the present and foreseeable state of the environment from the following points of view:

- i. the quality of the environment;
- ii. the pressures on the environment;
- iii. the sensitivity of the environment.

2. The Agency shall furnish information which can be directly used in the implementation of Community environmental policy.

Priority will be given to the following areas of work:

- air quality and atmospheric emissions;
- water quality, pollutants and water resources;
- the state of the soil, of the fauna and flora, and of biotopes;
- land use and natural resources;
- waste management;

- noise emissions;
- chemical substances which are hazardous for the environment;
- coastal protection.

In particular, transfrontier, plurinational and global phenomena shall be covered.

The socio-economic dimension shall also be taken into account.

In its activities the Agency shall avoid duplicating the existing activities of other institutions and bodies.

Article 4

1. The network shall comprise:

- the main component elements of the national information networks;
- the national focal points;
- the topic centres.

2. To enable the network to be set up as rapidly and as efficiently as possible, the Member States shall, within six months of the entry into force of this regulation, inform the Agency of the main component elements of their national environment information networks, especially in the priority areas referred to in Article 3, paragraph 2, including any institution which in their judgment could contribute to the work of the Agency, taking into account the need to ensure the fullest possible geographical coverage of their territory.

3. Member States may in particular designate from among the institutions referred to in paragraph 2 or other organisations established in their territory a 'national focal point' for co-ordinating and/or transmitting the information to be supplied at national level to the Agency and to the institutions or bodies forming part of the network including the topic centres referred to in paragraph 4.

4. Member States may also, within the period laid down in paragraph 2, identify the institutions or other organisations established in their territory which could be specifically entrusted with the task of co-operating with the Agency as regards certain topics of particular interest. An institution thus identified should be in a position to conclude an agreement with the Agency to act as a topic centre of the network for specific tasks in a precise geographical area. These centres shall co-operate with other institutions which form part of the network.

5. Within six months of receiving the information referred to in paragraph 2, the Agency shall confirm the main elements of the network on the basis of a decision by the management board and the arrangements referred to in Article 5.

The topic centres shall be designated by a unanimous decision of the members of the management board as defined in Article 8, paragraph 1, for a period not exceeding the duration of each multi-annual work programme as

referred to in Article 8, paragraph 4. Each designation may, however, be renewed.

6. The allocation of specific tasks to the topic centres shall appear in the Agency's multi-annual work programme mentioned in Article 8, paragraph 4.

7. In the light in particular of the multi-annual work programme, the Agency shall periodically re-examine the component elements of the network as referred to in paragraph 2 and shall make such changes as may be decided on by the management board, taking account of any new designations made by the Member States.

[...]

Article 6

Environmental data supplied to or emanating from the Agency may be published and shall be made accessible to the public, subject to compliance with the rules of the Commission and the Member States on the dissemination of information, particularly as regards confidentiality.

[...]"

Directive 90/313/EEC on the freedom of access to information on the environment, adopted by the Council of the European Communities on 7 June 1990

"The Council of the European Communities,

[...]

Considering the principles and objectives defined by the action programmes of the European Communities on the environment of 1973, 1977 and 1983, and more particularly the action programme of 1987, which calls, in particular, for devising 'ways of improving public access to information held by environmental authorities';

Whereas the Council of the European Communities and the representatives of the governments of the Member States, meeting within the Council, declared in their resolution of 19 October 1987 on the continuation and implementation of a European Community policy and action programme on the environment (1987 to 1992) that it was important, in compliance with the respective responsibilities of the Community and the Member States, to concentrate Community action on certain priority areas, including better access to information on the environment;

Whereas the European Parliament stressed, in its opinion on the fourth action programme of the European Communities on the environment, that 'access to information for all must be made possible by a specific Community programme';

Whereas access to information on the environment held by public authorities will improve environmental protection;

Whereas the disparities between the laws in force in the Member States concerning access to information on the environment held by public authorities can create inequality within the Community as regards access to information and/or as regards conditions of competition;

Whereas it is necessary to guarantee to any natural or legal person throughout the Community free access to available information on the environment in written, visual, aural or database form held by public authorities, concerning the state of the environment, activities or measures adversely affecting, or likely so to affect the environment, and those designed to protect it;

Whereas, in certain specific and clearly defined cases, it may be justified to refuse a request for information relating to the environment;

Whereas a refusal by a public authority to forward the information requested must be justified;

Whereas it must be possible for the applicant to appeal against the public authority's decision;

Whereas access to information relating to the environment held by bodies with public responsibilities for the environment and under the control of public authorities should also be ensured;

Whereas, as part of an overall strategy to disseminate information on the environment, general information should actively be provided to the public on the state of the environment;

Whereas the operation of this directive should be subject to a review in the light of the experience gained,

Has adopted this Directive:

Article 1

The object of this Directive is to ensure freedom of access to, and dissemination of, information on the environment held by public authorities and to set out the basic terms and conditions on which such information should be made available.

Article 2

For the purposes of this Directive:

- a. 'information relating to the environment' shall mean: any available information in written, visual, aural or data-base form on the state of water, air, soil, fauna, flora, land and natural sites, and on activities (including those which give rise to nuisances such as noise) or measures adversely affecting, or likely so to affect these, and on activities or measures designed to protect these, including administrative measures and environmental management programmes;
- b. 'public authorities' shall mean: any public administration at national, regional or local level with responsibilities, and possessing information,

relating to the environment with the exception of bodies acting in a judicial or legislative capacity.

Article 3

1. Save as provided in this article, Member States shall ensure that public authorities are required to make available information relating to the environment to any natural or legal person at his request and without his having to prove an interest.

Member States shall define the practical arrangements under which such information is effectively made available.

2. Member States may provide for a request for such information to be refused where it affects:

- the confidentiality of the proceedings of public authorities, international relations and national defence;
- public security;
- matters which are, or have been, *sub judice*, or under enquiry (including disciplinary enquiries), or which are the subject of preliminary investigation proceedings;
- commercial and industrial confidentiality, including intellectual property;
- the confidentiality of personal data and/or files;
- material supplied by a third party without that party being under a legal obligation to do so;
- material, the disclosure of which would make it more likely that the environment to which such material related would be damaged.

Information held by public authorities shall be supplied in part where it is possible to separate out information on items concerning the interests referred to above.

3. A request for information may be refused where it would involve the supply of unfinished documents or data or internal communications, or where the request is manifestly unreasonable or formulated in too general a manner.

4. A public authority shall respond to a person requesting information as soon as possible and at the latest within two months. The reasons for a refusal to provide the information requested must be given.

Article 4

A person who considers that his request for information has been unreasonably refused or ignored, or has been inadequately answered by a public authority, may seek a judicial or administrative review of the decision in accordance with the relevant national legal system.

Article 5

Member States may make a charge for supplying the information, but such charge may not exceed a reasonable cost.

Article 6

Member States shall take the necessary steps to ensure that information relating to the environment held by bodies with public responsibilities for the environment and under the control of public authorities is made available on the same terms and conditions as those set out in Articles 3, 4 and 5 either via the competent public authority or directly by the body itself.

Article 7

Member States shall take the necessary steps to provide general information to the public on the state of environment by such means as the periodic publication of descriptive reports.

[...]"

Directive 90/394/EEC on the protection of workers from the risks related to exposure to carcinogens at work, adopted by the Council of the European Communities on 28 June 1990

"The Council of the European Communities,

[...]

Article 11. Information and training of workers

1. Appropriate measures shall be taken by the employer to ensure that workers and/or workers' representatives in the undertaking or establishment receive sufficient and appropriate training, on the basis of all available information, in particular in the form of information and instructions, concerning:

- a. potential risks to health, including the additional risks due to tobacco consumption;
- b. precautions to be taken to prevent exposure;
- c. hygiene requirements;
- d. wearing and use of protective equipment and clothing;
- e. steps to be taken by workers, including rescue workers, in the case of incidents and to prevent incidents.

The training shall be:

- adapted to take account of new or changed risk; and
- repeated periodically if necessary.

2. Employers shall inform workers of installations and related containers containing carcinogens, ensure that all containers, packages and installations containing carcinogens are labelled clearly and legibly, and display clearly visible warning and hazard signs.

Article 12. Information for workers

Appropriate measures shall be taken to ensure that:

- a. workers and/or any workers' representatives in the undertaking or establishment can check that this Directive is applied or can be involved in its application, in particular with regard to:
 - i. the consequences for workers' safety and health of the selection, wearing and use of protective clothing and equipment, without prejudice to the employer's responsibility for determining the effectiveness of protective clothing and equipment;
 - ii. the measures determined by the employer which are referred to in the first subparagraph of Article 8, paragraph 1, without prejudice to the employer's responsibility for determining such measures;
- b. workers and/or any workers' representatives in the undertaking or establishment are informed as quickly as possible of abnormal exposures, including those referred to in Article 8, of the causes thereof and of the measures taken or to be taken to rectify the situation;
- c. the employer keeps an up-to-date list of the workers engaged in the activities in respect of which the results of the assessment referred to in Article 3, paragraph 2 reveal a risk to workers' health or safety, indicating, if the information is available, the exposure to which they have been subjected;
- d. the doctor and/or the competent authority as well as all other persons who have responsibility for health and safety at work have access to the list referred to in subparagraph c;
- e. each worker has access to the information on the list which relates to him personally;
- f. workers and/or any workers' representatives in the undertaking or establishment have access to anonymous collective information.

Article 13. Consultation and participation of workers

Consultation and participation of workers and/or their representatives in connection with matters covered by this Directive, including the Annexes hereto, shall take place in accordance with Article 11 of Directive 89/391/EEC.

[...]"

Regulation No. 880/92/EEC on a Community eco-label award scheme, adopted by the Council of the European Communities on 23 March 1992

"The Council of the European Communities,

[...]

Article 1. Objectives

This regulation establishes a Community eco-label award scheme which is intended to:

- promote the design, production, marketing and use of products which have a reduced environmental impact during their entire life cycle,

and

- provide consumers with better information on the environmental impact of products,

without, however, compromising product or workers' safety or significantly affecting the properties which make a product fit for use.

[...]

Article 15. Information

Each Member State shall ensure that consumers and undertakings are informed by appropriate means of the following:

- a. the objectives of the eco-label award scheme;
- b. the product groups which have been selected;
- c. the ecological criteria for each product group;
- d. procedures to be followed for applying for a label;
- e. the competent body or bodies in the Member State.

[...]"

Regulation No. 1836/93/EEC allowing voluntary participation by companies in the industrial sector in a Community eco-management and audit scheme, adopted by the Council of the European Communities on 29 June 1993

"The Council of the European Communities,

[...]

Whereas the provision of information to the public, by companies, on the environmental aspects of their activities is an essential element of good environmental management and a response to the growing interest of the public in information on this subject;

Whereas companies should therefore be encouraged to produce and disseminate periodic environmental statements containing information for the public on the factual environmental situation in their industrial sites and on their environmental policies, programmes, objectives and management system;

Whereas the transparency and credibility of companies' activities in this field are enhanced when the companies' environmental policies, programmes, management systems, audit procedures and environmental statements are examined to verify that they meet the relevant requirements of this

Regulation and when the environmental statements are validated by accredited environmental verifiers.

[...]

Has adopted this Regulation:

Article 1. The eco-management and audit scheme and its objectives

1. A Community scheme allowing voluntary participation by companies performing industrial activities, hereinafter referred to as the 'Community eco-management and audit scheme', or 'the scheme', is hereby established for the evaluation and improvement of the environmental performance of industrial activities and the provision of relevant information to the public.

2. The objective of the scheme shall be to promote continuous improvements in the environmental performance of industrial activity by:

- a. the establishment and implementation of environmental policies, programmes and management systems by companies, in relation to their sites;
- b. the systematic, objective and periodic evaluation of the performance of such elements;
- c. the provision of information of environmental performance to the public.

3. The scheme shall be without prejudice to existing Community or national law or technical standards regarding environmental controls and without prejudice to the duties of companies under those laws and standards.

[...]

Article 3. Participation in the scheme

The scheme is open to companies operating a site or sites where an industrial activity is performed. In order for a site to be registered in the scheme the company must:

[...]

h. forward the validated environmental statement to the competent body of the Member State where the site is located and disseminate it as appropriate to the public in that State after registration of the site in question in accordance with Article 8.

[...]

Article 5. Environmental statement

1. An environmental statement shall be prepared following an initial environmental review and the completion of each subsequent audit or audit cycle for every site participating in the scheme.

2. The environmental statement shall be designed for the public and written in a concise, comprehensive form. Technical material may be appended.

3. The environmental statement shall include, in particular, the following:
 - a. a description of the company's activities at the site considered;
 - b. an assessment of all the significant environmental issues of relevance to the activities concerned;
 - c. a summary of the figures on pollutant emissions, waste generations, consumption of raw material, energy and water, noise and other significant environmental aspects, as appropriate;
 - d. other factors regarding environmental performance;
 - e. a presentation of the company's environmental policy, programme and management system implemented at the site considered;
 - f. the deadline set for submission of the next statement;
 - g. the name of the accredited environmental verifier.
4. The environmental statement shall draw attention to significant changes since the previous statement.
5. A simplified environmental statement shall be prepared annually in intervening years, based as a minimum on the requirements set out in paragraph 3.c and drawing attention where appropriate to significant changes since the previous statement. Such simplified statements will require validation only at the end of the audit or audit cycle.

[...]

Article 9. Publication of the list of registered sites

The competent bodies directly, or via the national authorities as decided by the Member State concerned, shall communicate to the Commission before the end of each year the lists referred to in Article 8 and updates thereof.

Each year the Commission shall publish in the Official Journal of the European Communities a list of all the registered sites in the Community.

[...]

Article 11. Costs and fees

A system of fees in accordance with modalities established by Member States may be set up for the administrative costs incurred in connection with the registration procedures for sites and the accreditation of environmental verifiers and the promotional costs of the scheme.

[...]

Article 15. Information

Each Member State shall ensure by appropriate means that:

- companies are informed of the content of this regulation;
- the public is informed of the objectives and principal arrangements of the system.

[...]”

Directive 96/61/EC concerning integrated pollution prevention and control, adopted by the Council of the European Union on 24 September 1996

"The Council of the European Union,

[...]

10. Whereas the provisions of this Directive apply without prejudice to the provisions of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of public and private projects on the environment; whereas, when information or conclusions obtained further to the application of that directive have to be taken into consideration for the granting of authorisation, this directive does not affect the implementation of Directive 85/337/EEC;

[...]

23. Whereas, in order to inform the public of the operation of installations and their potential effect on the environment, and in order to ensure the transparency of the licensing process throughout the Community, the public must have access, before any decision is taken, to information relating to applications for permits for new installations or substantial changes and to the permits themselves, their updating and the relevant monitoring data;

[...]

Has adopted this Directive:

[...]

Article 15. Access to information and public participation in the permit procedure

1. Without prejudice to Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment, Member States shall take the necessary measures to ensure that applications for permits for new installations or for substantial changes are made available for an appropriate period of time to the public, to enable it to comment on them before the competent authority reaches its decision.

That decision, including at least a copy of the permit, and any subsequent updates, must be made available to the public.

2. The results of monitoring of releases as required under the permit conditions referred to in Article 9 and held by the competent authority must be made available to the public.

3. An inventory of the principal emissions and sources responsible shall be published every three years by the Commission on the basis of the data supplied by the Member States. The Commission shall establish the format and particulars needed for the transmission of information in accordance with the procedure laid down in Article 19.

In accordance with the same procedure, the Commission may propose measures to ensure inter-comparability and complementarity between data concerning the inventory of emissions referred to in the first subparagraph and data from other registers and sources of data on emissions.

4. Paragraphs 1, 2 and 3 shall apply subject to the restrictions laid down in Article 3, paragraphs 2 and 3 of Directive 90/313/EEC.

[...]

Article 17. Transboundary effects

1. Where a Member State is aware that the operation of an installation is likely to have significant negative effects on the environment of another Member State, or where a Member State likely to be significantly affected so requests, the Member State in whose territory the application for a permit pursuant to Article 4 or Article 12, paragraph 2 was submitted shall forward the information provided pursuant to Article 6 to the other Member State at the same time as it makes it available to its own nationals. Such information shall serve as a basis for any consultations necessary in the framework of the bilateral relations between the two Member States on a reciprocal and equivalent basis.

2. Within the framework of their bilateral relations, Member States shall see to it that in the cases referred to in paragraph 1 the applications are also made available for an appropriate period of time to the public of the Member State likely to be affected so that it will have the right to comment on them before the competent authority reaches its decision.

[...]"

Directive 96/82/EC on the control of major-accident hazards involving dangerous substances, adopted by the Council of the European Union on 9 December 1996

The Council of the European Union,

[...]

8. Whereas Directive 82/501/EEC constituted a first stage in the harmonisation process; whereas the said directive should be revised and supplemented in order to ensure high levels of protection throughout the Community in a consistent and efficient manner; whereas the present harmonisation is limited to the measures which are necessary to put in place a more effective system for preventing major accidents with widespread effects and for limiting their consequences;

[...]

17. Whereas, in order to demonstrate that all that is necessary has been done to prevent major accidents, to prepare contingency plans and response measures, the operator should, in the case of establishments where dangerous substances are present in significant quantities, provide the competent

authority with information in the form of a safety report containing details of the establishment, the dangerous substances present, the installation or storage facilities, possible major accidents and the management systems available, in order to prevent and reduce the risk of major accidents and to enable the necessary steps to be taken to limit the consequences thereof;

18. Whereas, in order to reduce the risk of domino effects, where establishments are sited in such a way or so close together as to increase the probability and possibility of major accidents, or aggravate their consequences, there should be provision for the exchange of appropriate information and co-operation on public information;

19. Whereas, in order to promote access to information on the environment, the public should have access to safety reports produced by operators, and persons likely to be affected by a major accident should be given information sufficient to inform them of the correct action to be taken in that event;

20. Whereas, in order to provide against emergencies, in the case of establishments where dangerous substances are present in significant quantities it is necessary to establish external and internal emergency plans and to create systems to ensure those plans are tested and revised as necessary and implemented in the event of a major accident or the likelihood thereof;

21. Whereas the staff of an establishment must be consulted on the internal emergency plan and the public must be consulted on the external emergency plan;

[...]

23. Whereas, in order to ensure that adequate response measures are taken if a major accident occurs, the operator must immediately inform the competent authorities and communicate the information necessary for them to assess the impact of that accident;

24. Whereas, in order to provide for an information exchange and to prevent future accidents of a similar nature, Member States should forward information to the Commission regarding major accidents occurring in their territory, so that the Commission can analyse the hazards involved, and operate a system for the distribution of information concerning, in particular, major accidents and the lessons learned from them; whereas this information exchange should also cover 'near misses' which Member States regard as being of particular technical interest for preventing major accidents and limiting their consequences,

Has adopted this Directive:

[...]

Article 5. General obligations of the operator

1. Member States shall ensure that the operator is obliged to take all measures necessary to prevent major accidents and to limit their consequences for man and the environment.

2. Member States shall ensure that the operator is required to prove to the competent authority referred to in Article 16, hereinafter referred to as the 'competent authority', at any time, in particular for the purposes of the inspections and controls referred to in Article 18, that he has taken all the measures necessary as specified in this Directive.

Article 6. Notification

1. Member States shall require the operator to send the competent authority a notification within the following time-limits:

- for new establishments, a reasonable period of time prior to the start of construction or operation;
- for existing establishments, one year from the date laid down in Article 24, paragraph 1.

2. The notification required by paragraph 1 shall contain the following details:

- a. the name or trade name of the operator and the full address of the establishment concerned;
- b. the registered place of business of the operator, with the full address;
- c. the name or position of the person in charge of the establishment, if different from a;
- d. information sufficient to identify the dangerous substances or category of substances involved;
- e. the quantity and physical form of the dangerous substance or substances involved;
- f. the activity or proposed activity of the installation or storage facility;
- g. the immediate environment of the establishment (elements liable to cause a major accident or to aggravate the consequences thereof).

3. In the case of existing establishments for which the operator has already provided all the information under paragraph 2 to the competent authority under the requirements of national law at the date of entry into force of this Directive, notification under paragraph 1 is not required.

4. In the event of:

- any significant increase in the quantity or significant change in the nature or physical form of the dangerous substance present, as indicated in the notification provided by the operator pursuant to paragraph 2, or any change in the processes employing it; or
- permanent closure of the installation,

the operator shall immediately inform the competent authority of the change in the situation.

Article 7. Major-accident prevention policy

1. Member states shall require the operator to draw up a document setting out his major-accident prevention policy and to ensure that it is properly

implemented. The major-accident prevention policy established by the operator shall be designed to guarantee a high level of protection for man and the environment by appropriate means, structures and management systems.

2. The document must take account of the principles contained in Annex III and be made available to the competent authorities for the purposes of, amongst other things, implementation of Article 5, paragraph 2 and Article 18.

3. This article shall not apply to the establishments referred to in Article 9.

Article 8. Domino effect

1. Member States shall ensure that the competent authority, using the information received from the operators in compliance with Articles 6 and 9, identifies establishments or groups of establishments where the likelihood and the possibility or consequences of a major accident may be increased because of the location and the proximity of such establishments, and their inventories of dangerous substances.

2. Member States must ensure that in the case of the establishments thus identified:

- a. suitable information is exchanged in an appropriate manner to enable these establishments to take account of the nature and extent of the overall hazard of a major accident in their major accident prevention policies, safety management systems, safety reports and internal emergency plans;
- b. provision is made for co-operation in informing the public and in supplying information to the competent authority for the preparation of external emergency plans.

Article 9. Safety report

1. Member States shall require the operator to produce a safety report for the purposes of:

- a. demonstrating that a major-accident prevention policy and a safety management system for implementing it have been put into effect in accordance with the information set out in Annex III;
- b. demonstrating that major-accident hazards have been identified and that the necessary measures have been taken to prevent such accidents and to limit their consequences for man and the environment;
- c. demonstrating that adequate safety and reliability have been incorporated into the design, construction, operation and maintenance of any installation, storage facility, equipment and infrastructure connected with its operation which are linked to major-accident hazards inside the establishment;
- d. demonstrating that internal emergency plans have been drawn up and supplying information to enable the external plan to be drawn up in order to take the necessary measures in the event of a major accident;

- e. providing sufficient information to the competent authorities to enable decisions to be made in terms of the siting of new activities or developments around existing establishments.

2. The safety report shall contain at least the data and information listed in Annex II. It shall also contain an updated inventory of the dangerous substances present in the establishment.

Safety reports, or parts of reports, or any other equivalent reports produced in response to other legislation, may be combined to form a single safety report for the purposes of this article, where such a format obviates the unnecessary duplication of information and the repetition of work by the operator or competent authority, on condition that all the requirements of this article are complied with.

3. The safety report provided for in paragraph 1 shall be sent to the competent authority within the following time limits:

- for new establishments, a reasonable period of time prior to the start of construction or of operation;
- for existing establishments not previously covered by Directive 82/501/EEC, three years from the date laid down in Article 24, paragraph 1;
- for other establishments, two years from the date laid down in Article 24, paragraph 1;
- in the case of the periodic reviews provided for in paragraph 5, without delay.

4. Before the operator commences construction or operation, or in the cases referred to in the second, third and fourth indents of paragraph 3, the competent authority shall within a reasonable period of receipt of the report:

- communicate the conclusions of its examination of the safety report to the operator, if necessary after requesting further information; or
- prohibit the bringing into use, or the continued use, of the establishment concerned, in accordance with the powers and procedures laid down in Article 17.

5. The safety report shall be periodically reviewed and where necessary updated:

- at least every five years;
- at any other time at the initiative of the operator or the request of the competent authority, where justified by new facts or to take account of new technical knowledge about safety matters, for example arising from analysis of accidents or, as far as possible, 'near misses', and of developments in knowledge concerning the assessment of hazards.

6. a. Where it is demonstrated to the satisfaction of the competent authority that particular substances present at the establishment, or any part thereof, are in a state incapable of creating a major-accident hazard, then the Member State may, in accordance with the criteria referred to in subparagraph b, limit the information required in safety reports to

those matters which are relevant to the prevention of residual major-accident hazards and the limitation of their consequences for man and the environment.

- b. Before this Directive is brought into application, the Commission, acting in accordance with the procedure laid down in Article 16 of Directive 82/501/EEC, shall establish harmonised criteria for the decision by the competent authority that an establishment is in a state incapable of creating a major accident hazard within the meaning of subparagraph a. Subparagraph a shall not be applicable until those criteria have been established.
- c. Member States shall ensure that the competent authority communicates a list of the establishments concerned to the Commission, giving reasons. The Commission shall forward the lists annually to the Committee referred to in Article 22.

Article 10. Modification of an installation, an establishment or a storage facility

In the event of the modification of an installation, establishment, storage facility, or process or of the nature or quantity of dangerous substances which could have significant repercussions on major-accident hazards, the Member States shall ensure that the operator:

- reviews and where necessary revises the major-accident prevention policy, and the management systems and procedures referred to in Articles 7 and 9;
- reviews, and where necessary revises, the safety report and informs the competent authority referred to in Article 16 of the details of such revision in advance of such modification.

Article 11. Emergency plans

1. Member States shall ensure that, for all establishments to which Article 9 applies:

- a. the operator draws up an internal emergency plan for the measures to be taken inside the establishment:
 - for new establishments, prior to commencing operation;
 - for existing establishments not previously covered by Directive 82/501/EEC, three years from the date laid down in Article 24, paragraph 1;
 - for other establishments, two years from the date laid down in Article 24, paragraph 1;
- b. the operator supplies to the competent authorities, to enable the latter to draw up external emergency plans, the necessary information within the following periods of time:
 - for new establishments, prior to the start of operation;

- for existing establishments not previously covered by Directive 82/501/EEC, three years from the date laid down in Article 24, paragraph 1;
 - for other establishments, two years from the date laid down in Article 24, paragraph 1;
 - c. the authorities designated for that purpose by the Member State draw up an external emergency plan for the measures to be taken outside the establishment.
2. The emergency plans must be established with the objectives of:
- containing and controlling incidents so as to minimise the effects, and to limit damage to man, the environment and property;
 - implementing the measures necessary to protect man and the environment from the effects of major accidents;
 - communicating the necessary information to the public and to the services or authorities concerned in the area;
 - providing for the restoration and clean-up of the environment following a major accident.

Emergency plans shall contain the information set out in Annex IV.

3. Without prejudice to the obligations of the competent authorities, Member States shall ensure that the internal emergency plans provided for in this Directive are drawn up in consultation with personnel employed inside the establishment and that the public is consulted on external emergency plans.

4. Member States shall ensure that internal and external emergency plans are reviewed, tested, and where necessary revised and updated by the operators and designated authorities at suitable intervals of no longer than three years. The review shall take into account changes occurring in the establishments concerned or within the emergency services concerned, new technical knowledge, and knowledge concerning the response to major accidents.

5. Member States shall ensure that emergency plans are put into effect without delay by the operator and, if necessary by the competent authority designated for this purpose:

- when a major accident occurs; or
- when an uncontrolled event occurs which by its nature could reasonably be expected to lead to a major accident.

6. The competent authority may decide, giving reasons for its decision, in view of the information contained in the safety report, that the requirement to produce an external emergency plan under paragraph 1 shall not apply.

[...]

Article 13. Information on safety measures

1. Member States shall ensure that information on safety measures and on the requisite behaviour in the event of an accident is supplied, without their

having to request it, to persons liable to be affected by a major accident originating in an establishment covered by Article 9.

The information shall be reviewed every three years and, where necessary, repeated and updated, at least if there is any modification within the meaning of Article 10. It shall also be made permanently available to the public. The maximum period between the repetition of the information to the public shall, in any case, be no longer than five years.

Such information shall contain, at least, the information listed in Annex V.

2. Member States shall, with respect to the possibility of a major accident with transboundary effects originating in an establishment under Article 9, provide sufficient information to the potentially affected Member States so that all relevant provisions contained in Articles 11, 12 and this article can be applied, where applicable, by the affected Member State.

3. Where the Member State concerned has decided that an establishment close to the territory of another Member State is incapable of creating a major-accident hazard beyond its boundary for the purposes of Article 11, paragraph 6 and is not therefore required to produce an external emergency plan under Article 11, paragraph 1, it shall so inform the other Member State.

4. Member States shall ensure that the safety report is made available to the public. The operator may ask the competent authority not to disclose to the public certain parts of the report, for reasons of industrial, commercial or personal confidentiality, public security or national defence. In such cases, on the approval of the competent authority, the operator shall supply to the authority, and make available to the public, an amended report excluding those matters.

5. Member States shall ensure that the public is able to give its opinion in the following cases:

- planning for new establishments covered by Article 9;
- modifications to existing establishments under Article 10, where such modifications are subject to obligations provided for in this directive as to planning;
- developments around such existing establishments.

6. In the case of establishments subject to the provisions of Article 9, Member States shall ensure that the inventory of dangerous substances provided for in Article 9, paragraph 2 is made available to the public.

Article 14. Information to be supplied by the operator following a major accident

1. Member States shall ensure that, as soon as practicable following a major accident, the operator shall be required, using the most appropriate means:

- a. to inform the competent authorities;
- b. to provide them with the following information as soon as it becomes available:

- the circumstances of the accident;
 - the dangerous substances involved;
 - the data available for assessing the effects of the accident on man and the environment; and
 - the emergency measures taken;
- c. to inform them of the steps envisaged:
- to alleviate the medium- and long-term effects of the accident;
 - to prevent any recurrence of such an accident;
- d. to update the information provided if further investigation reveals additional facts which alter that information or the conclusions drawn.
2. Member States shall require the competent authority:
- a. to ensure that any urgent, medium- and long-term measures which may prove necessary are taken;
 - b. to collect, by inspection, investigation or other appropriate means, the information necessary for a full analysis of the technical, organisational and managerial aspects of the major accident;
 - c. to take appropriate action to ensure that the operator takes any necessary remedial measures; and
 - d. to make recommendations on future preventive measures.

Article 15. Information to be supplied by the Member States to the Commission

1. For the purpose of prevention and mitigation of major accidents, Member States shall inform the Commission as soon as practicable of major accidents meeting the criteria of Annex VI which have occurred within their territory. They shall provide it with the following details:

- a. the Member State, the name and address of the authority responsible for the report;
- b. the date, time and place of the major accident, including the full name of the operator and the address of the establishment involved;
- c. a brief description of the circumstances of the accident, including the dangerous substances involved, and the immediate effects on man and the environment;
- d. a brief description of the emergency measures taken and of the immediate precautions necessary to prevent recurrence.

2. Member States shall, as soon as the information provided for in Article 14 is collected, inform the Commission of the result of their analysis and recommendations using a report form established and kept under review through the procedure referred to in Article 22.

Reporting of this information by Member States may be delayed only to allow for the completion of legal proceedings where such reporting is liable to affect those proceedings.

3. Member States shall inform the Commission of the name and address of any body which might have relevant information on major accidents and which is able to advise the competent authorities of other Member States which have to intervene in the event of such an accident.

[...]

Article 19. Information system and exchanges

1. Member States and the Commission shall exchange information on the experience acquired with regard to the prevention of major accidents and the limitation of their consequences. This information shall concern, in particular, the functioning of the measures provided for in this Directive.

2. The Commission shall set up and keep at the disposal of Member States a register and information system containing, in particular, details of the major accidents which have occurred within the territory of Member States, for the purpose of:

- a. the rapid dissemination of the information supplied by Member States pursuant to Article 15, paragraph 1 among all competent authorities;
- b. distribution to competent authorities of an analysis of the causes of major accidents and the lessons learned from them;
- c. supply of information to competent authorities on preventive measures;
- d. provision of information on organisations able to provide advice or relevant information on the occurrence, prevention and mitigation of major accidents.

The register and information system shall contain, at least:

- a. the information supplied by Member States in compliance with Article 15, paragraph 1;
- b. an analysis of the causes of the accidents;
- c. the lessons learned from the accidents;
- d. the preventive measures necessary to prevent a recurrence.

3. Without prejudice to Article 20, access to the register and information system shall be open to government departments of the Member States, industry or trade associations, trade unions, non-governmental organisations in the field of the protection of the environment and other international or research organisations working in the field.

4. Member States shall provide the Commission with a three-yearly report in accordance with the procedure laid down in Council Directive 91/692/EEC of 23 December 1991 standardising and rationalising reports on the implementation of certain directives relating to the environment for establishments covered by Articles 6 and 9. The Commission shall publish a summary of this information every three years.

Article 20. Confidentiality

1. Member States shall ensure, in the interests of transparency, that the competent authorities are required to make information received pursuant to this directive available to any natural or legal person who so requests.

Information obtained by the competent authorities or the Commission may, where national provisions so require, be kept confidential if it calls into question:

- the confidentiality of the deliberations of the competent authorities and the Commission;
- the confidentiality of international relations and national defence;
- public security;
- the confidentiality of preliminary investigation proceedings or of current legal proceedings;
- commercial and industrial secrets, including intellectual property;
- personal data and/or files;
- data supplied by a third party if that party ask for them to be kept confidential.

2. This Directive shall not preclude the conclusion by a Member State of agreements with third countries on the exchange of information to which it is privy at internal level.

[...]

Article 23. Repeal of Directive 82/501/EEC

1. Directive 82/501/EEC shall be repealed twenty-four months after the entry into force of this Directive.

2. Notifications, emergency plans and information for the public presented or drawn up pursuant to Directive 82/501/EEC shall remain in force until such time as they are replaced under the corresponding provisions of this Directive.

[...]"

Directive 97/11/EC amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, adopted by the Council of the European Union on 3 March 1997

"The Council of the European Union,

[...]

1. Whereas Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment aims at providing the competent authorities with relevant information to enable them to take a decision on a specific project in full knowledge of the project's

likely significant impact on the environment; whereas the assessment procedure is a fundamental instrument of environmental policy as defined in Article 130 R of the Treaty and of the fifth Community Programme of policy and action in relation to the environment and sustainable development;

[...]

11. Whereas it is appropriate to introduce a procedure in order to enable the developer to obtain an opinion from the competent authorities on the content and extent of the information to be elaborated and supplied for the assessment; whereas Member States, in the framework of this procedure, may require the developer to provide, *inter alia*, alternatives for the projects for which it intends to submit an application;

12. Whereas it is desirable to strengthen the provisions concerning environmental impact assessment in a transboundary context to take account of developments at international level;

13. Whereas the Community signed the Convention on Environmental Impact Assessment in a Transboundary Context on 25 February 1991,

Has adopted this Directive:

[...]

6. Article 4 shall be replaced by the following:

'Article 4

Member States shall ensure that the determination made by the competent authorities under paragraph 2 is made available to the public.'

7. Article 5 shall be replaced by the following:

'Article 5

1. In the case of projects which, pursuant to Article 4, must be subjected to an environmental impact assessment in accordance with Articles 5 to 10, member states shall adopt the necessary measures to ensure that the developer supplies in an appropriate form the information specified in Annex IV inasmuch as:

- a. the Member States consider that the information is relevant to a given stage of the consent procedure and to the specific characteristics of a particular project or type of project and of the environmental features likely to be affected;
- b. the Member States consider that a developer may reasonably be required to compile this information having regard *inter alia* to current knowledge and methods of assessment.

2. Member States shall take the necessary measures to ensure that, if the developer so requests before submitting an application for development consent, the competent authority shall give an opinion on the information to be supplied by the developer in accordance with paragraph 1. The competent authority shall consult the developer and authorities referred to in Article 6 (1) before it gives its opinion. The fact that the authority has given an

opinion under this paragraph shall not preclude it from subsequently requiring the developer to submit further information.

Member States may require the competent authorities to give such an opinion, irrespective of whether the developer so requests.

3. The information to be provided by the developer in accordance with paragraph 1 shall include at least:

- a description of the project comprising information on the site, design and size of the project;
- a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- the data required to identify and assess the main effects which the project is likely to have on the environment;
- an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects;
- a non-technical summary of the information mentioned in the previous indents.

4. Member States shall, if necessary, ensure that any authorities holding relevant information, with particular reference to Article 3, shall make this information available to the developer.'

8. [...]

Article 6, paragraph 2 shall be replaced by the following:

'2. Member States shall ensure that any request for development consent and any information gathered pursuant to Article 5 are made available to the public within a reasonable time in order to give the public concerned the opportunity to express an opinion before the development consent is granted.'

9. Article 7 shall be replaced by the following:

'Article 7

1. Where a Member State is aware that a project is likely to have significant effects on the environment in another Member State or where a Member State likely to be significantly affected so requests, the Member State in whose territory the project is intended to be carried out shall send to the affected Member State as soon as possible and no later than when informing its own public, inter alia, of:

- a. a description of the project, together with any available information on its possible transboundary impact;
- b. information on the nature of the decision which may be taken,

and shall give the other Member State a reasonable time in which to indicate whether it wishes to participate in the Environmental Impact Assessment procedure, and may include the information referred to in paragraph 2.

2. If a Member State which receives information pursuant to paragraph 1 indicates that it intends to participate in the Environmental Impact Assessment procedure, the Member State in whose territory the project is intended to be carried out shall, if it has not already done so, send to the affected Member State the information gathered pursuant to Article 5 and relevant information regarding the said procedure, including the request for development consent.

3. The member states concerned, each in so far as it is concerned, shall also:

- a. arrange for the information referred to in paragraphs 1 and 2 to be made available, within a reasonable time, to the authorities referred to in Article 6, paragraph 1 and the public concerned in the territory of the Member State likely to be significantly affected; and
- b. ensure that those authorities and the public concerned are given an opportunity, before development consent for the project is granted, to forward their opinion within a reasonable time on the information supplied to the competent authority in the Member State in whose territory the project is intended to be carried out.

[...]

5. The detailed arrangements for implementing the provisions of this article may be determined by the Member States concerned.'

10. Article 8 shall be replaced by the following:

'Article 8

The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 must be taken into consideration in the development consent procedure'

11. Article 9 shall be replaced by the following:

'Article 9

1. When a decision to grant or refuse development consent has been taken, the competent authority or authorities shall inform the public thereof in accordance with the appropriate procedures and shall make available to the public the following information:

- the content of the decision and any conditions attached thereto;
- the main reasons and considerations on which the decision is based;
- a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects.

2. The competent authority or authorities shall inform any Member State which has been consulted pursuant to Article 7, forwarding to it the information referred to in paragraph 1.'

12. Article 10 shall be replaced by the following:

'Article 10

The provisions of this Directive shall not affect the obligation on the competent authorities to respect the limitations imposed by national regulations and administrative provisions and accepted legal practices with regard to commercial and industrial confidentiality, including intellectual property, and the safeguarding of the public interest.

Where Article 7 applies, the transmission of information to another Member State and the receipt of information by another Member State shall be subject to the limitations in force in the Member State in which the project is proposed;

[...]"

2.1.4. European Environment Agency

- Decision 97/C 282/04 on public access to European Environment Agency documents, adopted by the European Environment Agency on 21 March 1997

Decision 97/C 282/04 on public access to European Environment Agency documents, adopted by the European Environment Agency on 21 March 1997

"Explanatory memorandum

1. Pursuant to Council Regulation (EEC) No. 1210/90 of 7 May 1990 on the establishment of the European Environment Agency and the European environment information and observation network¹ it is one of the tasks of the Agency 'to ensure that the public is properly informed about the state of the environment' (Article 1, paragraph 2). In conformity with this general statement, the Agency is in charge of ensuring 'the broad dissemination of reliable environmental information' (Article 2, point vi).

2. Considering that free access to available information on the environment held by public authorities of Member States will improve environmental protection, access to documents held by Member States has been ensured by Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment.²

3. On 6 December 1993 the Council and the Commission approved a code of conduct concerning public access to Council and Commission documents.³ Shortly afterwards, both institutions, implementing this code of conduct, adopted decisions on public access to their respective documents.⁴

1. OJ L 120, 11 May 1990, p. 1.

2. OJ L 158, 23 June 1990, p. 56.

3. OJ L 340, 31 December 1993, p. 41.

4. Council Decision of 20 December 1993 on public access to Council Documents (OJ L 340, 31 December 1993, p. 43), Commission Decisions of 8 February 1994 on public access to Commission document (OJ L 46, 18 February 1994, p. 58), as modified by Decision of 19 September 1996 (OJ L 247, 28 September 1996, p. 45).

4. The Agency has until now applied the Commission decision by analogy. However, having been granted legal personality and legal autonomy, it is not bound by the above-mentioned decisions and it is therefore necessary for the Agency to adopt its own set of rules on public access to European Environment Agency documents.

It is strongly indicated that these rules follow closely those adopted by the Council and the Commission. In conformity with the principle of legal autonomy, the decision does not refer to the above-mentioned code of conduct but is to be applied on an independent basis.

5. As to the substance of the decision, the point of departure should be, and this should be made perfectly clear, that the Agency is determined to grant access to existing documents in the widest possible way. The purpose of the decision is to set up the rules following which the public is entitled to apply for available documents without having to prove an interest. It must be understood that the applicants are only entitled to receive or to consult existing documents. There will be no obligation for the Agency to undertake research work or to produce new documents at the request of the public.

6. Access to documents (whatever their format) will normally be restricted to documents emanating from the Agency. For all other documents requested, applicants should be invited to apply to the authority from which these documents emanate.

7. While consultation of Agency documents on Agency premises will normally be free of charge, the Agency should have the possibility to charge a small fee for photocopies of documents exceeding thirty pages.

8. Access to Agency documents should be refused under certain conditions, especially in cases where public interest, the protection of the individual and of privacy, the protection of commercial and industrial secrecy so require. For reasons of coherence, it was found advisable to draft these exceptions (Article 5) exactly the same way as did the code of conduct adopted by the Council and the Commission.

9. The procedure set up by the decision is as follows:

- all applications should be addressed to the Office Executive Director. All requests should be handled under the responsibility of the Executive Director;
- if the Agency intends to refuse access to documents, the applicant is to be informed in writing of the reasons motivating this intention. Against this decision, the applicant may lodge an appeal to the Management Board chairperson. It is expected that this will take place only on very exceptional occasions;
- if the Management Board chairperson decides to reject the appeal, its decision shall state the reasons thereof and inform the applicant of the possibility of referring the matter to the Ombudsman pursuant to Article 138c of the EC Treaty.

10. The decision of the Management Board of the European Environment Agency has been adopted and should be reviewed after two years by the same body. It should be published in the *Official Journal of the European Communities* ('C' series) and made available to the public.

Text of the decision

I. The public shall have the widest possible access to Agency documents under the conditions laid down in this decision.

'Agency documents' means any existing written text, whatever its format, containing existing data and emanating from the European Environment Agency. This decision is not applicable to documents already published.

II. An application for access to an Agency document shall be sent in writing to the Executive Director of the Agency.¹ Applicants do not have to prove an interest.

Applications must be made in a sufficiently precise manner and must contain information enabling the particular document requested to be identified. Where necessary, the applicant shall be asked for further details.

III. The applicant shall have access to Agency documents either by consulting them on Agency premises or by having a copy sent at his own expense. For photocopies exceeding thirty sheets of paper, the Agency may charge a fee of ECU 10 plus ECU 0.036 per sheet. Charges for information in other formats shall be set on a case-by-case basis but shall not exceed what is reasonable.

Documents shall be provided in the language available, taking account of the applicants preference.

Anyone given access to an Agency document may not sell the document, or distribute it for commercial purpose without prior authorisation. Reproduction of published documents is authorised, provided the source is acknowledged.

IV. Applications shall be dealt with as quickly as possible under the responsibility of the Executive Director.

The applicant shall be informed in writing within one month whether his application is granted or whether the intention is to refuse access. In the latter case, the applicant shall be informed of the reasons for this intention. He shall also be informed that he has one month in which to apply to the Management Board chairperson for review of the intention to refuse access failing which he will be deemed to have withdrawn his application.

Failure to reply to an application within a month of submission shall be equivalent to a refusal. In this case the applicant may apply to the

1. European Environment Agency, Kongens Nytorv 6, DK-1050 Copenhagen, Fax (45 33) 36 71 99.

Management Board chairperson within one month, failing which he will be deemed to have withdrawn his application.

The decision on the application for review shall be taken as soon as possible and within two months of submission of such application, at the latest. If the application is rejected, the decision shall state the grounds on which it is based. At the same time, the applicant shall be informed of the possibility of referring the matter to the Ombudsman pursuant to the provisions of Article 138e of the EC Treaty.

V. Access to an Agency document shall not be granted where its disclosure could undermine:

- the protection of the public interest (public security, international relations, monetary stability, court proceedings, inspections and investigations);
- the protection of the individual and of privacy;
- the protection of commercial and industrial secrecy;
- the protection of the Community's financial interests;
- the protection of confidentiality as requested by the natural or legal person who supplied any of the information contained in the document or as required by the legislation of the member country which supplied any of that information.

Access to an Agency document may be refused in order to protect the confidentiality of the Agency's proceedings.

VI. This decision shall be reviewed after two years of operation. In preparation for that review, the Executive Director shall submit in due time a report to the Management Board on the implementation of this Decision.

VII. This Decision shall take effect on 1 June 1997. It shall be published in the Official Journal of the European Communities and made available to the public."

2.1.5. Regional conventions

- Nordic Environmental Protection Convention, adopted in Stockholm (Sweden) on 19 February 1974
- Convention on the Protection of the Marine Environment of the Baltic Sea area, adopted in Helsinki (Finland) on 9 April 1992
- Convention for the Protection of the Marine Environment of the North-East Atlantic, adopted in Paris (France) on 22 September 1992
- Convention on Co-operation for the Protection and Sustainable Use of the Danube River, adopted in Sofia (Bulgaria) on 29 June 1994
- Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, adopted in Barcelona (Spain) on 10 June 1995

- Protocol of the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, concerning Specially Protected Areas and Biological Diversity in the Mediterranean, adopted in Barcelona (Spain) on 10 June 1995
- Protocol of application of the Alpine Convention of 1991, on the Mountain Forests, adopted in Brno (Czech Republic) on 27 February 1996

Nordic Environmental Protection Convention, adopted in Stockholm (Sweden) on 19 February 1974

“[...]

Article 3

Any person who is affected or may be affected by a nuisance caused by environmentally harmful activities in another Contracting State shall have the right to bring before the appropriate court or administrative authority of that State the question of the permissibility of such activities, including the question of measures to prevent damage, and to appeal against the decision of the court or the administrative authority to the same extent and on the same terms as a legal entity of the State in which the activities are being carried out.

The provisions of the first paragraph of this article shall be equally applicable in the case of proceedings concerning compensation for damage caused by environmentally harmful activities. The question of compensation shall not be judged by rules which are less favourable to the injured party than the rules of compensation of the State in which the activities are being carried out.

[...]”

Convention on the Protection of the Marine Environment of the Baltic Sea Area, adopted in Helsinki (Finland) on 9 April 1992

“[...]

Article 16. Reporting and exchange of information

1. The Contracting Parties shall report to the Commission at regular intervals on:

- a. the legal, regulatory, or other measures taken for the implementation of the provisions of this Convention, of its Annexes and of recommendations adopted thereunder;
- b. the effectiveness of the measures taken to implement the provisions referred to in subparagraph a of this paragraph; and
- c. problems encountered in the implementation of the provisions referred to in subparagraph a of this paragraph.

2. On the request of a Contracting Party or of the Commission, the Contracting Parties shall provide information on discharge permits, emission data or data on environmental quality, as far as available.

Article 17. Information to the public

1. The Contracting Parties shall ensure that information is made available to the public on the condition of the Baltic Sea and the waters in its catchment area, measures taken or planned to be taken to prevent and eliminate pollution and the effectiveness of those measures. For this purpose, the Contracting Parties shall ensure that the following information is made available to the public:

- a. permits issued and the conditions required to be met;
- b. results of water and effluent sampling carried out for the purposes of monitoring and assessment, as well as results of checking compliance with water-quality objectives or permit conditions; and
- c. water-quality objectives.

2. Each Contracting Party shall ensure that this information shall be available to the public at all reasonable times and shall provide members of the public with reasonable facilities for obtaining, on payment of reasonable charges, copies of entries in its registers.

Article 18. Protection of information

1. The provisions of this Convention shall not affect the right or obligation of any Contracting Party under its national law and applicable supra-national regulation to protect information related to intellectual property including industrial and commercial secrecy or national security and the confidentiality of personal data.

2. If a Contracting Party nevertheless decides to supply such protected information to another Contracting Party, the Party receiving such protected information shall respect the confidentiality of the information received and the conditions under which it is supplied, and shall use that information only for the purposes for which it was supplied.

[...]"

Convention for the Protection of the Marine Environment of the North-East Atlantic, adopted in Paris (France) on 22 September 1992

"[...]

Article 9. Access to Information

1. The Contracting Parties shall ensure that their competent authorities are required to make available the information described in paragraph 2 of this article to any natural or legal person, in response to any reasonable request, without that person's having to prove an interest, without unreasonable charges, as soon as possible and at the latest within two months.

2. The information referred to in paragraph 1 of this article is any available information in written, visual, aural or database form on the state of the maritime area, on activities or measures adversely affecting or likely to affect it and on activities or measures introduced in accordance with the Convention.

3. The provisions of this article shall not affect the right of Contracting Parties, in accordance with their national legal systems and applicable international regulations, to provide for a request for such information to be refused where it affects:

- a. the confidentiality of the proceedings of public authorities, international relations and national defence;
- b. public security;
- c. matters which are, or have been, sub judice, or under enquiry (including disciplinary enquiries), or which are the subject of preliminary investigation proceedings;
- d. commercial and industrial confidentiality, including intellectual property;
- e. the confidentiality of personal data and/or files;
- f. material supplied by a third party without that party being under a legal obligation to do so;
- g. material, the disclosure of which would make it more likely that the environment to which such material related would be damaged.

4. The reasons for a refusal to provide the information requested must be given.

[...]"

Convention on Co-operation for the Protection and Sustainable Use of the Danube River, adopted in Sofia (Bulgaria) on 29 June 1994

"[...]

Article 14. Information to the public

1. The Contracting Parties shall ensure that their competent authorities are required to make available information concerning the state or the quality of riverine environment in the Danube Basin to any natural or legal person, with payment of reasonable charges, in response to any reasonable request, without that person having to prove an interest, as soon as possible.

2. The information referred to in paragraph 1 of this article, which is held by public authorities, may be given in written, visual, oral or database form.

3. The provisions of this article shall not affect the right of Contracting Parties, in accordance with their domestic legal systems and applicable international regulations, to provide for a request for such information to be refused where it affects:

- a. the confidentiality of the proceedings of public authorities, international relations and national defence;

- b. public security;
 - c. matters which are or have been sub judice or under enquiry including disciplinary enquiries, or which are the subject of preliminary proceedings;
 - d. commercial and industrial confidentiality as well as intellectual property;
 - e. the confidentiality of personal data and/or files;
 - f. material supplied by a third party without that party being under a legal obligation to do so;
 - g. material, the disclosure of which would make it more likely that the environment to which such material related would be damaged.
4. A public authority shall respond to a person requesting information as soon as possible. The reasons for a refusal to provide the information requested must be given in writing.

[...]"

Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, adopted in Barcelona (Spain) on 10 June 1995

"[...]

Article 11.b (renumbered as Article 15). Public information and participation

1. The Contracting Parties shall ensure that their competent authorities shall give to the public appropriate access to information on the environmental state in the field of application of the Convention and the Protocols, on activities or measures adversely affecting or likely to affect it and on activities carried out or measures taken in accordance with the Convention and the Protocols.
2. The Contracting Parties shall ensure that the opportunity is given to the public to participate in decision-making processes relevant to the field of application of the Convention and the Protocols, as appropriate.
3. The provision of paragraph 1 of this article shall not prejudice the right of Contracting Parties to refuse, in accordance with their legal systems and applicable international regulations, to provide access to such information on the ground of confidentiality, public security or investigation proceedings, stating the reasons for such a refusal.

[...]"

Protocol of the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, concerning Specially Protected Areas and Biological Diversity in the Mediterranean, adopted at Barcelona (Spain) on 10 June 1995

"[...]

Article 19. Publicity, information, public awareness and education

1. The Parties shall give appropriate publicity to the establishment of specially protected areas, their boundaries, applicable regulations, and to the designation of protected species, their habitats and applicable regulations.
2. The Parties shall endeavour to inform the public of the interest and value of specially protected areas and species, and of the scientific knowledge which may be gained from the point of view of nature conservation and other points of view. Such information should have an appropriate place in education programmes. The Parties shall also endeavour to promote the participation of their public and their conservation organisations in measures that are necessary for the protection of the areas and species concerned, including environmental impact assessments.

[...]"

Protocole d'application de la Convention alpine de 1991, dans le domaine des forêts de montagne, adoptée a Brno (République Tchèque) le 27 février 1996 (French only)

" [...]

Chapitre III. Recherche, formation et information

Article 13. Recherche et observation

1. Les Parties contractantes encouragent et harmonisent, en étroite collaboration, la recherche et l'observation systématique pour atteindre les objectifs du présent protocole.
2. Elles encouragent notamment des projets de recherche relatifs à la création, l'entretien, la protection et les prestations de l'écosystème forêt de montagne, ainsi que des projets scientifiques permettant d'établir des comparaisons internationales entre les inventaires nationaux et les enquêtes.
3. Les Parties contractantes veillent à ce que les résultats de la recherche et de l'observation, obtenus aux différents niveaux nationaux, soient collectés au moyen d'un système d'information commun d'observation et d'information permanentes et soient rendus accessibles au public dans le cadre institutionnel existant.
4. Elles établissent notamment un rapport comparatif des objectifs et des mesures fixés par le présent protocole, qui doit être mis à jour périodiquement.

Article 14. Formation et information

1. Les Parties contractantes favorisent la formation initiale et continue ainsi que l'information du public en ce qui concerne les objectifs, les mesures et l'application du présent protocole.

[...]"

2.2. Non-legally binding instruments and texts adopted by intergovernmental organisations or meetings

2.2.1. Council of Europe (CoE)

2.2.1.1. Consultative Assembly/Parliamentary Assembly

- Recommendation 683 (1972) on action to be taken on the conclusion of the Parliamentary Conference on Human Rights (Vienna, Austria, 18-20 October 1972), adopted by the Consultative Assembly in Strasbourg (France) on 23 October 1972
- Recommendation 854 (1979) on access by the public to government records and freedom of information, adopted by the Parliamentary Assembly in Strasbourg (France) on 1 February 1979
- Recommendation 1130 (1990) on the formulation of a European charter and a European convention on environmental protection and sustainable development, adopted by the Parliamentary Assembly in Strasbourg (France) on 28 September 1990
- Recommendation 1258 (1995) on an action programme for environmental education in teacher training, adopted by the Parliamentary Assembly in Strasbourg (France) on 1 February 1995
- Recommendation No. 1284 (1996) on the European environmental policy (1994-95), adopted by the Parliamentary Assembly in Strasbourg (France) on 23 January 1996
- Resolution 1087 (1996) on the consequences of the Chernobyl disaster, adopted by the Parliamentary Assembly in Strasbourg (France) on 26 April 1996
- Recommendation 1330 (1997) on the draft European charter of the Danube basin, adopted by the Parliamentary Assembly in Strasbourg (France) on 28 May 1997 and the draft of the European charter of the Danube basin
- Recommendation 1431 (1999) on future action to be taken by the Council of Europe in the field of environment protection, adopted by the Parliamentary Assembly in Strasbourg (France) on 4 November 1999

Recommendation 683 (1972) on action to be taken on the conclusion of the Parliamentary Conference on Human Rights (Vienna, Austria, 18-20 October 1972), adopted by the Consultative Assembly in Strasbourg (France) on 23 October 1972

“The Assembly,

1. Having regard to Resolution 467 (1971) on the organisation of a Parliamentary Conference on Human Rights;
2. Recalling Resolution 505 (1972) on the results of the Parliamentary Conference on Human Rights held in Vienna from 18 to 20 October 1971;
3. Considering the proceedings and the conclusions of the Vienna Conference, with a view to drawing up a short- and medium-term programme in the field of human rights in Europe complementing the European Convention on Human Rights;
4. Recalling that the Statute of the Council of Europe stipulates that Council bodies should take as their aims not only the maintenance but also the further realisation of human rights and fundamental freedoms;
5. Noting the work already done for the maintenance of human rights, thanks to the establishment and day-to-day functioning of the European Convention on Human Rights and its Protocols;
6. Conscious that the growth of Europe can be soundly based only if it is founded on respect for the human being and if it endeavours to provide an increasingly wide guarantee of his fundamental rights,
7. Recommends that the Committee of Ministers:
 - a. set up an ad hoc committee, composed of highly qualified personalities, each sitting in his personal capacity, chosen principally from the European Commission and Court of Human Rights, the Committee of Experts on Human Rights and the Assembly’s Legal Affairs Committee, and including representatives of the Secretariat of the Council of Europe, and one or two outside specialists in matters pertaining to the European Convention;
 - b. instruct the ad hoc committee to consider the proposals appended to the present recommendation on a short- and medium-term programme for the Council of Europe in the general field of human rights, as well as any other suggestions made by members of the said ad hoc committee;
 - c. submit to it the programme thus prepared for an opinion.

Proposals for a short- and medium-term programme for the Council of Europe in the general field of human rights

A. In respect of human rights which should be protected:

[...]

3. consider, in the light of the conclusions reached at the United Nations Conference in Stockholm and the Council of Europe Conference in Vienna on the environment, whether the right to an adequate environment should be raised to the level of a human right, and devise an appropriate legal instrument to protect this new right;

[...]"

Recommendation 854 (1979) on access by the public to government records and freedom of information, adopted by the Parliamentary Assembly in Strasbourg (France) on 1 February 1979

"The Assembly,

1. Reaffirming its faith in parliamentary democracy;
2. Convinced that parliamentary democracy can function adequately only if the people in general and their elected representatives are fully informed;
3. Considering that in today's society public life has become so complicated and technical that government departments and agencies frequently generate and possess information which cannot be obtained from other sources;
4. Considering therefore that it is desirable that, subject to certain inevitable exceptions, the public should have access to government records;
5. Considering that such freedom of information also constitutes an adequate check on corruption and waste of public funds;
6. Bearing in mind that the taxpayers, that is, the public in general, are the contributors of public funds, and that they should therefore be able to find out how those public funds are used, or misused, in government agencies and departments;
7. Believing that the individual should have access to his personal records and have the right to have erroneous information about himself corrected, it being understood that such personal information should not be divulged or distributed to others as this would constitute an unwarranted invasion of privacy;
8. Considering that such a right of access to one's own records has already been recognised by the Council of Europe in Resolutions (73) 22 and (74) 29 of the Committee of Ministers, relating to electronic records;
9. Considering that the time has come to recognise this principle with regard to any records, whether electronic or manual;
10. Considering that the Council of Europe itself should set an example of openness;
11. Noting that freedom of information has operated successfully in Sweden for more than two centuries, and that other Council of Europe member states have recently followed the Swedish example;

12. Taking note of the successful implementation in the United States of America of the Freedom of Information Act and the Privacy Act 1974 relating to record-keeping by federal agencies,

13. Recommends that the Committee of Ministers:

- a. invite member states which have not yet done so to introduce a system of freedom of information, that is, access to government files, comprising the right to seek and receive information from government agencies and departments, the right to inspect and correct personal files, the right to privacy, and the right to rapid action before the courts in these matters;
- b. instruct the Committee of Experts on Public Authorities and Access to Information, or any other expert committee, to make a full study on the question of access to government files;
- c. implement its decision taken in 1976 to insert a provision on the right to seek information in the European Convention on Human Rights;
- d. study whether and to what extent documents relating to activities of intergovernmental co-operation within the Council of Europe may be made accessible to the public;
- e. publish periodically, in an easily accessible form, the texts of the resolutions it adopts;
- f. give notice to the public, whenever possible and appropriate, of draft texts of conventions and resolutions pending finalisation and/or enactment by its appropriate organs."

Recommendation 1130 (1990) on the formulation of a European charter and a European convention on environmental protection and sustainable development, adopted by the Parliamentary Assembly in Strasbourg (France) on 28 September 1990

"[...]

Text of a European charter and a European convention on the environment and sustainable development

1. Every person has the fundamental right to an environment and living conditions conducive to his good health, well-being and full development of the human personality.

2. Every European and every Contracting European State has an equivalent duty to preserve and protect the environment in the interests of the health and well-being of all people inside and outside Europe, for the benefit of present and future generations.

"[...]"

Recommendation 1258 (1995) on an action programme for environmental education in teacher training, adopted by the Parliamentary Assembly in Strasbourg (France) on 1 February 1995

“1. Europe has created a way of life greatly dependent on scientific and technological progress, which is now at the limits of its ecological sustainability. Questions are being asked about the viability and the wisdom of unrestrained progressive development. At the same time, the European lifestyle represents for many a desirable model of development. Europe has to be made aware of its responsibility for the creation of economic practices, models for living and infrastructures based on an understanding of what ecological stewardship requires.

2. The most serious environmental risks and threats menace the future of Europe and the globe. The challenges of climate change and transfrontier waste, the mechanical manipulation of soil, the acidification and pollution of soil, oceans and fresh waters as well as the exhaustion of natural resources and the disappearance of species of animals and plants need to be dealt with in teacher training.

3. Environmental problems are caused by human beings and can be corrected by human beings. Environmental education is the key to a better relationship with nature and the use of natural resources. Teacher training is in its turn the key to success in implementing environmental education.

4. Each child has the right to be educated in a positive spirit as a potential agent for the betterment of the overall environment. Too often environmental education portrays a scenario of unsolvable or unavoidable threats.

5. Environmental education and awareness-raising must be part of a community-based approach to the problems, under which there must be a collective acceptance of responsibility for the state of the environment, in addition to individual responsibility.

6. Environmental education must moreover be thought out afresh and reconstructed to include a system of value education and moral responsibility which challenges those wider frames of thinking and behaviour – scientific, technological, economic, social, political and cultural – that reduce the natural world to nothing more than a resource to be plundered for short-term consumption.

7. The concept of environmental education has broadened from protection of the natural environment to that of the historical and cultural heritage; it has now widened to include the notions of active ecological citizenship and sustainable development. This development has to be reflected in teacher training.

8. Moreover, given the experience already gained in the field, it is essential not only to offer the individuals concerned the knowledge and skills needed for implementing environmental education projects, but also to make them aware of – and thus able to deal with and overcome – the obstacles they may encounter when carrying out such projects.

9. The best environmental education programmes are visionary in concept and participatory in practice. Imaginative, innovatory techniques and teaching skills need to be created and developed. Daily life in teacher-training institutions can be changed to reflect a more enlightened ecological perspective and so provide a context for pedagogical change.

10. The importance of environmental education and of teacher training in this field has been regularly recognised in international fora from the initial conference held in Tbilisi (Georgia) in 1977 to the new action plan for Nordic school co-operation adopted by the Nordic Ministers of Education in 1993. Council of Europe texts include the Committee of Ministers' Resolution (71) 14 and Recommendation No. R (91) 8 and the Assembly's Recommendation 937 (1982). The proposals contained in these texts are, however, still far from being put into practice.

11. The Assembly recommends that the Committee of Ministers launch an action programme for environmental education in teacher training.

12. The main objectives of the action programme should be:

- i. to learn more about the potential of environmental education for furthering sustainable development;
- ii. to collect examples of successful programmes in environmental education through teacher training;
- iii. to develop awareness of society's collective responsibility in which all citizens have differing but specific roles to play in a community-based approach to protecting the environment, and to teach the target groups how to manage and exploit the skills acquired;
- iv. to develop practical strategies for overcoming barriers to the successful implementation of environmental education through teacher training; and to this end, also to train teachers to identify, deal with and overcome the political, administrative and institutional obstacles that often undermine the effectiveness of even the best projects;
- v. to draw up guidelines on how to include the environmental dimension in teacher training in general;
- vi. to develop, test and disseminate practical adaptations (programmes, courses, modules, credits, study weeks) of the principles generated by participants in the action programme;
- vii. to create and strengthen networks of environmental educators in Europe.

13. The action programme should seek to identify promising developments in educational practice, curricula and teacher training.

14. It should also serve as an invitation to all kinds of teacher training institutions to intensify their efforts for the promotion of environmental education. Teachers in kindergartens, primary and secondary schools, vocational institutes, technical or adult institutes should be encouraged to include environmental education in teacher training programmes and to improve its quality.

15. Teacher training institutions should also be invited to submit sub-programmes to the action programme. They should inform the Council of Europe of the successful programmes they have organised in environmental education.”

Recommendation 1284 (1996) on the European environmental policy (1994-1995), adopted by the Parliamentary Assembly in Strasbourg (France) on 23 January 1996

[...]

14. [...] The Assembly reiterates its belief that the success of any decision on environmental protection depends on the understanding and acceptance of the latter by all the groups concerned, such as local authorities, business and industry and the public.

15. Consequently, access to information and dialogue with the different partners is fundamental to this process, and here parliamentary institutions (national parliaments as well as European assemblies) have an important role to play, in establishing fruitful relationships with them and in particular with non-governmental organisations.

[...]

17. The Assembly accordingly recommends that the Committee of Ministers:

- i. organise the Council of Europe’s intergovernmental sector on the environment in such a way as to enable the Organisation to play its full part in implementing the Pan-European Strategy on Biological and Landscape Diversity and in order to achieve this asks it:

[...]

- c. to include in the work programme of the steering committees involved, training and information programmes aimed equally at the general public, business and industry, schoolchildren and students;

[...]”

Resolution 1087 (1996) on the consequences of the Chernobyl disaster, adopted by the Parliamentary Assembly in Strasbourg (France) on 26 April 1996

“1. The Assembly recalls that 26 April 1996 is the 10th anniversary of the explosion of one of the reactors at Chernobyl nuclear power station, which triggered the biggest nuclear disaster ever and had tragic immediate, medium- and long-term consequences for the population and for the environment.

2. This tragic incident also proved that all countries, whether they were directly concerned or not, were totally unprepared to cope with this kind of disaster.

3. In this connection, the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency provide a welcome opportunity for contracting parties to create machinery to guarantee rapid, concerted and transparent action under such circumstances.

4. Similarly, the Assembly believes that public access to clear and full information on this subject – and many others for that matter – must be viewed as a basic human right.

5. It is only now, ten years on from the disaster, that increasingly comprehensive data is becoming available and providing irrefutable proof of the true scale of the consequences and the new risks generated by the inappropriate management of the accident.

6. Furthermore the latest information on the state of the ‘sarcophagus’, the structure designed to seal the damaged reactor, shows that there are real major threats which may well cause fresh damage or even another accident.

7. In view of the need for practical and rapid action to repair this structure, and in the light of the alarming report by the consortium carrying out the feasibility study on stabilising the ‘sarcophagus’, the international community must rapidly join forces to provide the funding needed to carry out this work.

8. Moreover, the striking increase in thyroid cancer in children and the actual or potential – often incurable – illnesses attributable to the radiation to which many people were exposed, in particular the 800 000 who worked in relays at the site, compel the international community to take concerted action on a major scale to help save lives and care for the sick.

9. The environmental situation – the evolution of which is still largely unknown today – also calls for action based on an objective survey of the damage to date and on the worrying potential risks of the huge amount of radioactive waste stored in a haphazard fashion and the presence of irradiated foodstuffs in the food chain.”

Recommendation 1330 (1997) on the draft European Charter of the Danube Basin, adopted by the Parliamentary Assembly in Strasbourg (France) on 28 May 1997

“[...]

12. If all the problems which the Danube region may have to face are to be dealt with in a comprehensive and integrated manner, co-operation must also extend to all levels, that is, international, national, regional and local, and to all the parties concerned, that is, public authorities, elected representatives and governmental and non-governmental organisations.

13. It was with this in mind that the Assembly decided in Resolution 1021 (1994) to draw up a European Charter of the Danube Basin, which would provide an appropriate framework for permanent co-operation at all levels in

the Danube region and for effective co-ordination of the specific examples of co-operation already in existence.

[...]

16. The Assembly therefore recommends that the Committee of Ministers:

- i. examine the draft European Charter of the Danube Basin with a view to permitting its early adoption;

[...]

Draft of the European Charter of the Danube Basin

[...]

Article 1. Purpose

The purpose of this Charter is to bring into effect ongoing co-operation between the governments, national parliaments, territorial communities or authorities and their elected assemblies, European institutions and international organisations, with a view to the harmonious, sustainable development of the regions of the Danube basin, for the well-being of its inhabitants and the preservation of its natural and cultural heritage. Suitable national or European non-governmental organisations and associations shall be involved in this operation in an appropriate manner.

[...]

Article 4. Guiding principles

[...]

- f. Co-operation in favour of sustainable development shall be fostered through the information and participation of all concerned, in accordance with the principles of subsidiarity and shared responsibility;

[...]

Article 10. Participation

Each party undertakes to implement the legislative and administrative measures needed to enable each category of partner referred to in Article 1 of this Charter to take part in the co-operation and dialogue envisaged in Part IV of the Charter, informing them and consulting them to the full.

Article 11. Information

Each party shall make, in accordance with domestic law, arrangements for the public to be amply informed of progress in meeting the Charter's aims and for public access to information on the environment and sustainable development.

[...]

Article 13. Appeal

Each party shall strive to take legislative and administrative measures such as to guarantee all persons and territorial communities that have suffered damage as a result of environmental effects, or qualified non-governmental organisations, a right of administrative and judicial action.

[...]

Article 15. Membership of the Standing Committee

1. The Committee shall be made up of representatives of the parties. Each national delegation shall, as far as possible, include representatives of the partners referred to in Article 1 of this Charter.

2. States outside the Danube basin which are members of the Council of Europe, the Parliamentary Assembly, the Congress of Local and Regional Authorities of Europe and intergovernmental organisations whose field of action encompasses the aims of this Charter may be represented with observer status.

[...]

3. After informing the Committee of Ministers, the Committee may grant observer status to associations of territorial communities, transfrontier co-operation bodies and suitable non-governmental organisations which have requested such status.

[...]”

Recommendation 1431 (1999) on future action to be taken by the Council of Europe in the field of environment protection, adopted by the Parliamentary Assembly on 4 November 1999

“1. According to the recent data and in particular to the last report of the European Environment Agency (“Environment in the European Union at the turn of the century”), the state of the European environment is not improving significantly, is in some respects worsening, and therefore remains a matter of serious concern.

2. The Assembly is concerned by increasing threats to the global environment as a result of the continuing release of damaging substances into the environment and the degradation of nature in general, leading among other things to loss of biodiversity and desertification, and believes that the Council of Europe has a role to play in the protection of the environment.

3. Since 1973 the Council of Europe has participated in different co-operation processes and contributed to the development of legal instruments concerning the environment at global and European level, one of its main activ-

ities in this field being to ensure the monitoring of the implementation of the Convention on the Conservation of European Wildlife and Natural Habitats (Bern 1979).

4. Environmental legislation has significantly evolved in the last thirty years at European and global level and requires increased co-ordination between international organisations.

5. Such co-operation needs to focus on efficient implementation of existing legal instruments and on a coherent framework for future legal developments, especially given the new geopolitical context in Europe where these instruments will be implemented. Therefore, close co-operation between the Council of Europe, the United Nations Economic Commission for Europe and the European Union is necessary.

6. [...]

7. The Assembly recognises the need to improve the effectiveness of existing international courts in environmental matters, especially by states accepting the compulsory jurisdiction of the International Court of Justice in environmental matters.

8. The Assembly underlines the important role of the European Convention on Human Rights for the protection of democracy and basic rights and liberties of individuals. In the light of changing living conditions and growing recognition of the importance of environmental issues, it considers that the Convention could include the right to a healthy and viable environment as a basic human right.

[...]

11. The Assembly thus recommends that the Committee of Ministers:

[...]

- ii. instruct the appropriate bodies within the Council of Europe to examine the feasibility of:

[...]

- b. drafting an amendment or an additional protocol to the European Convention on Human Rights concerning the right of individuals to a healthy and viable environment.

[...]”

2.2.1.2. Standing Conference/Congress of Local and Regional Authorities of Europe (CLRAE)

- Resolution No. 171 (1986) on regions, environment and participation, adopted by the Standing Conference of Local and Regional Authorities of Europe in Strasbourg (France) on 14 October 1986

Resolution No. 171 (1986) on regions, environment and participation, adopted by the Standing Conference of Local and Regional Authorities of Europe in Strasbourg (France) on 14 October 1986

“[...]

9. Requests the regions and, where appropriate, other territorial authorities:

[...]

- iv. to set up within their administration a department with overall responsibility for environmental matters, for the necessary co-ordination and for informing and advising the public, in particular by instituting environmental advisers;
- v. to see to it that their administration possesses sufficient qualified staff specialising in environmental matters to successfully carry through the tasks that territorial authorities will be required to perform in this area in the future;
- vi. to set up within their administration a citizen's protection agency (of the ombudsman type) or a specific service within existing institutions to which any citizen may apply for redress over problems concerning the environment;
- vii. to set up specialist emergency services with specific responsibility for pollution control and able to intervene at any time in the event of danger to the environment and to prevent accidents;
- viii. to promote the establishment of environmental protection associations as a means of enhancing public awareness;
- ix. to make possible or increase the participation of such representative environmental associations in decision-making on environmental management, planning and protection policies and to make all useful provision for this purpose;
- x. to inform the public clearly and accurately about any measures taken or planned in environmental matters, bearing in mind their direct impact on the quality of life (as requested in paragraph 2 of the appendix to Resolution 151 (1984));
- xi. for this purpose to consult the general public and representative associations on any environmental questions concerning them and to take into account the results of such consultation by publishing the arguments on both sides and the decision arrived at;
- xii. to set up a regional environment advisory committee, open to interested associations, as a forum for ongoing dialogue between the

regional administration and the associations concerned, to discuss all environmental matters, with particular reference to the preparation of the regional environment plan referred to in paragraph 9 ii; within this committee the administration should be required to answer associations' questions; the committee should be open to representatives of the state's decentralised administration;

- xiii. to co-operate with each other in the study, definition, implementation and management of environment protection measures with the aim of co-ordinating their efforts and drawing up compatible environment policies;
- xiv. to co-operate with each other in the planning and construction of the facilities and infrastructure required for the solution of common environmental problems and to promote better consultation between the various institutional levels;
- xv. to investigate ways and means of implementing regional 'environment and employment' schemes with all the partners it is possible to associate with such a venture;

[...]

11. Requests the Committee of Ministers:

- i. to instruct the Secretary General to put in hand, in the Council of Europe, the preparation of a charter embodying the right to the environment;
- ii. to instruct the Secretary General to submit to it a draft convention extending to all the Council of Europe member states the principles embodied in the directive of the Council of the European Communities concerning assessment of the impact of certain public and private projects on the environment;

12. Requests the Commission of the European Communities:

- i. to arrange for the general directorates concerned (DG XI and DG XVI) to establish a system of regular contacts with the Community regions which, in most countries, enjoy very wide or even exclusive powers in environmental matters;
- ii. to ensure that the European regions are provided with accurate and precise information about Community legislation governing protection of the environment, so that it may be taken into account in their environmental policies, and to consult them in this regard;
- iii. to promote consultation of the public, through representative associations, within the Economic and Social Committee, before the adoption of any measures with implications for the environment:

13. Instructs its Committee on Environment and Town Planning:

- i. to commission a group of experts to draw up, under the direction of the Rapporteur, a draft outline regional environmental management plan on the basis of the principles set forth in the appendix to this resolution;

- ii. in the years ahead, to organise a European conference on 'regions and the environment' in order to promote the exchange of experience between regional environment policy-makers (elected representatives, managers, associations), on the basis of the principles stated in this resolution and for the purpose of discussing the outline regional environmental management plan referred to in 13. i above;
- iii. to look into the ways and means, and difficulties, of implementing at regional level the environmental impact study procedure, and action taken on such studies;

14. Instructs its Committee on Cultural and Social Affairs to pay special attention to the problem of environmental education.

[...]"

2.2.1.3. Committee of Ministers

- Recommendation No. R (81) 19 of the Committee of Ministers to member states on the access to information held by public authorities, adopted in Strasbourg (France) on 25 November 1981
- Recommendation No. R (87) 16 of the Committee of Ministers to member states on administrative procedures affecting a large number of persons, adopted in Strasbourg (France) on 17 September 1987
- Recommendation No. R. ENV (90) 1 of the Committee of Ministers to member states on the European Conservation Strategy, adopted in Brussels (Belgium) on 12 October 1990
- Decision of the Committee of Ministers to take note of the Model Law on sustainable management of coastal zones and to forward it to the governments of member states, adopted in Strasbourg (France) on 9 September 1999

Recommendation No. R (81) 19 of the Committee of Ministers to member states on the access to information held by public authorities, adopted in Strasbourg (France) on 25 November 1981

"The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its members;

Having regard to Assembly Recommendation 854 on access by the public to government records and freedom of information;

Considering the importance for the public in a democratic society of adequate information on public issues;

Considering that access to information by the public is likely to strengthen confidence of the public in the administration;

Considering therefore that the utmost endeavour should be made to ensure the fullest possible availability to the public of information held by public authorities,

Recommends the governments of member states to be guided in their law and practice by the principles appended to this recommendation.

Appendix to Recommendation No. R (81)19

The following principles apply to natural and legal persons. In the implementation of these principles regard shall duly be had to the requirements of good and efficient administration. Where such requirements make it necessary to modify or exclude one or more of these principles, either in particular cases or in specific areas of public administration, every endeavour should nevertheless be made to achieve the highest possible degree of access to information.

I.

Everyone within the jurisdiction of a member state shall have the right to obtain, on request, information held by the public authorities other than legislative bodies and judicial authorities.

II.

Effective and appropriate means shall be provided to ensure access to information.

III.

Access to information shall not be refused on the ground that the requesting person has not a specific interest in the matter.

IV.

Access to information shall be provided on the basis of equality.

V.

The foregoing principles shall apply subject only to such limitations and restrictions as are necessary in a democratic society for the protection of legitimate public interests (such as national security, public safety, public order, the economic well-being of the country, the prevention of crime, or for preventing the disclosure of information received in confidence), and for the protection of privacy and other legitimate private interests, having, however, due regard to the specific interest of an individual in information held by the public authorities which concerns him personally.

VI.

Any request for information shall be decided upon within a reasonable time.

VII.

A public authority refusing access to information shall give the reasons on which the refusal is based, according to law or practice.

VIII.

Any refusal of information shall be subject to review on request."

Recommendation No. R (87) 16 of the Committee of Ministers to member states on administrative procedures affecting a large number of persons, adopted in Strasbourg (France) on 17 September 1987

"The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering that, in an increasing number of fields, administrative authorities are called upon to take decisions which affect in varying ways a large number of persons, especially in the fields of major installations, industrial plant and spatial planning;

Considering that it is desirable that common principles be laid down in respect of such decisions in all member states so as to ensure compatibility between the protection of a large number of persons and the requirements of efficient administration;

Considering, in addition, that some of these administrative decisions may also affect persons residing or having interests in the territories of neighbouring states;

Bearing in mind in this respect recent trends in international environmental law concerning the transborder effects of activities carried out within the jurisdiction or under the control of a state;

Considering that it is desirable that administrative authorities also take into consideration observations from such persons concerned relating to potential effects of proposed decisions in the territory of neighbouring states;

Having regard to the general principles laid down in Resolution (77) 31 on the protection of the individual in relation to the acts of administrative authorities as well as to the relevant principles included in Recommendation No. R (80) 2 concerning the exercise of discretionary powers by administrative authorities;

Considering that these principles should be adapted and supplemented in order to ensure in a fair and effective manner the protection of a large number of persons, including, where appropriate, persons concerned by certain international effects of decisions;

Recommends the governments of member states to be guided in their law and administrative practice as well as in their mutual relations by the principles set out in the appendix to this recommendation;

[...]

Appendix to Recommendation No. R (87) 16

Scope and definitions

The present recommendation applies to the protection of the rights, liberties and interests of persons in relation to non-normative administrative decisions (administrative acts) which concern a large number of persons, more specifically:

- a. a large number of persons to whom the administrative act is addressed, hereafter referred to as persons of the first category;
- b. a large number of persons whose individual rights, liberties or interests are liable to be affected by the administrative act even though it is not addressed to them, hereafter referred to as persons of the second category;
- c. a large number of persons who, according to national law, have the right to claim a specific collective interest that is liable to be affected by the administrative act, hereafter referred to as persons of the third category.

Persons of the three categories are hereafter referred to as persons concerned.

Section I below sets out the principles applicable to the making of the above-mentioned administrative acts and to the control thereof.

Section II states additional principles designed to protect the persons concerned when an administrative act is liable to have effects in the territory of a neighbouring state.

In the implementation of these principles, due regard should be had to the requirements of sound, efficient administration as well as to major public interests and the interests of third parties, in particular with respect to the protection of personal data and of industrial or commercial secrecy. When the above requirements or interests make it necessary, one or more of these principles may be derogated from or excluded in specific areas of public administration or in duly justified circumstances.

The aims of this recommendation can be achieved:

- either through a single set of rules covering the whole subject,
- or through rules or practices specific to particular categories of decisions or particular fields.

Section I. Administrative procedure and control

The administrative act which concerns a large number of persons should be taken on completion of a participation procedure conforming to the principles set forth below.

I.

When a competent authority proposes to take such administrative act, the persons concerned should be informed in such manner as may be appropriate and be provided with such factors as will enable them to judge its possible effects on their rights, liberties and interests.

II.

Having regard to the object and effects of the proposed administrative act, the interests at stake, the status or number of the persons concerned or the need to ensure efficient administration, the competent authority may decide that at all or some stages of the procedure:

- a. persons of the second category with common interests shall nominate one or more common representatives;
- b. persons of the third category shall be represented by associations or organisations.

III.

At their request, persons of the first category and, subject to such representation arrangements as may be imposed on them in conformity with Principle II, persons of the other categories should have access in such manner as may be appropriate to all the available factors relevant to the taking of the act.

IV.

Having regard to the object and effects of the proposed administrative act, the interests at stake, the status or number of the persons concerned or the need to ensure efficient administration, the competent authority should decide that the participation procedure continue under one or more of the following forms:

- a. written observations;
- b. private or public hearing;
- c. representation in an advisory body of the competent authority.

Where the procedure chosen is that of representation of the persons concerned in an advisory body, persons of the first category and, subject to such representation arrangements as may be imposed on them in conformity with Principle II, persons of the second category should also have the right to put forward facts and arguments and, in appropriate cases, present evidence.

V.

The competent authority should take into account facts, arguments and evidence submitted by the persons concerned during the participation procedure.

VI.

The administrative act should be notified to the public.

Without prejudice to any other way of communication, a public notification should specify, to the extent that it does not itself contain the information, how the persons concerned may gain access to the following:

- the main conclusions emerging from the procedure;
- the reasons on which the administrative act is based;
- information on normal remedies against the administrative act and the time-limit within which they must be utilised.

Persons of the first category should be personally informed of the administrative act and of the reasons on which it is based. The reasons may be included in the act itself or be communicated to these persons in writing, at their request, within a reasonable time. An indication of the normal remedies against the act, as well as of the time limit for their utilisation, should also be given to the said persons.

VII.

The administrative act should be subject to control by a court or other independent body. Such control does not exclude the possibility of a preliminary control by an administrative authority.

When the control procedure involves a large number of individuals, the court or other control body may, in accordance with fundamental principles and having due regard to the rights and interests of the parties, take various steps to rationalise the procedure, such as requiring participants with common interests to choose one or more common representatives, hearing and deciding test appeals and making notification by public announcement.

Section II. International aspects

VIII.

When the administrative act is likely to affect rights, liberties or interests in the territory of a neighbouring state, the administrative participation procedure referred to in Section I should be accessible to the persons concerned in that state, on a non-discriminatory basis, according to the following indications:

- a. The competent authority should provide these persons with the information mentioned in Principle 1, at the same time as it informs the persons concerned on its territory. Such notification may be made either directly, by any appropriate means, provided the rules or practices governing relations between the states concerned so allow, or through the authorities of the neighbouring state.

- b. Such representation arrangements as may be laid down by the competent authority should apply to the representation of these persons.
- c. These persons may submit their observations either directly, in accordance with the procedure in the territory of the state where the act is being proposed, or through the authorities of the neighbouring state when these authorities have declared their readiness to perform such functions in their residents' interest.
- d. The competent authority should inform these persons of the administrative act following the methods of communication mentioned in paragraph a.
- e. The competent authority can provide the information mentioned in paragraphs a and d in its own language. It shall not be bound to take into account observations submitted in other languages.

IX.

Access to the control procedure should be secured without discrimination on grounds of nationality or residence.

X.

Access to the administrative participation procedure and to the control procedure may be subject to reciprocity.

XI.

The application of the principles contained in this section may be subordinated to conventions concluded between the states concerned.

With due regard to the jurisdictions provided for by the internal law of each state as well as to the existing international agreements, the states and territorial communities or authorities concerned should further maintain liaison with one another with a view to ensuring an effective participation by all the persons concerned. They should endeavour to facilitate exchanges of information between the competent authority and the persons concerned. They may conclude either general or specific agreements or arrangements on a basis of reciprocity and equivalence for such purposes as:

- a. designating the authorities of the neighbouring state which should be approached according to the kind of administrative act proposed;
- b. enabling the factors relevant to the taking of the administrative act to be made available to the persons concerned in the neighbouring state;
- c. enabling an authority of the neighbouring state to obtain the observations of the persons concerned residing in its territory and to forward them to the competent authority;
- d. stating the languages to be used."

Recommendation No. R ENV (90) 1 of the Committee of Ministers to member states on the European Conservation Strategy, adopted in Brussels (Belgium) on 12 October 1990

"The European Ministerial Conference on the Environment, by delegation from the Committee of Ministers of the Council of Europe, in conformity with paragraph 17.c of Resolution (89) 40 of 5 May 1989 and under the terms of Article 15.b of the Statute of the Council of Europe.

1. Having taken note of Resolution No. 2 on a European Conservation Strategy of the 5th European Ministerial Conference on the Environment, Lisbon, June 1987;
2. Having regard *inter alia* to the report 'Our common future' of the World Commission on Environment and Development (known as the Brundtland Report) submitted to the United Nations General Assembly (1987), the World Conservation Strategy (1980) drawn up by the IUCN, the WWF and UNEP in co-operation with FAO and Unesco, the Economic Commission for Europe's Strategy for Environmental Protection and Rational use of Natural Resources in ECE member countries (1988) and UNEP's Environmental perspective to the year 2000 and beyond (1988);
3. Recognising that humanity's impact on the environment is steadily growing, thereby endangering not only the survival of an ever-increasing number of wild plant and animal species and their habitats, but also its own survival;
4. Recognising that environmental policies should be incorporated into all sectoral policies, including economic, social, cultural, educational, agricultural and forestry policies;
5. Wishing to provide present and future generations of Europeans with a healthy environment in which they will be able to achieve harmonious self-fulfilment as individuals without jeopardising the natural assets and resources on which they depend;
6. Considering that a European conservation strategy should meet the following objectives:
 - i. promote a culture which respects nature for what it is and not only for what monetary value can be placed on it; such a culture would make room for nature in our way of life and would lead to coexistence with nature rather than a desire to subjugate it to our immediate needs;
 - ii. meet the legitimate needs and aspirations of all Europeans by seeking to base economic, social and cultural development on a rational and sustainable use of natural resources and the maintenance of a healthy environment;
 - iii. secure the co-operation of all Europeans in the further development and implementation of the strategy by making them aware of environmental and conservation issues and involving them;
 - iv. suggest how sustainable development and conservation can be integrated and achieved;

[...]

8. Recognising that a European conservation strategy should seek to foster among all those in positions of authority and among the general public a change of attitude towards the environment based on an ethic of respect for life in all its forms;

9. Aware of the need to identify common priority objectives for the European states, to be implemented in national, regional and local policies for the conservation and management of the environment;

10. Wishing to make every effort to ensure appropriate co-ordination at international level by promoting activities directed towards the management of the environment, Europe's common heritage;

11. Recommends that the governments of member states:

I. apply the objectives and principles of the strategy appended hereto in all their policies;

II. widely circulate the text of the European Conservation Strategy among those concerned with environmental issues.

Appendix to Recommendation No. R ENV (90) 1

The European Conservation Strategy comprises general elements and sectoral aspects.

A. General elements

It is the responsibility of governments to draw up national conservation strategies. The following constitute common elements and provide a basis for developing a strategy.

[...]

VII. Information, databases and monitoring

Countries should set up and develop national databases on the state of the environment and its components, particularly in order to:

1. know the state of the environment;
2. help identify trends in the state of the environment and in social and economic growth;
3. help determine problems and priorities for action;
4. help frame the necessary legislative measures;
5. inform the general public as well as policy makers and managers;
6. promote international co-operation, as a basis for defining and implementing both conservation and development policies. There is a need for agreement between countries on desirable and minimum common features of data collection, formatting and networking to facilitate exchange of data,

assist the development of intergovernmental programmes and keep costs down.

Governments should also encourage and co-ordinate environmental monitoring, both nationally and internationally. Again, bilateral and multilateral discussions on the scope, methodology and format of databases could help to make the monitoring more effective and cost-efficient.

[...]

IX. Public awareness and participation

Material requirements are usually well recognised, but more attention should be paid to people's cultural, aesthetic and spiritual needs and how these relate to a healthy and attractive natural environment.

To involve people meaningfully requires that they be well informed on the environment and its importance in development policies. All too often, insufficient attention is paid to these issues in general education and on training courses. Today's adults need 'retraining' to fill the gaps in their knowledge and tomorrow's citizens and workers – today's children – need to be informed about environmental issues at school. Education and training, at all levels, play a key role in improving environmental and conservation awareness. Vocational training and school curricula should include more information on the environment.

The exchange of views and information, and co-operation between government agencies and voluntary, professional and community organisations help to promote understanding of nature conservation and to stimulate its incorporation into economic and other activities. There is a growing interest in conservation organisations and their increasing membership makes them an important political force with much to contribute to the wise husbandry of resources. They all need an opportunity to be involved in policy development and implementation.

[...]”

Decision of the Committee of Ministers to take note of the Model Law on sustainable management of coastal zones and to forward it to the governments of member states, adopted in Strasbourg (France) on 9 September 1999

“Model Law on sustainable management of coastal zones

[...]

Article 16. Information for the public and public participation

In accordance with Principle 10 of the Declaration on Environment and Sustainable Development adopted in Rio de Janeiro in 1992, the State shall facilitate access to information on coastal zones and wide public participation in the various decision-making processes.

[...]

Part 15. Public information and participation

Article 74. Preparation of plans and general rules

The public shall be informed of any draft plan or draft general rules concerning coastal zones. Members of the public shall be allowed to express their opinions on such plans or general rules in writing or at public hearings before such plans or general rules are adopted definitively.

All data or information relating to this law must be readily available to the public and to professional circles in accordance with the legislation on information.

Article 75. Implementation of specific projects

The public shall be informed of, and have an opportunity to participate in, decision-making processes which precede authorisation of specific projects involving a public or private activity or installation. In the case of major projects, a public inquiry shall enable members of the public to make known their opinions and put forward their counter-proposals. In all cases the public shall have access to the impact study and be able to express their views.

Article 76. Appeals

Once a public decision concerning a coastal zone has been taken, there shall be provision for application, within a given time, to the public authority to have it reconsider its action before any legal proceedings are instituted. In all cases, recourse to such non-contentious proceedings shall not affect the time-limit for bringing court proceedings.

Public decisions shall always be appealable before a court. In the event of a challenge to a proposed public decision concerning coastal zones, special mediation, arbitration or conciliation procedures could be available before the final decision is taken.

Article 77. Information, education, research

Information and education initiatives on the management and conservation of coastal zones shall be organised by the public authorities with the assistance of non-governmental organisations concerned. The research centres specialising in integrated coastal management referred to in Article 33 above shall be appropriately utilised for organising training for elected representatives and public servants and helping raise public awareness.

[...]"

2.2.1.4. European Conference of Ministers responsible for Regional Planning (Cemat) of the Member States of the Council of Europe

- Guiding Principles for Sustainable Spatial Development of the European Continent, adopted at the 12th Session of the European Conference of Ministers responsible for Regional Planning of the Member States of the Council of Europe in Hanover (Germany) on 8 September 2000

Guiding Principles for Sustainable Spatial Development of the European Continent, adopted at the 12th Session of the European Conference of Ministers responsible for Regional Planning of the Member States of the Council of Europe in Hanover (Germany) on 8 September 2000

“Foreword

1. The past decade has witnessed decisive and historic steps for European integration; new tasks and priorities for the Council of Europe result from this. In presenting the ‘Guiding Principles for Sustainable Spatial Development of the European Continent’, the European Conference of Ministers responsible for Regional Planning (Cemat) is making its contribution to a strategy of social cohesion. The ‘Guiding Principles’ stress the territorial dimension of human rights and democracy. Their objective is to define measures of spatial development policy by which people in all the member states of the Council of Europe can achieve an acceptable standard of living. This is an essential precondition for the stabilisation of democratic structures in Europe’s regions and municipalities.

2. The ‘Guiding Principles’ are based on the European Charter for Regional/Spatial Planning (Torremolinos Charter, 1983). This charter sets out principles for national and European policies designed to improve the spatial organisation of the then twenty-two member states of the Council of Europe and to resolve problems extending beyond national frontiers.

3. The Council of Europe now includes forty-one member states and covers – with a few exceptions – the European continent as well as northern parts of the continent of Asia. For the first time, almost all European states are united in supporting human rights and democracy; the Council of Europe has gained a continental significance. The ‘Guiding Principles’ aim to ensure that all regions and municipalities can actively participate in this process of European integration and democratisation. In this respect, the gap between the ‘two Europes’, i.e. between the old and the new members including their regions and municipalities, should be rapidly bridged.

4. The European continent is characterised by diversity. The implementation of sustainable development principles valid at Europe-wide level must be organised equally at the national, regional and local levels. The ‘Guiding Principles’ advocate the subsidiarity and reciprocity principles as a prerequisite for democracy and also as a means of preserving the ‘unity in diversity’ bequeathed to Europe by its history and geography.

5. The 'Guiding Principles for Sustainable Spatial Development of the European Continent' offer to the member states of the Council of Europe – including their regions and municipalities – a flexible and forward-looking framework for co-operation. They represent a vision or concept for sustainable development aimed at the various political and societal bodies working at the various levels inside and outside governments and administrations, preparing our future through their activities. Acceptance of these policy guidelines is based on voluntary co-operation. They are not legally binding.

[...]

IV. Principles of a planning policy for sustainable development in Europe

[...]

4. Developing access to information and knowledge

36. The emergence of the information society is currently one of the most significant phenomena reshaping society and its territorial structure. Particular attention should be paid to all regions to make sure that access to information is not restricted by physical and other constraints. Telecommunications networks should be improved and extended to cover the whole area. Tariffs should not be prohibitive. Encouragement should be given to national and regional interfaces between information suppliers and potential users, such as technology parks, technology transfer institutes and research and training centres, and to the establishment of on-line data banks, covering areas such as products, skills and tourism, to enable all regions to market themselves and increase their links with the global economy.

[...]

VI. Strengthening of co-operation between the member states of the Council of Europe and participation of regions, municipalities and citizens

[...]

5. Broadly-based participation of society in the spatial planning process

[...]

82. As early as 1983, the European Regional/Spatial Planning Charter drew attention to the need for active public participation in the spatial planning process. The intervening years have confirmed this need. Apart from such participation in local, regional and supra-regional projects, the involvement of European society and socio-economic actors, for example through non-governmental organisations, has become necessary. Their involvement at an early stage of the process makes a significant contribution not only to increasing the planning process's chances of success but also to avoiding unproductive investments. Societal consensus is very important not only for the success of local and regional initiatives; it also creates a dynamic environment for outside investors and economic actors. The involvement of the

younger generation in the planning process increases the chances of interesting the public in the long-term planning of their home region and in efficient and innovative participation. This is essential in gaining wider acceptance of the 'European idea'.

[...]"

2.2.1.5. Groups of experts

- Model Act on the Protection of the Environment, adopted by a group of independent experts within a programme of co-operation sustained by the Council of Europe with the central and eastern European countries in 1994

Model Act on the Protection of the Environment, adopted by a group of independent experts within a programme of co-operation sustained by the Council of Europe with the central and eastern European countries in 1994

"[...]

Part VI. Right to information and public participation in the protection of the environment

Article 21. Right to information

1. Everyone has the right to receive from the public authorities, subject to the provisions of Article 22 below, information on the state of the environment. This information may relate to data existing in written, visual, oral or database form on the state of water, air, soil, fauna, flora, land and natural sites, and on activities (including those which give rise to nuisances such as noise) or measures adversely affecting, or likely to affect these, and on activities or measures designed to protect them, including administrative measures and environmental management programmes.

2. A public authority shall respond to a person requesting information as soon as possible and at the latest within two months. Neglect to comply with the above duty shall result in disciplinary action.

Article 22. Supply of information

1. In giving information in pursuance of Article 21 the public authorities will respect the following conditions:

- a. The persons who have furnished the information to the authority have a right to the protection of their secrets, especially personal secrets and trade secrets. The authority is not entitled to illegally disclose secrets of the person concerned which it has learned in its official capacity.
- b. Information supplied by an enterprise or findings of the authority as to dangers or risks to health or the environment and the emissions, residual substances or wastes caused by that enterprise are not to be considered as trade secrets, unless conclusions as to other trade secrets can

be drawn from this information or these findings and the concerned person has a paramount interest in protecting these secrets. Information and findings within the meaning of subparagraph a can be disclosed and disseminated by the authority.

- c. Before deciding on the disclosure of secrets or of facts for which the person concerned has claimed secrecy, the concerned person should have a right to a hearing.
 - d. Information supplied by the person concerned to the competent authority which in his opinion is a secret, shall be marked and submitted separately; the concerned person must give reasons for qualifying the information as secret. The competent authority will then decide whether the information may be considered as secret.
 - e. If information supplied by an enterprise is classified as a trade secret, the competent authority can request the concerned person to supply a summary of the content of the information, in so far as that is possible without disclosure of the secret.
2. A request for information can be refused:
- a. If information to be given would involve the supply of unfinished documents or data or internal communications, or where the request is manifestly unreasonable or formulated in too general a manner.
 - b. If public order and/or national security would be affected by the supply of information.
3. The reasons for a refusal to provide the information requested shall be given.

Article 23. Events likely to affect public health

Any authority in possession of relevant data shall inform the public without delay of any event which directly or indirectly affects or is likely to affect public health and supply all necessary information to prevent or repair the damage.

Article 24. Refusal of information: remedies

A person who considers that his request for information has been unreasonably refused or ignored, or has been inadequately answered by a public authority, may seek a judicial or administrative review of the decision in accordance with the general provisions.

Article 25. Charges

1. Data banks on environmental protection and issues relating to public health are open to the public; thus access to these is free of charge.
2. States may charge for supplying information, but such charge may not exceed a reasonable cost and shall not be such as to discourage the request of information.

Article 26. Other duties of public authorities

Public authorities have the duty to take the necessary steps to provide understandable general information to the public on the state of the environment by such means as the periodic publication of descriptive reports. If appropriate, recourse to the mass media should be made.

Article 27. Right of participation

Whenever a decision of a public authority affects the rights, freedom and interests of a person, or a group of persons in relation to non-normative decisions, such persons have the right to participate in the proceedings as provided in Article 30.

Part VII. Proceedings in environmental matters

Section 1. General proceedings

Article 28. Commencement of administrative proceedings

1. A decision by a public authority likely to affect the environment and which concerns a large number of persons shall be taken on completion of a participation procedure conforming to the principles set forth in Section 2 below.
2. The construction and operation of immobile facilities likely to have an impact on the environment shall require prior authorisation and, if appropriate, the completion of the participation procedure mentioned in Section 2 below.
3. Those immobile facilities mentioned in the Annex to this Act and those which are likely to have a significant impact on the environment shall be subject to the participation procedure mentioned in Section 2 which shall be based on an environmental impact assessment report established in accordance with Section 3 below.

Section 2. Participation procedure

Article 29. Administrative proceedings

1. The authority decides within its discretion whether and when to begin an administrative proceeding, unless it is obliged to proceed ex officio or upon application.
2. The authority is obliged to keep proper files of the proceedings. All information collected by the authority on a particular proceeding shall to the extent possible be contained in one and the same file.

Article 30. Information of the interested persons

Wherever a public authority proposes to act in conformity with Article 29, the interested persons shall be informed in such manner as may be appropriate and be provided with such facts as will enable them to judge whether their rights, freedoms and interests are affected.

Article 31. Parties to the proceedings

Parties to an administrative proceeding are:

- a. the applicant and the counterparty to an application;
- b. the person to whom the authority will address or has addressed an administrative decision or act;
- c. any person whose rights, freedom or interests are affected or likely to be affected by the decision, act, plan, rule or regulation;
- d. persons who according to national law have the right to claim a specific collective interest that is likely to be affected by the administrative act even though it is not addressed to them.

Article 32. Hearing

When acting in conformity with Article 31 and before taking a decision, the public authority shall give to the person whose rights may be affected by it an opportunity to be heard.

Article 33. Access to the files

1. On application, the competent authority is obliged to give the parties and participants access to the files that are maintained in connection with the proceedings.
2. Information gathered from the files can be freely disclosed by the person who has inspected the files.
3. An abusive inspection of files or disclosure of information gathered thereby is not permissible.

Article 34. Refusal of access

Access to the files may be restricted or refused in accordance with Articles 22 and 24.

Article 35. Proceedings involving a large number of persons

1. In the case of uniform applications, objections, comments and similar statements from a large number of persons, the competent authority can request these persons to nominate a common agent within an appropriate period of time, and if they have not done so in time, nominate one of these persons as their common agent.
2. If in administrative proceedings, communications, especially service, have to be made to more than 300 persons, the communication can be effected through the mass media.

Article 36. International aspects

When a decision taken in conformity with Article 29 is likely to affect rights, liberties or interests in the territory of a neighbouring state, the proceedings referred to in this Part shall be accessible to the persons concerned in that state, on a non-discriminatory basis.

Article 37. Consideration of evidence submitted by persons participating in proceedings

The public authority acting in conformity with this Part shall take into account facts, arguments and evidence submitted by the persons participating in the proceedings.

Article 38. Decision and draft decision

1. The competent authority takes the decision. The objections, comments and the results of the hearing, in the case of an environmental impact assessment must be considered. The decision must be accompanied by reasons.
2. If the project raises important and controversial issues, the competent authority shall publish a draft of the decision together with a summary of the reasons and give the objectors an opportunity to comment on the draft in writing within a period of fourteen days after publication.
3. The decision must be communicated by public service to the applicant, the objectors and parties within the meaning of Article 31 and to the objectors in the case of Article 35.

Article 39. Judicial review

1. The decision taken as a result of the proceedings referred to in this Part shall be subject to review by a court or other competent independent body. Such control does not exclude the possibility of a preliminary control by an administrative authority.
2. When the review procedure involves a large number of individuals, the court or other body may, in accordance with fundamental principles and having due regard to the rights and interests of the parties, take various steps to rationalise the procedure, such as requiring participants with common interests to choose one or more common representatives, hearing and deciding test appeals and making notification by public announcement.
3. Notwithstanding the general provisions, costs incurred for opinions of experts whom the authority or the court has nominated or the concerned party was entitled to nominate under Article 35, must be borne by the state.

[...]"

2.2.2. Economic Commission for Europe of the United Nations (UN/ECE)

- Draft charter on environmental rights and obligations of individuals, groups and organisations, elaborated by an informal group of governmental experts organised under the auspices of the Netherlands for the Bergen Conference (Norway) on 8 to 16 May 1990
- Draft UN/ECE charter on environmental rights and obligations, elaborated by an informal group of experts on environmental law, in Oslo (Norway) on 31 October 1990 and presented by the delegations of Norway and the Netherlands, at the Fourth Session of the Senior Advisers to the UN/ECE Governments on Environmental and Water Problems in Espoo (Finland) 25 February-1 March 1991

Draft charter on environmental rights and obligations of individuals, groups and organisations, elaborated by an informal group of governmental experts organised under the auspices of the Netherlands for the Bergen Conference (Norway) on 8 to 16 May 1990

The proposal of a draft charter was submitted at the Preparatory Meeting of the Bergen Conference during a meeting held in Geneva from 5 to 9 March 1990 but not accepted. It was afterwards adopted by the non-governmental organisations in appendix to their resolution addressed to the Bergen Conference.

“General principles

1. All human beings have the fundamental right to an environment adequate for their health and well-being and the responsibility to protect the environment for the benefit of present and future generations.
2. Every individual, group or organisation has a right of access to environmental information.
3. Every private or public body shall assess its activities and carry them out in such a way as to protect the environment. Each of these bodies shall be accountable for its actions.
4. Every individual, group or organisation whose environment is affected or likely to be affected by an activity shall without delay be informed thereof.
5. Every individual, group or organisation has a right to participate in the formulation of all decisions likely to affect his or its environment.
6. Every individual, group or organisation whose environment is affected or likely to be affected by an activity, shall have access to and due process in judicial proceedings.
7. Every individual, group or organisation whose environment is affected by (an activity) shall receive prompt and adequate compensation.

8. In order to protect the environment non-governmental organisations have a right to act on behalf of individuals and groups and in the interest of the environment.

Access to information

9. Every individual, group or organisation has a right of access to available or reasonably obtainable information concerning the environment, activities affecting or likely to affect the environment, as well as control measures and environmental management programmes.

10. Every individual has a right to adequate environmental education.

11. Every consumer has a right to receive all appropriate information concerning the environmental implications of products and services, through labelling, media or otherwise.

12. The information shall be provided in a clear way, understandable to the public in general for direct inspection or by means of a copy of all relevant data without unreasonable financial burden for the applicant.

13. The right of access to information may only be restricted to the extent that this is necessary to protect national defence or trade and industrial secrecy, without prejudice to Article 15.

14. Decisions by private or public bodies to keep information confidential shall be subject to review by public authorities.

15. Information necessary to assess the hazard of an activity to the environment can under no circumstances be kept confidential.

16. Every individual, group or organisation having requested information shall have a right of appeal against a decision refusing the information or giving inadequate information. Failure to provide the information within a reasonable period of time shall be considered as a refusal of the information.

Obligation to make information available

17. In order to provide the public with adequate information governments shall regularly, at least every two years, produce and publish reports on the state of the environment.

18. Every private or public body planning to undertake an activity likely to affect the environment shall either directly or through public authorities inform the public without delay on the possible short-term and long-term effects of the activity.

19. Every public authority shall without delay publish its decision on a planned activity likely to affect the environment.

20. Every private or public body undertaking activities which may give rise to an emergency shall provide the public with information enabling it to react adequately should an emergency occur.

21. If an emergency occurs, the private or public body that undertakes the activity and the authorities shall inform the public immediately, in order to minimise adverse effects.

Participation

22. Every individual, group or organisation shall have a right to participate in the formulation of all decisions likely to affect his or its environment, notwithstanding the ultimate responsibility of the public authorities with respect to the decision-making.

23. Participation includes hearings, consultations and preliminary enquiries and the opportunity to make suggestions and objections in respect to proposed decisions, as well as recourse to and standing in administrative proceedings.

24. In all cases, adequate information about the opportunity to participate shall be given.

25. The mechanisms for public participation and the scope of participation should be adapted to the nature of the decision being made and to who(m) may be affected by the decision.

26. Every individual, group or organisation that has participated in the decision-making process shall without delay be informed on the extent to which its views have been taken into account in the making of the decision.

Legal protection and compensation

27. Every individual, group or organisation whose environment is affected or likely to be affected shall have a right to resort to judicial procedures in the country where the activity takes place or the effects occur, in order to prevent or abate environmental degradation, or obtain prompt and adequate compensation for the damage caused thereby.

Implementation

28. Governments shall guarantee the enjoyment of the rights and enforce the obligations contained in the present Charter without discrimination with regard to the nationality or residence of the individuals, groups or organisations involved.

29. Governments shall inform the public of the rights and obligations contained in the present Charter."

Draft UNIECE charter on environmental rights and obligations, elaborated by an informal group of experts on environmental law, in Oslo (Norway) on 31 October 1990 and presented by the delegations of the Netherlands and Norway, at the Fourth Session of the Senior Advisers to ECE Governments on Environmental and Water problems in Espoo (Finland) 24 February to 1st March 1991

The Bergen Ministerial Declaration on Sustainable Development in the ECE Region, adopted at the Regional Conference on the follow-up to the Report of the World Commission on Environment and Development (WCED) in the ECE Region (Bergen, Norway, 8 to 16 May 1990), called, inter alia, for the preparation of a document on environmental rights and obligations for possible adoption in 1992 (paragraph 16.g of the Declaration).

The Dutch and Norwegian Ministries of Environment jointly convened an informal meeting of experts on environmental law in Oslo (Norway) from 29 to 31 October 1990. Experts from Czechoslovakia, France, Hungary, Netherlands, Norway, Portugal and the United Kingdom were present.

The meeting prepared a preliminary draft of a possible ECE charter on environmental rights and obligations. The report said:

*“The Senior Advisers might wish to take the necessary steps for the elaboration, under their auspices, of an ECE Charter on Environmental Rights and Obligations on the basis of the draft contained in Annex I to this note. To this effect, the Senior Advisers may wish to convene an *ad hoc* meeting in 1991 in The Hague, hosted by the Government of the Netherlands. The charter, once approved by the Senior Advisers at their fifth session and adopted by the Commission at its 46th session in spring 1992, could be submitted to the United Nations Conference on Environment and Development (UNCED).*”

Reaffirming that the attainment of sustainable development on the national, regional and global levels requires fundamental changes in human values regarding the environment and in patterns of behaviour and consumption, as well as the establishment of necessary democratic institutions and processes;

Emphasising the importance of participation by a well-informed and well-educated society, so as to allow the public to mobilise itself to affect political change consistent with sustainable development;

Confirming the intention to continue to improve national and international processes within the ECE region in the light of the important multisectoral dialogue among governments and non-government sectors, which was initiated for the Regional Conference on the follow-up to the Report of the World Commission on Environment and Development (WCED) in the ECE Region, held in Bergen (Norway) in May 1990;

Proclaim that:

Fundamental principles

1. Everyone has the right to an environment that is adequate for his general health and well-being.
2. Everyone has the responsibility to protect and conserve the environment for the benefit of present and future generations.
3. Everyone has the right to express freely his views, to associate with others, to assemble peacefully, to publish and distribute information and to establish and maintain direct and independent contacts at national and international levels on environmental issues.

Environmental information, education and training

4. Everyone has the right of access to adequate information relevant to the environment, including information on products and activities which could or do significantly affect the environment, and on environmental protection measures. The information shall be provided in a clear way, be understandable to the public in general and be without unreasonable financial burden for the applicant.
5. Everyone has the right to receive adequate information about potential sources of accidents, including contingency planning, and to be informed immediately when an emergency occurs.
6. Everyone has the right to appeal for administrative or judicial review when the requested information is not provided within reasonable time or is withheld for any reason.
7. Everyone has the right to adequate environmental education and access to environmental training.
8. Everyone has the right to receive at regular intervals reports prepared by competent authorities on the state of the environment at local, provincial and national levels.
9. Public bodies have the responsibility and accountability to report regularly on the extent to which their activities have had a significant effect on the environment.

Decision-making

10. Everyone has the right to participate in the decision-making process for activities which do or could have a significant impact on the environment.
11. States have the responsibility to ensure that actions which could have a significant impact on the environment shall be made subject to a prior assessment of the effects on the environment and to prior authorisation made in the light of that assessment.
12. Everyone has the right to receive the information necessary to enable him to participate in a timely and effective manner in the decision-making

process and to transmit comments on proposed activities to the competent authority before the formal decision is taken.

13. Everyone who participates in the decision-making process has the right to be informed without delay of the reasons for the decision that is taken and in such a manner that he can identify the extent to which his suggestions and objections have been taken into account.

Legal protection and compensation

14. Everyone has the right of access to and due process in administrative and judicial proceedings concerning activities which do or could have a significant impact on the environment.

15. Everyone has the right to seek immediate state or judicial action to reduce or stop an activity which he considers violates legal norms and adversely affects his health or environment.

16. Everyone has the right to take legal action to obtain reimbursement of expenditure arising from measures taken by him to prevent or repair damage to the environment.

17. Everyone has the right to seek judicial or administrative action to restore or reinstate the environment to its state immediately prior to the occurrence of the damage.

18. Everyone has the right to seek full and prompt compensation for damage to his health, livelihood or environment.

Transboundary impacts

19. Everyone has the right of access to administrative and judicial proceedings concerning activities which do or could have a significant adverse impact on the environment equal to the right of those resident in the state where the activity takes place.

20. Public authorities, when considering under their domestic policy or law the permissibility of activities which do or could have a significant effect on the environment, have the responsibility to take account of the effects without discrimination as to whether the effects would occur inside or outside the area under their national jurisdiction.

Implementation

21. The member states of the United Nations Economic Commission for Europe shall inform the public of the rights and obligations proposed in this Charter.

22. The rights and obligations in this Charter may be subject to restrictions prescribed by law, which are necessary in a democratic society in the interests of national security, public safety, for the protection of public order and for the protection of the rights and freedom of others.

23. The member states of the United Nations Economic Commission for Europe are invited to take appropriate measures to reflect these proposed rights and obligations in their national legislation and administrative practices.

24. The member states of the United Nations Economic Commission for Europe shall ensure that the rights and obligations set forth in this Charter are applied by everyone without any discrimination regarding the nationality or residence of those concerned.

Annex: International agreements, resolutions and reports taken into account in preparing the proposal for a charter on environmental rights and obligations

- The United Nations Charter.
- The 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and subsequent Protocols.
- The 1972 Stockholm Declaration of the United Nations Conference on the Human Environment.
- The 1975 Final Act of the Conference on Security and Co-operation in Europe (CSCE).
- The 1980 World Conservation Strategy.
- The 1982 World Charter for Nature.
- The 1987 Report on ‘Our Common Future’ by the World Commission on Environment and Development (WCED), and the ‘Legal Principles and Recommendations for Environmental Protection and Sustainable Development’ adopted by the WCED Experts Group on Environmental Law.
- The 1988 ECE Regional Strategy for Environmental Protection and Rational Use of Natural Resources.
- The concluding documents of the Vienna and Madrid meetings of the representatives of the participating states of the Conference on Security and Co-operation in Europe (CSCE), and the conclusions of the 1989 Sofia CSCE Meeting on the Protection of the Environment.
- The 1989 European Charter on Environment and Health.
- The conclusions of the 1990 Siena Forum on International Law of the Environment.
- The Charter on Environmental Rights and Obligations of Individuals, Groups and Organisations, agreed by the delegates of the NGO Conference on Environment and Development in March 1990.
- The 1990 Bergen Ministerial Declaration on Sustainable Development in the ECE Region, and the Joint Agenda for Action.
- The draft Convention on Environmental Impact Assessment in a Transboundary Context (1990).”

2.2.3. European Community (EC)/European Union (EU)

- Declaration on the environmental imperative, adopted by the European Council in Dublin (Ireland) on 26 June 1990
- Charter of fundamental rights of the European Union (2000/C 364/01) solemnly proclaimed by the European Union and the European Commission in Nice (France) on 7 December 2000

Declaration on the environmental imperative, adopted by the European Council in Dublin (Ireland) on 26 June 1990

"[...]

1.36 The natural environment which forms the life-support system of our planet is gravely at risk. The Earth's atmosphere is seriously threatened. The condition of water resources, including the seas and oceans, is causing concern, natural resources are being depleted and there is growing loss of genetic diversity. The quality of life – indeed, the continuation of life – could no longer be assured were recent trends to proceed unchallenged.

As Heads of State and Government of the European Community, we recognise our special responsibility for the environment both to our own citizens and to the wider world. We undertake to intensify our efforts to protect and enhance the natural environment of the Community itself and the world of which it is part. We intend that action by the Community and its member states will be developed on a co-ordinated basis and on the principles of sustainable development and preventive and precautions of action. We have, therefore, adopted the following Declaration setting out guidelines for future action.

[...]

Personal attitudes and shared responsibilities

Increased public awareness of and concern for environmental issues is one of the major developments of our time. We note with satisfaction the adoption of the regulation to establish the European Environment Agency which will provide reliable and objective information on the state of the environment for the citizens of Europe.

Another important development is the adoption of the Directive on Freedom of Access to Environmental Information which will greatly increase the availability of information to the public and will lead to the publication of regular 'state of the environment' reports. We invite the member states to accompany these reports by national environment action plans, prepared in a form which will attract maximum public interest and support.

We urge member states to take positive steps to disseminate environmental information widely among their citizens in order to build up more caring and more responsible attitudes, a greater understanding, based on sound

scientific assessments, of the nature and causes of problems, and better appreciation of the costs and other implications of possible solutions.

The development of higher levels of knowledge and understanding of environmental issues will facilitate more effective action by the Community and its member states to protect the environment. The objective of such action must be to guarantee citizens the right to a clean and healthy environment, particularly in regard to:

- the quality of air;
- rivers, lakes, coastal and marine waters;
- the quality of food and drinking water;
- protection against noise;
- protection against contamination of soil, soil erosion and desertification;
- preservation of habitats, flora and fauna, landscape and other elements of the natural heritage;
- the amenity quality of residential areas.

The full achievement of this objective must be a shared responsibility. Problems cannot be resolved without concerted action. In each country, everyone – Government, public authorities, private undertakings, individuals and groups – must be fully involved. Acceptance at all levels of this concept must be promoted.

Mankind is the trustee of the natural environment and has the duty to ensure its enlightened stewardship for the benefit of this and future generations. Solidarity must be shown with the poorer and less developed nations.

We note with interest the conclusions of the Siena Forum on International Law of the Environment and suggest that these should be considered by the 1992 UN Conference on Environment and Development.

All of our decisions matter. The environment is dependent on our collective actions and tomorrow's environment depends on how we act today.

The European Council invites the Commission to use these principles and objectives as the basis of the Fifth Action Programme for the Environment and to present a draft of such a Programme in 1991."

Charter of fundamental rights of the European Union (2000/C 364/01) solemnly proclaimed by the European Parliament, the Council of the European Union and the European Commission in Nice (France) on 7 December 2000

"Preamble

The peoples of Europe, in creating an ever closer union among them, are resolved to share a peaceful future based on common values.

Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and soli-

parity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice.

The Union contributes to the preservation and to the development of these common values while respecting the diversity of the cultures and traditions of the peoples of Europe as well as the national identities of the Member States and the organisation of their public authorities at national, regional and local levels; it seeks to promote balanced and sustainable development and ensures free movement of persons, goods, services and capital, and the freedom of establishment.

To this end, it is necessary to strengthen the protection of fundamental rights in the light of changes in society, social progress and scientific and technological developments by making those rights more visible in a Charter.

This Charter reaffirms, with due regard for the powers and tasks of the Community and the Union and the principle of subsidiarity, the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the Treaty on European Union, the Community Treaties, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Social Charters adopted by the Community and by the Council of Europe and the case-law of the Court of Justice of the European Communities and of the European Court of Human Rights.

Enjoyment of these rights entails responsibilities and duties with regard to other persons, to the human community and to future generations.

The Union therefore recognises the rights, freedoms and principles set out hereafter.

[...]

Article 35. Health care

Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.

[...]

Article 37. Environmental protection

A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.

Article 38. Consumer protection

Union policies shall ensure a high level of consumer protection.

[...]”

2.2.4. Pan-European Ministerial Conferences “Environment for Europe”

- Declaration of the Second Ministerial Conference “Environment for Europe”, adopted in Lucerne (Switzerland) on 30 April 1993
- Declaration of the Third Ministerial Conference “Environment for Europe”, adopted in Sofia (Bulgaria) on 25 October 1995
- Guidelines on access to environmental information and public participation in environmental decision-making, endorsed by the Third Ministerial Conference “Environment for Europe”, in Sofia (Bulgaria) on 25 October 1995
- Pan-European Biological and Landscape Diversity Strategy, endorsed by the Third Ministerial Conference “Environment for Europe”, in Sofia (Bulgaria) on 25 October 1995
- Declaration of the Fourth Ministerial Conference “Environment for Europe”, adopted in Aarhus (Denmark) on 25 June 1998
- Resolution on biological and landscape diversity, endorsed by the Fourth Ministerial Conference “Environment for Europe” in Aarhus (Denmark) on 25 June 1998
- Resolution on access to information, public participation in decision-making and access to justice in environmental matters, of which the Fourth Ministerial Conference “Environment for Europe” took note in Aarhus (Denmark) on 25 June 1998

Declaration of the Second Ministerial Conference “Environment for Europe”, adopted in Lucerne (Switzerland) on 30 April 1993

[...]

22.2 We call for the elaboration of proposals by the UN/ECE for legal, regulatory and administrative mechanisms to encourage public participation in environmental decision-making, and for cost-efficient measures to promote public participation and to provide, in co-operation with the informal sectors, training and education in order to increase the ability of the public to understand the relevance of environmental information.

[...]

23.2 We urge the contracting parties to environmental conventions in the UN/ECE region to co-operate within the respective governing bodies in taking appropriate steps to:

- improve knowledge of the objectives and obligations of environmental conventions in the UN/ECE region;
- assist governments in building the necessary administrative and legal structures, including enforcement and implementation mechanisms, inter alia by initiating or pursuing the elaboration of guidelines, assisting where requested with the drafting of legislation, and by providing for the exchange of legal and technical experts;

- facilitate regular participation in meetings by representatives of countries in transition;
- supply all relevant information with regard to implementation without necessarily being required to do so.

[...]"

Declaration of the Third Ministerial Conference "Environment for Europe", adopted in Sofia (Bulgaria) on 25 October 1995

"[...]

Public participation

42. We believe it is essential that, in accordance with Principle 10 of the Rio Declaration, states should give the public the opportunity to participate at all levels in decision-making processes relating to the environment, and we recognise that much remains to be done in this respect. We call upon all countries in the region to ensure that they have a legal framework and effective and appropriate mechanisms to secure public access to environmental information, to facilitate and encourage public participation, inter alia, through environmental impact assessment procedures, and to provide effective public access to judicial and administrative remedies for environmental harm. We invite countries to ensure that in relevant legislation effective public participation as a foundation for successful environmental policies is being introduced.

43. We endorse the ECE Guidelines on Access to Environmental Information and Public Participation in Environmental Decision-Making and invite the ECE to review their implementation in 1997 and to report to the next conference.

44. We will ensure that the results of this conference will be broadly disseminated. We request international organisations in the 'Environment for Europe' process to do the same.

[...]

The future

[...]

48. We believe that the 'Environment for Europe' process remains essential as a political framework for co-operation in the field of environmental protection for Europe.

[...]

In this context:

[...] The development of a regional Convention on Public Participation should be considered with appropriate involvement of NGOs.

[...]"

Guidelines on access to environmental information and public participation in environmental decision-making, endorsed by the Third Ministerial Conference "Environment for Europe" in Sofia (Bulgaria) on 25 October 1995

"Preamble

Recalling Principle 10 of the Rio Declaration on Environment and Development, which states that: 'Environmental issues are best handled with the participation of all concerned citizens, at the relevant level';

Recognising that in order to increase awareness of environmental problems and promote effective public participation, access to environmental information should be guaranteed;

Recognising that public participation contributes to the endeavours of public authorities to protect the environment, and bearing in mind that environmental policy and decision-making should not be restricted to the concerns of authorities;

Recognising that in order to promote effective public participation the public needs to be aware of the means and methods of participation in environmental decision-making processes, and in the solving of environmental problems;

Recognising that public participation can be a source of additional information and scientific and technical knowledge to the decision makers;

Convinced that environmental authorities should raise public awareness in order to promote greater public understanding and support for environmental policies and enforcement;

Aware that the promotion of public participation requires the transparency and the accountability of public authorities, thus improving their credibility and strengthening support for their activities;

Concerned that when emphasising the importance of public participation in protecting environmental rights, it should also be recognised that all persons, both individually and in association with others, have a duty to protect and preserve the environment;

Whereas practicable access to the courts and administrative complaints procedures for individuals and public interest groups will ensure that their legitimate interests are protected and that prescribed environmental measures are effectively enforced and illegal practices stopped,

The following Guidelines are approved:

Nothing in these Guidelines shall be construed as diminishing any of the rights of access to information and public participation which may be guaranteed under the laws of any member state or under any agreement to which it is a party.

I. Access to environmental information

1. For the purpose of these Guidelines environmental information means any information on the state of water, air, soil, fauna, flora, land and natural sites, and on activities or measures adversely affecting or likely to affect these, and on activities or measures designed to protect these, including administrative measures and environmental management programmes.
2. Any natural or legal person should have free access to environmental information at their request, subject to the terms and conditions contained in these Guidelines, without regard to citizenship, nationality or domicile and without having to prove a legal or other interest.
3. Public authorities (at national, regional and local level) and bodies having public responsibilities for the environment, with the exception of bodies which are acting in a judicial or legislative capacity, should supply environmental information subject to the terms and conditions contained in these Guidelines.
4. Public authorities should regularly collect and update adequate environmental information. In addition, states should establish, where voluntary systems are inadequate, mandatory systems for ensuring that there is an adequate flow of information about activities significantly affecting the environment to the public authorities.
5. States should take the necessary steps to make their environmental information systems more transparent, for example by specifying the type and scope of the environmental information available and the basic terms and conditions under which it is made available and the process by which it can be obtained, and by the establishment and maintenance of registers and the designation of information officers.
6. A request for information may be refused only where it affects:
 - a. The confidentiality of the proceedings of public authorities, international relations and national defence;
 - b. Public security;
 - c. Matters which are, or have been, *sub judice* or under enquiry (including disciplinary enquiries), or which are the subject of preliminary investigation proceedings;
 - d. Commercial and industrial confidentiality (for example, in relation to agricultural and other business activities), including intellectual property;
 - e. The confidentiality of personal data and/or files;
 - f. Material supplied by a third party without that party being under, or being capable of being put under, a legal obligation to do so, and where that party has not consented to the release of the material;
 - g. Material, the disclosure of which could endanger the environment, for example, information on the breeding sites of rare species.

A request may also be refused if it would involve the supply of any material in the course of completion. The aforementioned grounds for refusal are to be interpreted in a restrictive way with the public interest served by disclosure weighed against the interests of non-disclosure in each case. Reasons for a refusal to comply with a request for information must be stated in writing. Where only part of the information requested falls within one of the exempt categories, the remainder of the information should be separated out and supplied to the person making the request.

7. Public authorities should respond to a person requesting information as soon as possible and at the latest within six weeks.

8. Environmental information, such as that contained in public registers, should be available to the public for inspection free of charge. Any person requesting information should be provided with adequate facilities for obtaining copies of such information (subject to copyright provisions), on payment of cost of reproduction and dissemination, if appropriate. Where information is held in various forms, it should be provided in the form specified by the person requesting the information, for example, in written, visual, aural or electronic form.

9. States should ensure that a person who considers that his or her request for information has been wrongfully refused or ignored, or has been inadequately answered by a public authority, or overcharged, may seek judicial or administrative review in accordance with the relevant national legal system.

10. States should regularly publish up-to-date information on the state of the environment, for example, in a report.

11. States should actively publicise the availability of important national and international documents on the environment, where they exist, such as strategies, programmes, action plans and progress reports on their implementation.

12. States should actively publicise the availability of the texts of international legal instruments to which they are a party, and which establish procedures for public access to environmental information or public participation rights, preferably in their own language(s) together with relevant conference resolutions or recommendations.

13. States should inform the public of the possibilities of submitting information to international bodies concerning non-compliance with international rules.

14. States should encourage entities whose activities have a significant adverse impact on the environment to report regularly to the public on the environmental impact of their activities.

15. Public access to information stemming from such voluntary schemes as eco-audits should be encouraged, as should eco-labelling schemes for more environmentally friendly products.

II. Public participation

16. States should facilitate public participation in environmental decision-making processes and decision-making processes having significant environmental implications.

17. States are encouraged to establish formal and informal consultative processes to facilitate the involvement of NGOs in decision-making processes having significant environmental implications and to eliminate impediments or obstacles to public participation.

18. States should make special efforts to promote public participation in environmental policy-making and decisions that are of particular interest to regional and local communities.

19. Consultations should take place early in the decision-making process, at a stage when options are still open and effective public influence can be exerted. States should establish transparent procedures and provide relevant information. Where appropriate, the relevant authorities should give the public additional assistance and explanations. States are encouraged, where feasible, to relate time limits placed on public consultation to those under the access-to-information regimes with a view to ensuring informed public participation.

20. The relevant authorities should be responsible for the effective training of public officials to improve their understanding of their responsibilities in granting the public access to information and facilitating public participation in environmental decision-making.

21. Before decisions significantly affecting the environment are taken, states should introduce measures ensuring that public opinion, including the views of NGOs, other interest groups and environmental advisory bodies, is taken into account.

22. States should ensure public participation in environmental administrative decision-making processes preferably by means of explicit rules governing certain procedures such as, if applicable, environmental impact assessment (EIA) and the issuing of permits or licences, particularly where these may have significant effect on the environment. Those rules could include, *inter alia*, the right to be heard, procedures which include the right to propose alternatives where feasible, a reasonable time to comment, the right to a reasoned decision and the right of recourse to administrative and/or judicial proceedings in order to challenge failures to act and to appeal decisions.

23. States are encouraged to take as a minimum standard the obligations and recommendations on EIA as contained for example in the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991).

24. States should ensure that persons involved in public participation in environmental matters are not penalised in any way for activities that are otherwise lawful.

III. Administrative and judicial proceedings

25. The public should have access to administrative and judicial proceedings, as appropriate. Suitable legal guarantees should ensure that proceedings are fair, open, transparent and equitable. It is desirable that proceedings are not prohibitively expensive.

26. It is desirable that standing should be given a wide interpretation in proceedings involving environmental issues.

IV. Implementation of the guidelines

27. States are encouraged to adopt necessary strategies for the implementation of the present Guidelines, which should be developed as a result of a broad consultative process.

28. The effective implementation of access to environmental information and public participation in environmental decision-making processes calls for the establishment of a clear regulatory framework providing procedural and institutional guarantees and proper enforcement programmes. Where appropriate, states should set up organisational structures to facilitate the effective operation of the above guarantees, for example, designation of information officials and officials to promote contacts with the public, the allocation of environmental responsibilities to an ombudsman, etc.

29. States should recognise the special role of local and regional governments and delegate the necessary authority to these bodies to ensure implementation of these Guidelines.

30. States should promote environmental education and training for the general public and specified target groups, especially regarding the methods and techniques of access to information and public participation. The decisive role of NGOs, educational institutions and the media should be recognised and they should be given appropriate support.

31. States should promote regular monitoring of the implementation of the present Guidelines. States are requested to support ongoing activities and facilitate exchange of experiences of implementation. States should report on the progress made in implementing the present Guidelines to the United Nations Economic Commission for Europe not later than two years after the adoption of the document."

Pan-European Biological and Landscape Diversity Strategy, presented by the Committee of Ministers of the Council of Europe and endorsed by the Third Ministerial Conference "Environment for Europe" in Sofia (Bulgaria) on 25 October 1995

"[...]"

2.4 Strategic principles

The Strategy is based on the application of the following principles through all sectors using or having an influence on natural resources, to achieve the conservation and sustainable use of biological and landscape diversity;

[...]

10. The principles of public participation and public access to information: creating sufficient and active public support for measures regarding biological and landscape diversity by involving public and private landowners, the scientific community, and other individuals and civic groups using land and sea resources in decision-making processes, through media, and the inclusion of these topics in education programmes.

[...]

Action Plan 1996-2000

[...]

Action Theme 1: Establishing the Pan-European Ecological Network

[...]

1.4. Promote awareness of the Pan-European Ecological Network

Provide opportunities for exchange of expertise between countries in Europe on effective education and communication policies, with emphasis on the Pan-European Ecological Network, national ecological networks and integration policies (1996-2000).

[°]

Action Theme 3: Raising awareness and support with policy makers and the public

Challenges to be addressed:

To involve the civic community and the public in a meaningful way, so that they are well informed about biological and landscape diversity and its relationship with social and economic quality of life, thereby ensuring a greater role of these considerations in decision-making processes and greater public involvement. Generate understanding and acceptance that in some cases, there might be incompatibility of biological and landscape diversity conservation with economic growth.

Opportunities to be considered:

Increased interest to develop individual and collective responsibility amongst Europeans to prevent further loss of biological and landscape diversity, to maintain and where possible work to restore diversity. Naturoopa, UCN/Unesco Working Group on National Strategies for Environmental Education and Communication, REC. There is growing potential for citizen

participation in decision-making processes as a consequence of social and political changes throughout Europe and increased recognition of subsidiarity.

Focus on Pan-European objectives:

3.1. Develop a pan-European public awareness and support campaign on biodiversity and landscape conservation. This process will build upon the Council of Europe campaign 'European Nature Conservation Year 1995', and make use of the increased awareness generated by this event (1996-2000).

- Improve networks between communication and education personnel working for biological and landscape diversity in protected areas, community-based initiatives, museums, botanic gardens, zoos and local education centres. Address also better presentation of issues through media, schools and universities, training programmes, publicity campaigns, exhibitions in museums, schools, zoos and botanic gardens, and through the use of information technology (1998-2000).
- Devise actions to encourage and assist governments and others to develop or improve national/regional education and communication strategies related to the intersectorial policy issues on biodiversity.

Within such strategies and according to the changes in practice required, key target groups will be identified and programmes developed.

3.2. Secure improved opportunities for the general public to become aware of the importance of areas of high natural and landscape value.

Focus on regions:

3.3. Establish capacity-building and information services at the regional level with priority focus to:

- Establish a support programme for citizen groups to encourage active participation in conserving biological and landscape diversity of the CEE countries in the North European Plain and the Black Sea areas (1996-1999).
- Develop an action plan to encourage educational programmes leading to good stewardship of biological and landscape diversity in countries where land management systems are changing (1996-1998).
- Establish a training, education and funding programme to give support to citizen groups in their active participation in conserving biological and landscape diversity in the Mediterranean region (1997-2000).

[...]"

Declaration of the Fourth Ministerial Conference "Environment for Europe", adopted in Aarhus (Denmark) on 25 June 1998

"[...]

Pan-European Biological and Landscape Diversity Strategy

36. We acknowledge the Progress Report on the Pan-European Biological and Landscape Diversity Strategy, welcome the links which have been established with the implementation of the Convention on Biological Diversity and acknowledge the work undertaken under the Sofia Initiative led by Slovenia. We endorse the Resolution on Biological and Landscape Diversity (See Conference document ECE/CEP/54).¹

[...]

Public participation and the role of NGOs

40. We regard the Aarhus Convention, which provides recognition for citizens' rights in relation to the environment, as a significant step forward both for the environment and for democracy. We encourage all non-signatory states to take appropriate steps to become parties to the Convention.

41. We note the Resolution of the Signatories to the Convention (see conference document ECE/CEP/43/Add.1/Rev).

42. We recognise and support the crucial role played in society by environmental NGOs as an important channel for articulating the opinions of the environmentally-concerned public. An engaged, critically aware public is essential to a healthy democracy. By helping to empower individual citizens and environmental NGOs to play an active role in environmental policy-making and awareness raising, the Aarhus Convention will promote responsible environmental citizenship and better enable all members of society to fulfil their duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations.²

43. The decision to hold a special dialogue with environmental NGOs during this Conference marks our recognition of their essential role, and our engagement to strengthen lines of communication between governments and NGOs, including in international fora. We recognise the new role played by NGOs in this Conference and we greatly appreciate their leadership in organising and taking responsibility of the NGO session and in actively participating in Conference preparations.

1. The United States of America welcomes and supports most elements of the Resolution on Biological and Landscape Diversity but cannot endorse it.

2. Germany is not able to sign the Convention at this Conference. The decision on the signature will be taken within the time provided in Article 17 of the Convention. Therefore, Germany is not in a position to support paragraphs 40, 41 and 42. Azerbaijan, Turkey and Uzbekistan are in a similar situation.

44. We encourage countries to provide, as appropriate, practical and financial support for environmental NGOs, noting at the same time that part of the role of such groups can be to question government policies.

[...]"

Resolution on biological and landscape diversity, endorsed by the Fourth Ministerial Conference "Environment for Europe" in Aarhus (Denmark) on 25 June 1998

"Recognising that the biological and landscape diversity of Europe is part of the priceless worldwide natural heritage which human beings have handed down for thousands of years;

Noting that the conservation of this natural and cultural heritage makes possible a quality of life which meets human aspirations and ensures sustainable social and economic development;

Taking into account the conclusions of the *Europe's Environment: the Second Assessment* regarding continuous degradation of the European environment, especially with respect to the state of biodiversity;

Considering that Europe's nature and culture are intrinsically linked by the all-encompassing landscapes – making the preservation of landscape diversity and quality one of the essential policy goals of the coming decade;

Recognising that numerous species and ecosystems are disappearing or threatened and that this endangers not only the quality of life but also life itself;

Considering that the conservation of biological and landscape diversity constitutes a fundamental human right and duty, as well as an important element for debate in democracy;

Taking into account and wishing to reinforce initiatives carried out in Europe in the field of conservation of biological and landscape diversity;

Desiring to bequeath to future generations a diverse and sustainable system which this heritage represents;

We,

1. Recall the importance of the Pan-European Biological and Landscape Diversity Strategy's long-term vision, which is to conserve biological and landscape diversity by achieving the following aims: substantially reducing current threats to Europe's biological and landscape diversity; increasing the resilience of Europe's biological and landscape diversity; strengthening the ecological coherence of Europe as a whole; and ensuring full public involvement in the conservation of the various aspects of biological and landscape diversity;

[...]"

Resolution on access to information, public participation in decision making and access to justice and environmental matters, of which the Fourth Ministerial Conference "Environment for Europe" took note in Aarhus (Denmark) on 25 June 1998

"We, the Signatories to the Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters,

Resolve to strive for the entry into force of the Convention as soon as possible and to seek to apply the Convention to the maximum extent possible pending its entry into force, and to continue to co-operate in gradually developing policies and strategies related to matters within the scope of this Convention;

Recommend that the ECE Guidelines on Access to Environmental Information and Public Participation in Environmental Decision-Making endorsed at the Third Ministerial Conference 'Environment for Europe' in Sofia, Bulgaria, on 25 October 1995, should be taken into account in the application of the Convention pending its entry into force;

Emphasise that, besides governments, parliaments, regional and local authorities and non-government organisations also have a key role to play at the national, regional and local level in the implementation of the Convention;

Acknowledge that the Convention is an important element in the regional implementation of Agenda 21 and that its ratification will further the convergence of environmental legislation and strengthen the process of democratisation in the region of the United Nations Economic Commission for Europe (ECE);

Emphasise the importance of capacity-building to maximise the effectiveness of officials, authorities and non-governmental organisations in implementing the provisions of this Convention;

Call upon each government to promote environmental education and environmental awareness among the public, particularly in relation to the opportunities that this Convention provides;

Call upon public, private and international fund providers to give high priority to projects that aim to further the objectives of this Convention;

Call for close co-operation between ECE, other bodies involved in the 'Environment for Europe' process and other relevant international governmental and non-governmental organisations on the issues of the Convention, for example in the implementation of national environmental action plans and national environmental health action plans;

Recognise that the successful application of the Convention is linked to adequate administrative and additional financial resources being made available to support and maintain the initiatives necessary to achieve this goal and call upon governments to make voluntary financial contributions to this process

so that sufficient financial means are available to carry out the programme of activities of the ECE Committee on Environmental Policy related to the Convention;

Request the ECE Committee on Environmental Policy actively to promote and keep under review the process of ratification of the Convention pending its entry into force by *inter alia*:

- a. Establishing the meeting of the Signatories to the Convention, open to all members of the ECE and to observers, to identify activities that need to be undertaken pending the entry into force of the Convention, to report to the Committee on progress made in respect of the ratification of the Convention; and to prepare for the first meeting of the parties;
- b. Giving full recognition to the activities identified by the meeting of the Signatories within the Committee's work programme and when the Committee considers the allocation of the ECE resources provided for the environment;
- c. Encouraging governments to make voluntary contributions to ensure that sufficient resources are available to support these activities;

Consider that, pending the entry into force of the Convention, the necessary authority should be given to the ECE and its Executive Secretary to provide for a sufficient secretariat and, in the framework of the existing budgetary structure, for appropriate financial means;

Urge the parties at their first meeting or as soon as possible thereafter to establish effective compliance arrangements in accordance with Article 15 of the Convention;

Commend the international organisation and non-governmental organisations, in particular environmental organisations, for their active and constructive participation in the development of the Convention and recommend that they should be allowed to participate in the same spirit on the meeting of the Signatories and its activities to the extent possible, based on a provisional application of the provisions of Article 10, paragraphs 2.c, 4 and 5 of the Convention;

Recommend that non-governmental organisations should be allowed to participate effectively in the preparation of instruments on environmental protection by other intergovernmental organisations;

Recognise the importance of the application of the provisions of the Convention to deliberate releases of genetically modified organisms into the environment, and request the parties, at their first meeting, to further develop the application of the Convention by means of *inter alia* more precise provisions, taking into account the work done under the Convention on Biological Diversity which is developing a protocol on biosafety;

Invite the other member states of the ECE and any other state that is a member of the United Nations and/or of other regional commissions to accede to this Convention;

Encourage other international organisations, including other United Nations regional commissions and bodies, to develop appropriate arrangements relating to access to information, public participation in decision-making and access to justice in environmental matters, drawing, as appropriate, on the Convention and to take such other action as may be appropriate to further its objectives.”

2.2.5. World Health Organisation (WHO)

- European Charter on Environment and Health, adopted by the First European Conference on Environment and Health of the World Health Organisation (WHO) in Frankfurt-am-Main (Germany) on 8 December 1989.

European Charter on Environment and Health, adopted by the First European Conference on Environment and Health of the World Health Organisation (WHO) in Frankfurt-am-Main (Germany) on 8 December 1989

“[...]

Entitlements and responsibilities

1. Every individual is entitled to:
 - an environment conducive to the highest attainable level of health and well-being;
 - information and consultation on the state of the environment, and on plans, decisions and activities likely to affect both the environment and health;
 - participation in the decision-making process.
2. Every individual has a responsibility to contribute to the protection of the environment, in the interests of his or her own health and the health of others.

[...]

7. The media play a key role in promoting awareness and a positive attitude towards protection of health and the environment. They are entitled to adequate and accurate information and should be encouraged to communicate this information effectively to the public.

8. Non-governmental organisations also play an important role in disseminating information to the public and promoting public awareness and response.

Principles for public policy

1. Good health and well-being require a clean and harmonious environment in which physical, psychological, social and aesthetic factors are all given

their due importance. The environment should be regarded as a resource for improving living conditions and increasing well-being.

[...]

3. The health of every individual, especially those in vulnerable and high-risk groups, must be protected. Special attention should be paid to disadvantaged groups.

[...]

6. The health of individuals and communities should take clear precedence over considerations of economy and trade.

7. All aspects of socio-economic development that relate to the impact of the environment on health and well-being must be considered.

[...]

13. Trade and economic policies and development assistance programmes affecting the environment and health in foreign countries should comply with all the above principles. Export of environmental and health hazards should be avoided.

[...]

Strategic elements

[...]

2. In order to protect health, comprehensive strategies are required, including, inter alia, the following elements:

- The responsibilities of public and private bodies for implementing appropriate measures should be clearly defined at all levels;
- Information systems should be strengthened to support monitoring of the effectiveness of measures taken, trend analysis, priority-setting and decision-making;
- Environmental impact assessment should give greater emphasis to health aspects. Individuals and communities directly affected by the quality of a specific environment should be consulted and involved in managing that environment.

[...]

5. The health sector should have responsibility for epidemiological surveillance through data collection, compilation, analysis and risk assessment of the health impact of environmental factors and for informing other sectors of society and the general public of trends and priorities.

6. National and international programmes of multidisciplinary training, as well as the provision of health education and information for public and private bodies, should be encouraged and strengthened."

2.2.6. Organisation for Economic Co-operation and Development (OECD)

- Recommendation No. C (74) 224 on the principles concerning trans-frontier pollution, adopted by the Council of the OECD on 14 November 1974
- Recommendation No. C (76) 55 on equal right of access in relation to transfrontier pollution, adopted by the Council of the OECD on 11 May 1976
- Recommendation No. C (77) 28 on the implementation of a regime of equal right of access and non-discrimination in relation to transfrontier pollution, adopted by the Council of the OECD on 17 May 1977
- Recommendation No. C (78) 77 on strengthening international co-operation on environmental protection in transfrontier regions, adopted by the Council of the OECD on 21 September 1978
- Recommendation No. C (79) 115 on environment and tourism, adopted by the Council of the OECD on 8 May 1979 (Appendix: Guidelines concerning the international and economic aspects of environmental policies in tourist areas)
- Declaration of anticipatory environmental policies, adopted by member governments during the meeting of the Environment Committee at ministerial level on 8 May 1979
- Decision-Recommendation No. C (88) 85 concerning provision of information to the public and public participation in decision-making processes related to the prevention of and response to accidents involving hazardous substances, adopted by the Council of the OECD on 8 July 1988
- Recommendation No. C (90) 165 on environmental indicators and information, adopted by the Council of the OECD on 31 January 1991
- Recommendation No. C (92) 114 on integrated coastal zone management (ICZM), adopted by the Council of the OECD on 23 July 1992
- Recommendation No. C (96) 41 on implementing pollutant release and transfer registers, adopted by the Council of the OECD on 20 February 1996
- Recommendation No. C (98) 67 on environmental information, adopted by the Council of the OECD on 3 April 1998
- Shared goals, agreed by the Environment Ministers of OECD member countries in Paris (France) on 3 April 1998

Recommendation No. C (74) 224 of the Council of the OECD on the principles concerning transfrontier pollution, adopted on 14 November 1974

[...]

Annex

[...]

D. Principle of equal right of hearing

5. Countries should make every effort to introduce, where not already in existence, a system affording equal right of hearing, according to which:

- a. whenever a project, a new activity or a course of conduct may create a significant risk of transfrontier pollution and is investigated by public authorities, those who may be affected by such pollution should have the same rights of standing in judicial or administrative proceedings in the country where it originates as those of that country;
- b. whenever transfrontier pollution gives rise to damage in a country, those who are affected by such pollution should have the same rights of standing in judicial or administrative proceedings in the country where such pollution originates as those of that country, and they should be extended procedural rights equivalent to the rights extended to those of that country.

E. Principle of information and consultation

6. Prior to the initiation in a country of works or undertakings which might create a significant risk of transfrontier pollution, this country should provide early information to other countries which are or may be affected. It should provide these countries with relevant information and data, the transmission of which is not prohibited by legislative provisions or prescriptions or applicable international conventions, and should invite their comments.

7. Countries should enter into consultation on an existing or foreseeable transfrontier pollution problem at the request of a country which is or may be directly affected and should diligently pursue such consultations on this particular problem over a reasonable period of time.

8. Countries should refrain from carrying out projects or activities which might create a significant risk of transfrontier pollution without first informing the countries which are or may be affected and, except in cases of extreme urgency, providing a reasonable amount of time in the light of circumstances for diligent consultation. Such consultations held in the best spirit of co-operation and good neighbourliness should not enable a country to unreasonably delay or to impede the activities or projects on which consultations are taking place.

[...]

G. Exchange of scientific information, monitoring measures and research

11. Countries concerned should exchange all relevant scientific information and data on transfrontier pollution, when not prohibited by legislative provisions or prescriptions or by applicable international conventions. They should develop and adopt pollution measurement methods providing results which are compatible.

12. They should, when appropriate, co-operate in scientific and technical research programme, *inter alia*, for identifying the origin and pathways of transfrontier pollution, any damage caused and the best methods of pollution prevention and control, and should share all information and data thus obtained.

They should, where necessary, consider setting up jointly, in zones affected by transfrontier pollution, a permanent monitoring system or network for assessing the levels of pollution and the effectiveness of measures taken by them to reduce pollution.

[...]"

Recommendation No. C (76) 55 on equal right of access in relation to transfrontier pollution, adopted by the Council of the OECD on 11 May 1976

"[...]

Annex. Equal right of access in relation to transfrontier pollution

1. A system of equal right of access is made up of a set of rights recognised by a country in favour of persons who are affected or likely to be affected in their personal and/or proprietary interests by transfrontier pollution originating in such country and whose personal and/or proprietary interests are situated outside such country (hereafter referred to as 'persons affected by transfrontier pollution').

2. Without prejudice to corresponding interstate procedures, the rights accorded to 'persons affected by transfrontier pollution' should be equivalent to those accorded to persons whose personal and/or proprietary interests within the territory of the country where the transfrontier pollution originates are or may be affected under similar conditions by a same pollution as regards:

- a. information concerning projects, new activities and courses of conduct which may give rise to a significant risk of pollution;
- b. access to information which the competent authorities make available to persons concerned;
- c. the participation in hearings and preliminary enquiries and the making of objections in respect of proposed decisions by the public authorities which could directly or indirectly lead to pollution;
- d. recourse to and standing in administrative and judicial procedures (including emergency procedures);

in order to prevent pollution, or to have it abated and/or obtain compensation for the damage caused.

3. Concomitantly with the rights of 'persons affected by transfrontier pollution', the countries concerned by such pollution should take certain measures to make possible the exercise of the rights so recognised, in particular as regards the information and participation of 'persons affected by transfrontier pollution' in hearings and enquiries prior to the taking of decisions. Such measures, which might be taken by countries where the pollution originates, would however gain in effectiveness if they were put into effect in co-operation with countries which are or may be affected by transfrontier pollution."

Recommendation No. C (77) 28 on the implementation of a regime of equal right of access and non-discrimination in relation to transfrontier pollution, adopted by the Council of the OECD on 17 May 1977

"[...]

Annex

Introduction

[...]

B. Legal protection of persons

4. a. Countries of origin should ensure that any person who has suffered transfrontier pollution damage or is exposed to a significant risk of transfrontier pollution, shall at least receive equivalent treatment to that afforded in the country of origin in cases of domestic pollution and in comparable circumstances, to persons of equivalent condition or status.
 - b. From a procedural standpoint, this treatment includes the right to take part in, or have resort to, all administrative and judicial procedures existing within the country of origin, in order to prevent domestic pollution, to have it abated and/or to obtain compensation for the damage caused.
5. Where in spite of the existence of a liability ceiling instituted by an international agreement, there exists in a country a system of additional compensation financed or administered by the public authorities, then such country should not be required in the absence of reciprocal arrangements to grant entitlement to such additional compensation to victims of transfrontier pollution, but it should in advance inform the exposed countries of the particular situation.
6. a. Where the domestic law of countries permits private non-profit legal persons that are resident within their own territories, such as environmental defence associations, to commence proceedings to safeguard

environmental interests which it is their aim to protect, those countries should grant the same right for comparable matters to similar legal persons resident in exposed countries, provided that the latter satisfy the conditions laid down for the former in the country of origin.

- b.* When some of the conditions concerning matters of form laid down in the country of origin cannot reasonably be imposed on legal persons resident in an exposed country, these latter should be entitled to commence proceedings in the country of origin if they satisfy comparable conditions.

7. When the law of a country of origin permits a public authority to participate in administrative or judicial proceedings in order to safeguard general environmental interests, the country of origin should consider, if its legal system allows it, providing, by means of international agreement if it deems it necessary, competent public authorities of exposed countries with access to such proceedings.

C. Exchange of information and consultation

- 8. *a.* The country of origin, on its own initiative or at the request of an exposed country, should communicate to the latter appropriate information concerning it in matters of transfrontier pollution or significant risk of such pollution and enter into consultations with it.
 - b.* In order to enable a country of origin to implement adequately those principles set out in Part A of this Recommendation, each exposed country should, on its own initiative or at the request of the country of origin, supply appropriate information of mutual concern.
 - c.* Each country should designate one or more authorities entitled to receive directly information communicated under subparagraphs *a* and *b* of this paragraph.
9. *a.* Countries of origin should take any appropriate measures to provide persons exposed to a significant risk of transfrontier pollution with sufficient information to enable them to exercise in a timely manner the rights referred to in this Recommendation. As far as possible, such information should be equivalent to that provided in the country of origin in cases of comparable domestic pollution.
- b.* Exposed countries should designate one or more authorities which will have the duty to receive and the responsibility to disseminate such information within limits of time compatible with the exercise of existing procedures in the country of origin.

10. Countries should encourage and facilitate regular contacts between representatives designated by them at regional and/or local levels in order to examine such transfrontier pollution matters as may arise."

Recommendation No. C (78) 77 on strengthening international co-operation on environmental protection in transfrontier regions, adopted by the Council of the OECD on 21 September 1978

[...]

Annex

[...]

Public information

2. In accordance with the principle of equal right of access (C (77) 28, Annex, paragraph 9), countries should in particular take care to see that persons exposed to a significant risk of transfrontier pollution are informed through channels selected by the countries themselves and enabled to the same extent as persons in the country of origin, to take part under similar conditions in administrative and judicial hearings and proceedings.

[...]"

Recommendation No. C (79) 115 on environment and tourism, adopted by the Council of the OECD on 8 May 1979 (Appendix: Guidelines concerning the international and economic aspects of environmental policies in tourist areas)

[...]

IV. Recommends that member countries take appropriate steps to ensure that environmental considerations are duly incorporated in any definition of the rights and duties of tourist established at national or international level and are followed by appropriate information and educational campaigns.

Guidelines concerning the international and economic aspects of environmental policies in tourist areas

D. Public information and participation

12. While tourists are expected to abide by the law of the country, governments and/or other appropriate bodies are responsible for providing the public with information on how to respect environmentally sensitive and cultural areas. Such action should be supplemented by the display of posters and distribution of brochures in tourist areas and also by the inclusion in school curricula of appropriate conduct to be observed in areas of cultural and natural importance.

13. Governments should take into account the variety of views of their communities on the environmental impact of tourism projects, either in the form of practical and appropriate participation in decision-making or of consultation before decisions are taken. Such procedures will improve the understanding of local communities that the long-term conservation of tourist assets is a sound economic policy in overall national terms."

Declaration of anticipatory environmental policies, adopted by member governments during the meeting of the Environment Committee at ministerial level on 8 May 1979

"The governments of OECD member countries¹ and of Yugoslavia

[...]

Declare that:

[...]

7. They will encourage public participation, where possible, in the preparation of decisions with significant environmental consequences, *inter alia*, by providing as appropriate information on the risks, costs and benefits associated with the decisions.

[...]"

Decision-Recommendation No. C (88) 85 of the Council of the OECD concerning provision of information to the public and public participation in decision-making processes related to the prevention of and response to accidents involving hazardous substances, adopted by the Council of the OECD on 8 July 1988²

"The Council,

Having regard to Articles 5.a and 5.b of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to paragraph 3 of Article 6 of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to the Declaration on anticipatory environmental policies adopted by the Governments of OECD member countries and of Yugoslavia at the session of the Environment Committee at Ministerial Level on 8 May 1979 stating that 'they will encourage public participation, where possible, in the preparation of decisions with significant environmental consequences, *inter alia*, by providing, as appropriate, information on the risks, costs and benefits associated with the decisions';

Having regard to the Recommendation of the Council of 8 May 1979 on the Assessment of projects with significant impact on the environment [C (79) 116] in which member governments were recommended to 'introduce, where appropriate, practical measures for informing the public and for participation by those who may be directly or indirectly affected, at suitable stages in the process of arriving at decisions on projects' having a potentially significant impact on the environment;

1. The mention of 'governments' is deemed to apply also to the European Communities.

2. The part concerning the decision is legally binding.

Having regard to the Recommendation of the Council of 26 July 1983 concerning the OECD List of non-confidential data on chemicals [C (83) 98];

Having regard to the Declaration on 'Environment: resource for the future' adopted by the Governments of OECD member countries and of Yugoslavia at the session of the Environment Committee at Ministerial Level on 20 June 1985 stating that 'they will ensure the existence of appropriate measures to control potentially hazardous installations, including measures to prevent accidents';

Having regard to the conclusions adopted by the Third High-Level Meeting of the chemicals group on 17 to 18 March 1987 regarding the prevention of, and response to, unintended releases of hazardous substances to the environment;

Considering that the potentially affected public has a right to be informed about the hazards to human health or the environment, including property, which could arise from accidents occurring at hazardous installations;

Considering that persons potentially affected in the event of an accident at a hazardous installation should be well-informed of measures which need to be taken by them in order to mitigate adverse consequences of such an accident;

Considering that such persons should have the opportunity to be heard, as appropriate, in decision-making processes related to prevention of, and response to, accidents involving hazardous substances;

On the proposal of the Environment Committee:

1. Decides that member countries shall ensure, through the legal and procedural means they deem appropriate, that the potentially affected public:

- a. is provided with specific information on the appropriate behaviour and safety measures they should adopt in the event of an accident involving hazardous substances;
- b. is provided with general information on the nature, extent and potential off-site effects on human health or the environment, including property, of possible major accidents at a planned or existing hazardous installation; and
- c. has access to such other available information needed to understand the nature or the possible effects of an accident (such as information on hazardous substances capable of causing serious off-site damage) and to be able to contribute effectively, as appropriate, to decisions concerning hazardous installations and the development of community emergency preparedness plans.

2. Recommends that member countries take action to facilitate, as appropriate, opportunities for the public to comment prior to decisions being made by public authorities concerning siting and licensing of hazardous installations and the development of community emergency preparedness plans.

Appendix

Guiding principles on provision of information to the public and public participation in decision-making processes related to the prevention of and response to, accidents involving hazardous substances

[...]

III. Provision of information to the public

Information to be provided without request

8. Those members of the public who might be affected were an accident to occur should be provided with certain information, without request, so that they will be aware of the hazards arising from the installation and will be able to respond appropriately should an accident occur.

9. This information should include specific guidance related to public response in the event of an accident, such as:

- details on how the potentially affected public will be warned in the event of an accident;
- details of the actions and behaviour the potentially affected public should take in the event of an accident; and
- the source of post-accident information (for example, radio or television frequencies).

It should clearly be indicated therein that the information should be read immediately and be kept in a convenient place for reference in the event of an accident.

10. The guidance on what to do in the event of an accident should be adapted to meet the needs of groups of sensitive persons, for example in schools, hospitals and homes for aged people.

11. The following information should also be provided, without request, to the potentially affected public:

- the name of the operator of the installation and the address of the installation;
- the common names or, if more appropriate, the generic names or the general danger classification of the substances involved at the installation which could give rise to an accident capable of causing serious off-site damage, with an indication of their principal harmful characteristics;
- general information relating to the nature of the hazards of accidents capable of causing serious off-site damage, as well as their potential effects on human health and the environment, including property; and
- details of how further explanatory information can be obtained.

12. The information described in paragraphs 9 and 11 should be comprehensible to the general public and be provided in a format which is easily read and understood.

13. This information should be provided in a timely fashion, be reissued periodically as appropriate, and be updated as necessary.

14. The potentially affected public should also be provided with notification of applications for siting or licensing of a hazardous installation. Decisions concerning such applications should also be publicised.

15. In those cases in which a hazardous installation is located in a frontier region and the country of such installation has transmitted to the other country information referred to above in paragraphs 9 and 11, the country receiving this information should ensure that such information is provided to all persons within its jurisdiction potentially affected in the event of an accident.

16. Arrangements should be made, before an accident, for the timely transmission of information to the public and the media in the case of an accident in order to mitigate adverse effects and to allay unjustified fears.

Information available upon request

17. The public should have access, upon request, to certain additional information to allow it to understand the nature of the hazards arising from hazardous installations, understand the reasons for guidance provided, and participate effectively in decision-making processes, as appropriate. Such information would include, for example:

- any information concerning the hazardous installation which has previously been made publicly available by the installation or public authorities (as appropriate, licenses, environmental impact assessments, operating permits, safety reports, hearing documents);
- a general description of the types of activities undertaken at the installation;
- additional guidance concerning actions to be taken by the public to protect human health and the environment, including property, in case of an accident and the reasons for such guidance; and
- other information necessary for effective participation in decision-making, as appropriate.

IV. Public participation

18. Whenever possible and appropriate, the potentially affected public should be given the opportunity to participate, by providing their views and concerns, when decisions related to siting and licensing of hazardous installations and the development of community emergency plans are being made by public authorities.

19. In all cases, adequate information about the opportunity to participate should be given.

20. As appropriate, a variety of mechanisms for public participation in decision-making processes can be used. These mechanisms can include those for direct public participation, such as open public hearings, and those for indi-

rect public participation by means of, for example, open consultative procedures.

21. In some member countries, local safety committees have been established with representatives of the installation, local authorities and local residents which, inter alia, facilitate the flow of information from the installation to persons who live and work in the area and co-ordinate local participation in appropriate decision-making processes.

22. The mechanisms for public participation and the scope of participation should be adapted to the nature of the decision being made and to who may be affected by the decision, while taking account of applicable law and practice.

23. In determining who should be given the opportunity to participate in decision-making processes, public authorities should consider which persons are seriously threatened by a potential accident and the nature of the decision being made. For example, in the case of the development of a community emergency preparedness plan, the local community near the hazardous installation might have the opportunity to participate. In the case of a siting decision for an installation which could have serious adverse effects on a watershed, national park or natural resources of more than local concern, provision might be made for broader participation, for example by allowing comments by representatives of public-interest organisations (for example, environmental, agricultural or forestry groups).

24. Providing an opportunity for public participation should not affect the ultimate responsibilities of the public authorities with respect to decision-making in this area."

Recommendation C (90) 165 on environmental indicators and information, adopted by the Council of OECD on 31 January 1991

"The Council,

Having regard to Article 5.b. of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to the Recommendation of the Council of 8 May 1979 on Reporting on the State of the Environment;

Having regard to the Declaration on 'Environment: Resource for the Future' adopted by the governments of OECD member countries and of Yugoslavia on 20 June 1985, which states that member countries will 'further develop, exchange and publish internationally comparable data on environmental conditions and promote more accurate projections in order to improve the basis for environmental management and provide better and more timely information to the public';

Having regard to the OECD Council Ministerial Communiqué of 31 May 1990, which states that 'Ministers welcome the progress made by the Organisation in the analysis of environmental issues, and call for a further

broadening and deepening of its work in this area. This includes in particular: developing environmental indicators, [...];

Having taken note of OECD work on environmental statistics, environmental indicators and the conclusions of the 1991 OECD Report on the State of the Environment, calling for a second generation of environmental information;

Considering the need for environmental information to support the implementation, development and harmonisation of environmental policies;

Considering the need to integrate more fully environment and economic decision-making;

Considering the need to promote sustainable development at national and international level, within OECD member countries and beyond, in developing countries, countries of central and eastern Europe and rapidly industrialising economies;

Considering the need for improved environmental information as well as diffusion of that information to the public;

On the proposal of the Environment Committee,

I. Recommends that member countries, taking into account the objectives defined in the preamble of this document:

1. intensify their efforts by various means, including through strengthening institutions and financial arrangements, to improve statistics, indicators and information on the environment and in particular:

- link environmental and economic information through work on pollution abatement and control expenditures, benefits of environmental policies, environmental damage costs, flows and stocks of natural resources and macro-economic aspects of environmental policies;
- develop environmental indicators and related environmental accounting to measure environmental performance and better integrate environmental and economic decision-making;
- better communicate environmental information to decision makers and the public, through periodic reports on the state of the environment, environmental forecasting and other means;
- improve the quality and comparability of existing statistics, including official statistics, develop new statistics to fill gaps in information concerning environmental pressures and conditions; and develop cost-effective methods and techniques of environmental monitoring and data collection;

2. reinforce their co-operation within OECD with a view to improving environmental indicators and environmental information.

II. Instructs the Environment Committee:

1. to support and facilitate member countries' efforts in this field through exchange of information on innovative experiences concerning data collec-

tion methods, environmental statistics, indicators and information communication;

2. to ensure through appropriate co-ordination the development of objective, reliable and comparable environmental statistics and information at international level;

3. to further develop core sets of reliable, readable, measurable and policy-relevant environmental indicators in order to contribute to:

- better measuring environmental performance, with respect to environmental quality, environmental goals and international agreements, such as those concerning the reduction of pollutant emissions;
- better integrating environmental concerns in sectoral policies such as agriculture, forestry, industry, aid, energy, transport, trade and urban policies;
- better integrating environment and macro-economic decision-making; this will require developing and linking environmental accounts and economic accounts;

4. to encourage the use of these environmental indicators in appropriate OECD reviews, such as:

- state of the environment reports and outlooks;
- economic or sectoral OECD country surveys:

5. to carry out these tasks, in co-operation with the IEA, the NEA and other appropriate OECD bodies, taking into full account the OECD experience with economic surveys and energy reviews as well as the work of other international organisations, concerning particularly environmental statistics and environmental information;

6. to report to the Council on the measures taken pursuant to this Recommendation by member countries within three years following the adoption of this Recommendation.”

Recommendation No. C (92) 114 on integrated coastal zone management (ICZM), adopted by the Council of the OECD on 23 July 1992

“The Council,

[...]

II. Recommends that, in view of the diverse and often conflicting uses of and pressures on coastal zone resources, member countries should employ policy instruments, individually or in combination, in integrated coastal zone planning and management, including:

[...]

Public education and participation in decision-making at an early stage of policy formulation and project assessment, and adoption of wider public participation procedures.

[...]"

Recommendation No. C (96) 41 on implementing pollutant release and transfer registers, adopted by the Council of the OECD on 20 February 1996

"The Council,

[...]

Having regard to Principle 10 of the Report of the United Nations Conference on Environment and Development of 3 to 14 June 1992 (Agenda 21) to which all OECD member countries have subscribed, and which states that 'each individual shall have appropriate access to information concerning the environment that is held by public authorities, and the opportunity to participate in decision-making processes and that countries shall encourage public awareness and participation by making information widely available';

Having regard to Chapter 19 of Agenda 21 which states, *inter alia*, that governments with the co-operation of industry should improve databases and information systems on toxic chemicals, such as emission inventory programmes, and that the broadest possible awareness of chemical risks is a prerequisite for chemical safety;

Noting that several member countries and the European Community are acting to collect data concerning pollutant releases and transfers from various sources and to make these data publicly accessible;

Noting that many individual enterprises and industrial sectors within the OECD area are voluntarily providing information about pollutant releases and transfers;

Noting that a number of non-member countries are also exploring ways to obtain and make available national data about pollutant releases and transfers;

Noting that the OECD Secretariat, with the aid of member governments and other affected and interested parties, is preparing a Guidance for Governments Manual specifically to assist governments wishing to institute a Pollutant Release and Transfer Register;

Recognising that reducing potentially harmful releases and transfers of pollutants while promoting economic progress is a foundation for achieving sustainable development;

On the proposal of the Environment Policy Committee (EPOC),

I. Recommends:

1. That member countries take steps to establish, as appropriate, implement and make publicly available, a pollutant release and transfer register (PRTR) system using as a basis the principles and information set forth in the OECD Guidance to Governments Manual for PRTRs.
2. That member countries in establishing PRTR systems should take into account the set of principles which are contained in the Annex to this Recommendation of which it forms an integral part.
3. That member countries should consider sharing periodically the results of the implementation of such systems among themselves and with non-member countries with particular emphasis upon sharing of data from border areas among relevant neighbouring countries.

II. Instructs:

1. The Environment Policy Committee to review actions undertaken by member countries and to report to Council three years from the date of this Recommendation and periodically thereafter concerning progress.
2. The Environment Policy Committee to consider how OECD can aid other international organisations and bodies, upon their request, in helping non-member countries which may be contemplating the establishment of PRTR systems.

Annex. Principles concerning establishment of PRTR systems

1. PRTR systems should provide data to support the identification and assessment of possible risks to humans and the environment by identifying sources and amounts of potentially harmful releases and transfers to all environmental media.

[...]

9. The results of a PRTR should be made accessible to all affected and interested parties on a timely and regular basis.

10. Any PRTR system should allow for mid-course evaluation and have the flexibility to be altered by affected and interested parties in response to changing needs.

[...]

14. The entire process of establishing the PRTR system and its implementation and operation should be transparent and objective."

Recommendation C (98) 67 on environmental information adopted by the Council of the OECD on 3 April 1998

"The Council,

Having regard to Article 5.b. of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to the Recommendation of the Council of 8 May 1979 on Reporting on the State of the Environment [C (79) 114];

Having regard to the Decision-Recommendation of the Council of 8 July 1988 concerning provision of information to the public and public participation in decision-making processes related to the prevention of, and response to, accidents involving hazardous substances (C (88) 85);

Having regard to the Recommendation of the Council of 31 January 1991 on environmental indicators and information (C (90) 165);

Having regard to the Recommendation of the Council of 20 February 1996 on implementing pollutant release and transfer registers (C (96) 41);

Having regard to the OECD Environment Ministerial communiqué of 20 February 1996 which urged the OECD to 'further develop its work on environmental indicators, in particular in the context of environmental performance reviews, in order to allow effective international comparison by policy makers';

Having regard to Principle 10 of the 1992 Rio Declaration on Environment and Development according to which 'each individual shall have appropriate access to information concerning the environment that is held by public authorities' and that 'states shall facilitate and encourage public awareness and participation by making information widely available' and to Chapter 40 of Agenda 21, 'Information for decision making';

Having regard to the Guidelines on access to environmental information and public participation in environmental decision-making endorsed by the Third Ministerial Conference "Environment for Europe" held in Sofia in October 1995;

Having regard to the preparatory work for a proposed UN/ECE Convention on Access to Environmental Information and Public Participation in Environmental Decision-Making;

Having taken note that the first cycle of OECD reviews of environmental performance has revealed the need to make progress on the development and use of environmental data, environmental indicators and environmental reporting;

Considering that openness in information and wide availability of public information on environmental issues is conducive to i. more cost-effective policies, ii. greater accountability to all stakeholders concerned, and iii. increased public awareness and participation;

Considering that public awareness of environmental conditions and risks is essential to protection of human health and the environment;

Convinced of the need for intensified efforts by OECD member countries to upgrade the extent and quality of environmental data, indicators and information dissemination systems to support the preparation and the implementation of result-oriented strategies and effective policies concerning the

environment and sustainable development, and to facilitate public participation in the decision-making process;

Taking into account the close co-operation on environmental matters between OECD and other international organisations,

I. Recommends that:

1. member countries take all necessary actions within the framework of their national laws to increase the availability to the public of environmental information held by public authorities; in doing so, each member country may determine which information needs to be widely distributed and under which form it will be disseminated;

2. all relevant environmental information should be provided to any natural or legal person, in response to any reasonable request, without that person having to prove an interest, without unreasonable charges and as soon as possible, taking into account protection of privacy, industrial and commercial confidentiality, national security or other legitimate causes as provided under national law;

3. member countries promote adequate dissemination of environmental information (for example, periodic reports on the state of the environment and its changes over time, environmental indicators publication),

II. Recommends to this effect that member countries:

1. intensify efforts to improve as far as necessary the quality and relevance for environmental policy of data and information systems on the environment and related economic variables, and in particular:

- improve monitoring and data collection concerning environmental pressures, conditions and responses, including explanatory information about current environmental changes;
- encourage all appropriate levels of government to collect environmental data in order to enable them to monitor progress in environmental policies which they implement;
- promote co-operation on environmental data among different administrations and government levels;
- develop co-operation in sharing methodologies and improving data comparability and collection systems, drawing on work done in various member countries and in the framework of international organisations;
- promote periodic assessment by regional or local authorities of environmental situations in their jurisdiction;

2. further develop and use indicators to measure environmental performance, and in particular:

- establish indicators of progress concerning implementation of national and sub-national policies on the environment, eco-efficiency and sustainable development;

- systematically compare achieved results with relevant objectives of environmental policies and, where appropriate, related international commitments;
 - pay particular attention to the availability, reliability and international comparability of indicators concerning international environmental issues;
3. establish effective mechanisms to better inform the public, decision makers and the authorities on environmental and sustainable development conditions and issues, and in particular:
- encourage appropriate levels of government to make publicly available reports on the results of public policies and related actions;
 - use modern effective information communication methods to enable timely, easy and inexpensive access to large volumes of information;
 - promote co-operation on dissemination of environmental information among different administrations and government levels as well as non-governmental organisations concerned;
4. provide public access on request to non-confidential information on non-compliance as well as on sanctions levied for violation of environmental laws;
5. support educational efforts towards enabling the public to make use of available environmental information,

III. Recommends that member countries:

1. promote effective and periodic reporting by enterprises of appropriate and timely information on environmental implications of their activities, for example, on pollution emission levels, on use of natural resources, and on potential risks from hazardous activities and products, as well as information on environmental progress and achievements by enterprises;
2. promote the dissemination of relevant information to enable the public to assess the environmental consequences of activities of enterprises and individuals to take effective preventive measures, for example in case of emergency,

IV. Instructs the Environmental Policy Committee:

1. to continue and strengthen its work on data, indicators and information relating to the environment and to sustainable development, and in particular:
 - contribute to further improve the quality and comparability of environmental data and indicators at international level;
 - develop accounting systems and new indicators to enable better assessment of progress towards sustainable development;
 - make relevant work on environmental indicators publicly available through appropriate modern communication methods (for example the World Wide Web);
2. to make full use of these indicators in the reviews of environmental performance and other reports;

3. to use the OECD reviews of environmental performance to monitor progress as regards access to information and, in particular, the implementation of this Recommendation;

4. to report to the Council on the measures taken pursuant to this Recommendation by member countries within three years following the adoption of this Recommendation, with a view to providing OECD inputs to the discussion on environmental information to be held under the auspices of the United Nations Commission for Sustainable Development in 2001."

Shared goals, agreed by the Environment Ministers of OECD member countries in Paris (France) on 3 April 1998

"[...]

Shared goals

3. Ministers agree on the following goals as an expression of their commitment to action to implement sustainable development:

[...]

IV. To strongly support participation, transparency, information and accountability in environmental policy-making by public authorities at all levels, *inter alia*, by:

- a. supporting or facilitating participation of key stakeholders in civil society in the development, implementation and monitoring of environmental policies, and in particular to engage in an intensive dialogue with the business community, trade unions and environmental citizens' organisations on the future of environmental policy-making in a globalising economy;
- b. ensuring that, within the context of national law, and recognising the importance of protecting confidential business information, the public has ready access to environmental data and the citizens and organisations whose interests are affected have the ability, through administrative or judicial procedures, to challenge acts or omissions by private persons and public authorities which contravene provisions of national law relating to the environment;
- c. monitoring and adoption of environmental accounting, leading to better qualitative and quantitative environmental reporting by public authorities and private firms, on a voluntary basis, which is essential for a better democratic debate on environmental concerns;
- d. taking note of the forthcoming UN/ECE Resolution on the adoption of the Convention on Access to Environmental Information and Public participation in Environmental Decision-Making and Access to Justice, at the Ministerial Conference in Aarhus, Denmark, in June 1998.
- e. implementing the principles set out in the OECD Council Recommendation on Environmental Information, which Ministers endorsed.

[...]"

2.2.7. Conference/Organisation for Security and Co-operation in Europe (CSCE/OSCE)

- Charter of Paris for a new Europe, adopted by the member states of the Conference on Security and Co-operation in Europe (CSCE) in Paris (France) on 21 November 1990

Charter of Paris for a new Europe, adopted by the member states of the Conference on Security and Co-operation in Europe (CSCE) in Paris (France) on 21 November 1990

“[...]

Environment

[...]

We emphasise the significant role of a well-informed society in enabling the public and individuals to take initiatives to improve the environment. To this end, we commit ourselves to promoting public awareness and education on the environment as well as the public reporting of the environmental impact of policies, projects and programmes.

[...]”

2.3. Texts adopted by non-governmental organisations

2.3.1. Institute for a European Environmental Policy (IEEP) and International Institute of Human rights (IIHR)

- Declaration of Salzburg on the protection of the right to information and the right to participation: the recourses, adopted by the Second European Conference on the Environment and Human Rights, organised by the Institute for a European Environment Policy (IEEP) and the International Institute of Human Rights (IIHR), in Salzburg (Austria) on 3 December 1980 (French only)

Déclaration de Salzbourg sur la protection du droit à l'information et du droit de participation: les recours, adoptée par la 2^e Conférence européenne sur l'environnement et les droits de l'homme, organisée par l'Institut pour une politique européenne de l'environnement (IPEE) et l'Institut des droits de l'homme (IIDH) à Salzbourg (Autriche) le 3 décembre 1980 (français seulement)

“Toute personne a droit à un environnement sain, favorable à son épanouissement et écologiquement équilibré. Elle est responsable de cet environnement et a le devoir de contribuer à sa conservation.

Ce droit, proclamé dans un nombre grandissant de pays par des textes constitutionnels ou législatifs, doit être compris comme le droit à la conservation de l'environnement, c'est-à-dire à la protection, la gestion rationnelle, la restauration et l'amélioration de l'environnement. Le terme d'environnement doit s'entendre dans un sens large et peut notamment s'étendre aux aspects culturels inséparables des milieux.

La mise en œuvre du droit à la conservation de l'environnement exige que l'individu, seul ou en s'associant avec d'autres, soit informé des décisions envisagées qui pourraient affecter son environnement, qu'il puisse participer à la prise de telles décisions et que, le cas échéant, il dispose de voies de recours appropriées.

Ce droit peut apporter une amélioration fondamentale au fonctionnement des institutions démocratiques en Europe. Il permet, d'autre part, de sauvegarder l'intérêt des générations futures. Il doit être mis en œuvre avec le concours des pouvoirs publics, de toutes les forces sociales et de tous les citoyens.

1. Information

Afin d'accomplir les objectifs définis ci-dessus, toute personne doit pouvoir disposer d'informations sérieuses et utiles concernant l'environnement à conserver.

1.1. Des relations de confiance sont la base nécessaire des rapports entre tous ceux qui participent à la conservation de l'environnement. Les pouvoirs publics mettent en place les structures et les moyens nécessaires à une information sérieuse et utile du public. Ils assurent en particulier l'accès aux informations sur l'environnement ainsi que sur tout projet, plan ou programme pouvant avoir une incidence environnementale.

1.1.1. Une politique d'information doit aller de pair avec une politique de recherche devant notamment porter sur les techniques nouvelles d'évaluation de l'environnement.

1.1.2. Dans le cadre d'une politique d'information, la diffusion et la promotion des connaissances écologiques par l'éducation est un moyen indispensable pour faciliter la compréhension et l'utilisation de l'information disponible par le public.

1.1.3. Pour être sérieuse et utile, l'information doit être régulière et adaptée au public qui la reçoit et contenir les éléments nécessaires à son analyse. A ces fins, entre autres, des données statistiques complètes doivent être régulièrement publiées; des rapports sur l'état de l'environnement en général et des rapports sectoriels doivent être périodiquement disponibles.

1.1.4. Une procédure doit être prévue pour garantir la prise en compte des incidences sur l'environnement dans le processus de décision; les informations obtenues doivent être rendues publiques avant la prise de décision pour contribuer ainsi à la création des relations de confiance nécessaires.

1.2. Le public représente un potentiel d'informations utiles pour les responsables politiques et administratifs. Il constitue aussi un potentiel de mobilisation en faveur de la conservation de l'environnement. Les pouvoirs publics mettent en place les structures et les moyens propres à faire valoir ce potentiel.

1.3. Les autorités publiques doivent motiver toute décision afin de faire apparaître la façon dont elles ont tenu compte de l'information reçue.

2. Participation

En vue de contribuer à la réalisation des objectifs de conservation de l'environnement, toute personne doit avoir la possibilité de participer à la procédure de prise de décision en matière d'environnement selon des moyens et dans des cadres définis.

2.1. Il appartient aux pouvoirs publics de définir le cadre et les moyens propres à permettre une participation efficace, compte tenu de la nature des décisions à prendre.

2.1.1. Ces moyens et ces cadres doivent notamment permettre la participation aussi bien dans la préparation des réglementations générales ou de plans ou de programmes publics d'aménagement que dans l'élaboration, l'autorisation et la réalisation des projets individuels privés.

2.1.2. Si nécessaire, la procédure de prise de décisions doit être modifiée afin de permettre une participation efficace.

2.1.3. Dans le cas où plusieurs phases sont prévues dans une procédure, la participation doit intervenir aussi en amont que possible et être adaptée aux exigences des diverses phases. La reconnaissance du droit de participation à toute personne aux phases essentielles de la procédure doit être un objectif.

2.1.4. La détermination des personnes habilitées à participer doit être aussi large que possible en fonction des décisions à prendre, du cadre institutionnel et des traditions juridiques. L'accès aux moyens de participation doit être assuré aux personnes physiques et morales sur une base d'égalité entre les résidents d'un pays et ceux d'autres pays, notamment en ce qui concerne les problèmes transfrontaliers.

2.1.5. Selon la nature des décisions à prendre, le cadre institutionnel et les traditions juridiques, les moyens de participation suivants peuvent être envisagés, si nécessaire simultanément: d'une part, élections législatives, régionales ou locales, référendum, consultation, audits; d'autre part, objections, pétitions, manifestations.

2.2. Le cadre et les moyens définis par les autorités publiques doivent permettre aux associations de jouer pleinement leur rôle dans la participation.

2.2.1. Les cadres et les moyens définis par les pouvoirs publics doivent garantir que les différents intérêts sociaux, et en particulier l'intérêt de l'environnement, soient représentés et mis en balance dans des conditions d'égalité réelle.

2.2.2. Les associations contribuent à la coordination de la participation, en assurent la continuité et fournissent les connaissances nécessaires. Elles représentent l'intérêt à long terme constitué par la sauvegarde de l'environnement, ainsi que les droits légitimes des générations à venir. En conséquence, elles assument une responsabilité particulière dans la procédure de participation.

2.2.3. Les responsables de la décision doivent motiver celle-ci en fonction de la procédure de participation pour faire apparaître la façon dont celle-ci est prise en compte.

3. Recours

Le droit à la conservation de l'environnement doit pouvoir être sanctionné par un recours dès lors que les intérêts de l'environnement sont menacés.

3.1. Les voies de recours, de même que la nature des sanctions et de la juridiction ou de l'autorité devant laquelle ils sont portés, peuvent différer d'un Etat à l'autre en fonction des singularités et des règles nationales.

3.2. La définition des personnes habilitées à ester en justice ou à exercer un recours administratif doit être aussi large que possible en fonction des décisions à prendre, du cadre institutionnel et des traditions juridiques nationales; dans la perspective des droits de l'homme, la reconnaissance du droit à la conservation de l'environnement, sanctionnée par un recours ouvert à toute personne, doit être un objectif.

3.3. Les associations doivent être admises, sous réserve des droits des intéressés et des tiers, à agir ou à intervenir devant les instances de recours judiciaires ou administratives.

3.4. Afin d'éviter qu'une décision qui fait l'objet d'un recours ne produise des effets qui seraient irréversibles sur l'environnement, les actions contentieuses ou administratives engagées contre la décision doivent suspendre sa mise en œuvre. Toutefois, la procédure doit être aménagée de telle sorte que la décision des autorités judiciaires et administratives saisies pour recours soit prise dans un délai raisonnable.

3.5. Les frais de justice ne doivent pas constituer une limitation trop contraignante au droit d'ester en justice.

3.6. L'accès aux tribunaux et aux autorités administratives doit être assuré sur une base d'égalité entre les résidents des pays de juridiction et ceux d'autres pays."

2.3.2. European Council on Environmental Law (CEDE)

- Articles prepared for the UN/ECE Working group for the preparation of the draft convention on access to environmental information and public participation in environmental decision-making, on information, participation and means of recourse with respect to the implementation of treaties relating to the environment, adopted by the European Council on environmental law (CEDE) in Funchal, Madeira, Portugal on 4 May 1996
- Resolution on the right to water, adopted by the European Council on Environmental Law (CEDE) in Funchal (Madeira, Portugal) on 28 April 2000

Articles prepared for the working group of the UN/ECE for the preparation of the draft convention on access to environmental information and public participation in environmental decision-making, on information, participation and means of recourse with respect to the implementation of treaties relating to the environment, adopted by the European Council on Environmental Law (CEDE) in Funchal (Madeira, Portugal) on 4 May 1996

“Article 1. General obligation

In accordance with the provision of Articles 2 to 4, the parties to this Convention shall ensure access to information, rights of participation and adequate means of recourse to all persons as respects treaties relating to the environment.

Article 2. Access to information

1. Where a party to this Convention is associated with the negotiation of a proposed treaty relating to the environment, it shall make available to the public, in due time, adequate information on the proposed treaty.

2. When the text of a treaty relating to the environment is finalised, a party to this Convention which was associated with its association shall ensure it has a wide distribution, preferably also in its national language or languages, accompanied by explanatory memoranda and commentaries.

3. Each party to this Convention shall bring to the attention of the public the legislative and administrative measures which it intends to adopt so as to ensure the full implementation of a treaty relating to the environment to which it intends to become a party. It shall make available to the public all appropriate information and explanations regarding the national authorities responsible for the implementation of such treaty and regarding the international procedures concerning its application which are provided for in the treaty.

4. A party to this Convention which is required by a treaty relating to the environment to submit periodic reports shall make those reports available to the public.

Article 3. Public participation

1. Parties to this Convention which intend to conclude a treaty relating to the environment shall welcome and take into consideration the observation of the public when preparing their negotiating position.

2. They shall also welcome the observations and proposals of the public on the implementation of a treaty relating to the environment. Those observations and proposals shall be studied with care by their component authorities and supplied, if appropriate, to other parties to the treaty.

3. When, in accordance with the provisions of a treaty relating to the environment, a party to this Convention is required to submit periodic reports to an authority designated by that treaty, it shall welcome the observations and proposals of the public.

4. A party to this Convention which is required to submit a periodic report as mentioned in the previous paragraph shall enable, and if appropriate facilitate, the participation of representatives of the public in the discussion of that report within the designated international authority.

Article 4. Means of recourse

1. All parties to this Convention shall take the necessary measures, including legislative acts, to enable administrative or judicial proceedings (of an administrative, civil or criminal character) to be taken in the case of non-application or other breach of a treaty relating to the environment to which it is a contracting party.

2. The same procedures shall be made available in relation to the breach of obligations arising from Articles 1 to 3 of this Convention.

3. The parties to this Convention shall not take any measures to prevent or discourage, but shall facilitate effective access to international procedures provided for persons complaining about the non-application or other breach of a treaty relating to the environment.

4. Persons complaining about the non-application or other breach of a treaty to the environment, whether to an international, inter-governmental or non-governmental organisation, shall not be subjected to any negative consequences as a result of that complaint."

Resolution on the right to water, adopted by the European Council on Environmental Law (CEDE) in Funchal (Madeira, Portugal) on 28 April 2000

"The European Council on Environmental Law,

Conscious of the grave problems posed by access to drinking water, an essential element for the survival of man;

Considering that access to water is part of a sustainable development policy and cannot be regulated by market forces alone;

Considering that while water is an economic good, it is above all a social good;

Convinced that water resources constitute a common heritage and must be used in an equitable manner and managed in co-operation with the users in a spirit of solidarity;

Taking account of the International Covenant on Economic, Social and Cultural Rights (1996) according to which '[T]he States recognize [...] the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing' (Article 11.1) and 'the right of everyone to the enjoyment of the highest attainable standard of physical and mental health' (Article 12);

Considering that the right to water cannot be dissociated from the right to food and the right to housing which are recognised human rights and that the right to water is also closely linked to the right to health;

Taking account of the Protocol on Water and Health (1999) adopted in London in the framework of the Economic Commission of the United Nations for Europe, which refers to the principle of 'equitable access to water' which should be provided for 'all members of the population' (Article 5);

Mindful of the principles of the Madeira Declaration on the Sustainable Management of Water Resources, adopted by the ECEL on the 17th of April 1999;

Observing that the greater part of the population of European countries already enjoys access to water at an affordable price;

Recognising that access to water for all should be an important element in policies to combat poverty;

Proposes that governments and competent international organisations explicitly recognise – in the national, community, and international frameworks – the right of each person to water according to the following principles;

1. Each person has the right to water in sufficient quantity and quality for his life and health;
2. Public authorities must adopt the necessary measures to favour the access to water for all and exert control over the actions of the diverse bodies, public or private, operating in water service management;
3. In each collectivity responsible for the service of water, the costs of the service must be apportioned so that each person can enjoy the right to water;
4. In the exercise of their activities, economic actors and individuals must respect the right to water,

Recommends that public authorities ensure that drinking water is appropriately priced by the bodies responsible for the service thereof so that this good can continue to be affordable to each person;

Recommends that a significant part of development aid be used for the supply of drinking water and waste water treatment in poorly equipped countries.”

2.3.3. Global Legislators’ Organisation for a Balanced Environment (Globe)

- Stockholm Statement on the draft convention on access to environmental information and public participation in environmental decision-making, agreed by forty-five members of parliament from twenty-three European countries who took part in the Globe Europe Conference on Democracy to the Rescue: how should citizens help protect the environment, in Stockholm (Sweden) on 4 September 1997

Stockholm Statement on the draft convention on access to environmental information and public participation in environmental decision-making, agreed by forty-five members of parliament from twenty-three European countries who took part in the Globe Europe Conference on Democracy to the Rescue: how should citizens help protect the environment, in Stockholm (Sweden) on 4 September 1997

“Europe’s Environment Ministers agreed in Sofia in October 1995 to initiate negotiations on a new convention on access to environmental information and public participation in environmental decision-making.

We believe that the right of access to information, the right for the public to participate in environmental decision-making and the right of access to justice in environmental matters provide states and the citizens with a new and essential tool to protect the environment.

Furthermore, the convention represents an important part of the process of implementation in Europe of Agenda 21, and of Principle 10 of the Rio Declaration.

The convention will introduce new legal principles as well as practical requirements into the legislation of its signatories. We therefore believe that the early involvement of those parliamentarians who are concerned for the protection of the environment is necessary, and encourage our colleagues to form an opinion on and support this Convention.

Having considered the arguments in the debate, we invite our parliamentary colleagues and Europe’s governments to support the recommendations outlined below.

Access to environmental information

1.1. The public should have access to the environmental information held by any public authority.

1.2. The information should be provided as soon as possible, and within four weeks at the most. In cases where the release of information may mitigate or prevent environmental damage, the information should be provided without delay.

1.3. Public authorities should be permitted to charge a reasonable cost for the information they provide. Where possible, they should provide the information free of charge.

1.4. In principle the categories of exceptions listed in the current draft are appropriate. However, the exceptions should be subject to a balancing test which requires the harm likely to result from the disclosure of the information to be balanced against the public interest in openness and release of the information.

1.5. Public authorities should be required by the Convention to place certain categories of information in the public domain via the Internet. This information should be of a high quality and up-to-date.

1.6. The environmental information which the Convention requires the public to be provided access to should imperatively include environmental health information. Socio-economic information should also be covered in so far as it relates to environmental problems.

1.7. Parliaments and parliamentary institutions should be among those public authorities subject to the Convention's provisions on access to information.

Public participation

2.1. It is fundamental that the public should be permitted to participate in the preparation of legislation and in the work of legislative bodies.

2.2. Public participation should also be provided for in the preparation of policies, plans and programmes.

2.3. The right for the public to participate in legislative work implies the following:

- The public should have the right to obtain the relevant information;
- Plenary meetings of parliaments should be open to the public; committee meetings should be open whenever possible;
- Public hearings should be held, where relevant interest groups are invited to address the legislation under consideration; such hearings should be open to the public at large;
- Submissions should be invited from the public;

- In particular, authorities should notify those groups and people having requested to be included in specific standing lists should be notified; inclusion in such lists should be open to all;
- The authority should explicitly address the public input in its decision.

2.4. Governments should address the question of ensuring that non-governmental organisations have sufficient resources to take part in relevant decisions which are subject to public participation procedures. However, governmental support should not result in the dependence of NGOs towards the governments. Depending on tradition and circumstances, different modes of support should be considered.

Access to justice

3.1. Access to justice is one of the important contributions of the new convention.

3.2. Citizens and their organisations should be allowed to challenge decisions taken by public authorities regarding access to information and public participation procedures.

3.3. Citizens and their organisations should be allowed to sue directly all those infringing environmental law.

3.4. Citizens and their organisations should be allowed to challenge their governments for failing to comply with the law or for failing to enforce environmental laws.

3.5. Access to justice should be provided to all citizens and groups, regardless of their nationality. It is particularly important that nationals of any country should have access to the courts in cases involving transfrontier pollution.

3.6. Parliamentarians should be able to initiate judicial reviews of administrative decisions concerning access to environmental information.

The right to environment

4.1. We believe that those fundamental rights guaranteed under international law should include a right to an environment conducive to health and well-being.

4.2. This right is a natural extension of the 'right to life' provided by the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms of March 20, 1952.

However, we invite the working group preparing the Convention to further define the right to an environment conducive to health and well-being in order to ensure that its translation in national law and interpretation by the courts may be as unambiguous and as effective as possible."

2.3.4. Permanent Forum of Civil Society

- Draft European citizens' charter, presented by the European Forum of Civil Society in Rome (Italy) on 22 March 1997

Draft European citizens' charter, presented by the European Forum of Civil Society in Rome (Italy) on 22 March 1997

"Preamble

This Charter constitutes the founding pact of a Community of Peoples and States reflecting the humanism characteristic of European civilisation.

Presented on the 40th anniversary of the Treaty of Rome, it marks a turning point in the history of European construction.

It confirms the economic, social, cultural, civil and political rights of citizens of the Union. It also defines their duties.

This draft presented by the European Forum of Civil Society, in Rome on 22 March 1997, will be forwarded to the European Parliament for adoption and to the High Contracting Parties for ratification.

The Signatory States agree to annex this Charter as a joint Declaration to the Treaty on European Union. They undertake to make its provisions their criteria for the evaluation and approval of the Union's initiatives. They promise to ensure that the Treaty comes into force in accordance with the principles of the Charter.

Part I. A People's Europe

Article 1. The Union is based upon the human individual

The human individual is at the heart of the European undertaking.

The Union is based upon all the fundamental rights prescribed by the Universal Declaration of Human Rights (New York, 1948), the European Convention on the Protection of Human Rights and Fundamental Freedoms (Rome, 1950), the European Social Charter (Turin, 1961, revised 1988), the Community Charter of Workers' Fundamental Social Rights (Strasbourg, 1989), the Charter for the Protection of Ethnic Minorities and the United Nations international covenants on civil, political, economic and social rights (1966). These rights form its ethical, moral and cultural heritage.

The Union adheres to the International Convention on the Protection of Minorities and the International Convention on the Protection of Children. The Union protects the diversity of identity of all its inhabitants.

The Union is the guardian of a common good made up of all individual civil, economic and social rights. It cultivates the shared values of civilisation that are peace, dignity and respect for the human individual, democracy, freedom and the duty of solidarity.

Article 2. European citizenship

Citizenship entails complementary local, regional, national, European and worldwide dimensions, in line with the principle of subsidiarity.

Every citizen of any member state is a citizen of the Union. Residents have the right to obtain the citizenship of the state where they reside. The Union shall ensure the harmonisation of rights of access to national citizenship.

European citizenship has two principal components: civil and political, social and economic. These two elements of citizenship are indivisible. The Union shall endeavour to strengthen them jointly.

European citizenship resides on a European model of society which includes respect for the individual and for fundamental rights and a commitment to solidarity amongst its members.

Article 3. Sovereign power

Within the framework of the competences of the Union, sovereign power belongs to the citizens of the European Union.

Article 4. The missions of the European Union

The Union shall have the task of ensuring peace and democracy, balanced and sustainable development, economic and social cohesion, full employment and occupation and cultural development based on pluralism, dignity and respect for others.

4.1. Sustainable human development

The Union shall work to promote sustainable human development that is at once economic, social and ecological, giving each individual the opportunity to participate in an employment-creating economic and social life. Every individual is entitled to a healthy environment. The Union shall guarantee respect for the integrity of the human person in the environment and in the face of technological development, in particular with respect to biotechnology and the information society. The rights of future generations are recognised and protected in the Union.

[...]

In the context of Community policies and legislation, the Union shall respect the undertakings agreed at the United Nations Conferences on the Environment and Development (Rio, 1992), Human Rights (Vienna, 1993), the Population (Cairo, 1994), Women (Beijing, 1995), Social Affairs (Copenhagen, 1995) and the Habitat (Istanbul, 1996).

The Union shall ensure that the World Trade Organisation guarantees the tying-in of social standards and trade on the basis of corresponding ILO conventions on forced labour, child labour and all forms of discrimination at the workplace, freedom of association and the right to collective bargaining. All trade co-operation treaties or agreements to which the Union shall become

a contracting party must establish positive social and environmental clauses inciting respect for human and democratic rights.

4.2. A cultural project

The Union's cultural activities shall be built on both the diversity and richness of its cultural and linguistic heritage and recognition of a common heritage, and on a cultural community, shared values, respect for the arts and cultures of the peoples of Europe, cross-border co-operation and dialogue with other civilisations. Protection of the cultural and linguistic heritage are civic rights.

It shall promote the conditions enabling each individual to develop his cultural, civic, creative and cognitive abilities.

The Union shall assure the protection and development of the common European heritage composed of its natural resources and the environment and its natural, cultural and linguistic heritage, in all its diversity.

4.3. A European civic area

The Union is a representative and participatory democracy. It shall guarantee the balanced representation of men and women. It shall provide the means necessary for active participation, in particular through the democratisation of knowledge of decision-making.

4.4. Security

The Union shall have the objective of ensuring the security of all its inhabitants by working in favour of the social integration of all and of protection of the environment and worldwide natural resources.

The Union shall also endeavour to protect citizens against all forms of crime which are a threat to security and the European civil area.

Part II. The European civic and political area

Article 5. Civic and political citizenship

[...]

Democracy at the level of the Union is made up of two components: representation and participation.

Article 6. A representative democracy

[...]

Article 7. A participatory democracy

All citizens and all representative organisations have the right to formulate and make known their opinions on every area of the Union's competence. The Union shall guarantee the participation of all, in particular individuals and groups in a situation of poverty and social exclusion.

Practical implementation of rights and duties must not be limited to relations between the institutions and individuals. It also requires the presence of group players who stimulate the development of these rights and duties, explain them, defend them and implement them. Civil society is structured in this way.

The Union shall recognise organisations representing civil society as its permanent partners. It shall consult them regularly on all areas of Union citizenship, in particular on all Community acts related to civil, political, economic and social rights recognised by this Charter.

7.1. Representation of citizens

[...]

7.2. The right to information, transparency and public enquiry

The deliberations, proposals and legislative acts of all Union bodies, in particular the Council of the Union, shall be public.

The Union shall guarantee access to information in every area for which it has competence. The public and private mandates exercised by European officials and agents shall be public.

7.3. The right to evaluation

The Community's plans, programmes, policies and budgets shall be subject to prior evaluation by the European Parliament in a procedure that is transparent, public, pluralist and adversarial, in line with the principles and rights recognised by this Charter. The European Parliament shall consult the Economic and Social Committee and the Committee of the Regions.

The Charter Signatory States shall make such evaluation a prerequisite to their acceptance of proposals from the Commission.

7.4. The right of legislative initiative

This right may be exercised collectively by citizens of the Union, in accordance with the conditions laid down by a Community law.

7.5. The right of popular consultation

The exercise of this right by European citizens, following presentation of a petition which has obtained signatures in all the states of the Union, shall be governed by a Community law developed on the basis of existing national legislation and practices.

7.6. The right to justice

All European citizens and all individuals residing in a member state have the right to institute legal proceedings before the Court of Justice of the Union in cases of non-observance of Community legislation or of the rights and principles recognised by this Charter.

7.7. The right of association

The Union recognises the right of association. It shall establish a statute of European association enabling European group players to participate in the life of the Union and, through social experimentation and innovation, to defend and implement the rights and duties of European citizenship. It shall involve them in regular assessment of its activities and policies. The member states shall not restrict the right of association on grounds of the nationality of members.

Part III. The European Social and Economic Area

Article 8. Social and economic citizenship

[...]

European citizenship as defined above must lead every individual to participate fully in the economic and social life of the Union, his country of residence and his local communities.

8.1. Social rights

[...]

8.2. Services of general interest

The Union is the guardian of solidarity and social cohesion. It shall establish to this effect public and social rules on the internal market and common development policies. Access of European citizens, at Union and member state level, to services of general interest contributing to the objectives of equality, solidarity and social cohesion, is an integral part of the recognition and guaranteed exercise of the fundamental rights of the individual. Every European citizen shall be entitled in particular to a healthy environment, equal justice for all, education, health care and quality social services.

Part IV. Constitutional pact

Article 9. Sanctioning of a member state

In the event of an infringement of the principles of the present Charter, the Commission, the European Parliament, any member state and any individual as defined in Article 7.6 may initiate proceedings before the Court of Justice of the Union, which is entitled to take sanctions.

Member state status shall be suspended by a vote of the European Parliament for any state found to be in serious infringement of the principles of this Charter. The infringement finding shall be made by the Court of Justice of the Union.

[...]"

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Table of contents

| | <i>page</i> |
|---|-------------|
| Prefaces | 5 |
| Index | 9 |
| I. Introduction: human rights and environmental protection | 11 |
| 1. Human rights to a healthy environment as a substantive right | 17 |
| by Marc Pallemerts | |
| 2. Human rights to environmental procedural rights | 23 |
| by Maguelonne Déjeant-Pons | |
| II. Instruments and other international texts | 47 |
| 1. The world framework | 47 |
| 1.1. <i>Legally binding instruments</i> | 47 |
| – Charter of the United Nations, adopted in San Francisco (United States) on 26 June 1945 | |
| – International Covenant on Economic, Social and Cultural Rights, adopted by the United Nations General Assembly on 16 December 1966 | |
| – International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly on 16 December 1966 | |
| – Convention on International Trade in Endangered Species of Wild Fauna and Flora, adopted in Washington (United States) on 3 March 1973 | |
| – Framework Convention on Climate Change, adopted in New York (United States) on 9 May 1992 | |
| – Convention on Biological Diversity, adopted in Rio de Janeiro (Brazil) on 5 June 1992 | |
| – International Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, adopted in Paris (France) on 14 October 1994 | |
| – Convention on the Law on the Non-Navigational Uses of International Watercourses, adopted in New York (United States) on 21 May 1997 | |
| 1.2. <i>Non-legally binding instruments and texts adopted by intergovernmental organisations and meetings</i> | 52 |
| 1.2.1. United Nations General Assembly | 52 |
| – Universal Declaration of Human Rights, adopted by the United Nations General Assembly at New York (United States) on 10 December 1948 | |

- World Charter for Nature (Resolution 37/7), adopted by the United Nations General Assembly on 28 October 1982
 - "Our Common Future", report of the World Commission on Environment and Development (WCED), created on the United Nations General Assembly's proposal, published in 1987
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 - Programme for the further implementation of Agenda 21, adopted by the United Nations General Assembly on 27 June 1997
- 1.2.2. United Nations Conference on the Human Environment (UNCHE) 56
- Declaration on the human environment, adopted by the United Nations Conference on the Human Environment at Stockholm (Sweden) on 16 June 1972
- 1.2.3. United Nations Conference on Environment and Development (UNCED) 57
- Rio Declaration on environment and development, adopted by the United Nations Conference on Environment and Development at Rio de Janeiro (Brazil) on 14 June 1992
 - Agenda 21, programme adopted by the United Nations Conference on Environment and Development at Rio de Janeiro (Brazil) on 14 June 1992
- 1.2.4. Intergovernmental Conference on the Protection of the Atmosphere 59
- Declaration on the protection of the atmosphere, adopted by the Intergovernmental Conference on the Protection of the Atmosphere at The Hague (Netherlands) on 11 March 1989
- 1.2.5. United Nations Environment Programme (UNEP) 60
- UNEP administrative note on policy and procedures related to public availability of documentary information on Global Environment Facilities (GEF) operations, adopted in September 1993
- 1.2.6. Commission on Human Rights of the Economic and Social Council of the United Nations (Ecosoc), and Sub-Commission on Prevention of Discrimination and Protection of Minorities 62
- Decision 1989/108 on human rights and the environment, adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities on 31 August 1989
 - Resolution 1990/41 on human rights and the environment, adopted by the Commission on Human Rights on 6 March 1990

| | |
|--|----|
| – Resolution 1990/7 on human rights and the environment, adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities on 30 August 1990 | |
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| – Resolution 1996/13 on human rights and the environment, adopted by the Commission on Human Rights on 11 April 1996 | |
| – Decision 1997/102 on human rights and the environment, adopted by the Commission on Human Rights on 16 April 1997 | |
| 1.2.7. United Nations Educational, Scientific and Cultural Organisation (Unesco) | 76 |
| – Declaration on the responsibilities of the present generations towards future generations, adopted by the General Conference of Unesco on 12 November 1997 | |
| 1.3. <i>Texts adopted by non-governmental organisations</i> | 79 |
| 1.3.1. World Conservation Union (IUCN) | 79 |
| – World Conservation Strategy, prepared by the International Union for Conservation of Nature and Natural Resources (IUCN), in collaboration with UNEP and WWF, FAO and Unesco, published in 1980 | |
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| – Recommendation No. 1.43 on public participation and the right to know, adopted by the World Conservation Congress of the IUCN at Montreal (Canada) on 23 October 1996 | |
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| 1.3.2. Institute of International Law (IIL) (Switzerland) | 91 |
| – Resolution on the environment, adopted by the Institute of International Law (IIL) at Strasbourg (France) on 4 September 1997 | |

| | |
|--|-----|
| – Resolution on procedures for the adoption and implementation of rules in the field of environment, adopted by the Institute of International Law (IIL) at Strasbourg (France) on 4 September 1997 | |
| – Resolution on responsibility and liability under international law for environmental damage, adopted by the Institute of International Law (IIL) at Strasbourg (France) on 4 September 1997 | |
| 1.3.3. Conference of Non-Governmental Organisations: Bridging the Gap | 95 |
| – Agenda for action, adopted by the Conference of Non-Governmental Organisations: “Bridging the Gap”, on the Danube on 20 March 1990 | |
| 1.3.4. <i>Environnement sans frontière</i> | 97 |
| – Declaration on the human right to the environment, drawn up by “Environnement sans frontière” with the support of non-governmental organisations on environment and development in Paris (France) on 20 May 1992, and presented by the President of the French Republic to the United Nations Conference on Environment and Development (UNCED) at Rio de Janeiro (Brazil) on 14 June 1992 | |
| 1.3.5. Cousteau Society | 99 |
| – Declaration on human rights for future generations, adopted by a UNESCO-Cousteau Society meeting of experts, organised by the Tricontinental Institute for Parliamentary Democracy and Human Rights at La Laguna (Tenerife) on 26 February 1994 | |
| 1.3.6. Permanent People’s Tribunal | 100 |
| – Charter of industrial hazards and human rights, adopted by the Permanent People’s Tribunal on January 1996 | |
| 1.3.7. International Water Tribunal | 104 |
| – Declaration of Amsterdam, adopted by the Second International Water Tribunal in Amsterdam (Netherlands) on 27 June 1991 | |
| 1.3.8. International Court of the Environment Foundation (ICEF) | 107 |
| – Project for the International Court of the Environment, presented by ICEF at the United Nations Conference on Environment and Development (UNCED) at Rio de Janeiro (Brazil) on 14 June 1992 | |
| 1.3.9. Inter Action Council | 115 |
| – Universal Declaration of Human Responsibilities, proposed by the Inter Action Council in September 1997 | |
| 1.3.10. Institute for Human Rights, Environment and Development (INHURED) | 116 |
| – Recommendation on economic rights, environment and the right to development, adopted by the first International Conference on | |

| | |
|---|-----|
| Human Rights Law-Making and Transition to Democracy, organised by the Institute for Human Rights, Environment and Development (INHURED) at Katmandu (Nepal) on 31 July 1991 | |
| 1.3.11. International Seminar "The right to the environment" | 118 |
| – Declaration of Bizkaia on the Right to the Environment and follow-up resolution, adopted by a Group of international experts during a seminar promoted by the Provincial Council of Bizkaia and sponsored by Unesco and the United Nations High Commissioner for Human Rights, at Bilbao (Spain) on 12 February 1999 | |
| 2. The regional European framework | 124 |
| 2.1. <i>Legally binding instruments</i> | 124 |
| 2.1.1. Council of Europe | 124 |
| 2.1.1.1. Adopted texts | 124 |
| – Convention for the Protection of Human Rights and Fundamental Freedoms, adopted in Rome (Italy) on 4 November 1950 | |
| – Additional Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, adopted in Paris (France) on 20 March 1952 | |
| – European Social Charter, adopted in Turin (Italy) on 18 October 1961 | |
| – Convention on the Conservation of European Wildlife and Natural Habitats, adopted in Bern (Switzerland) on 19 September 1979 | |
| – Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment, adopted in Lugano (Switzerland) on 21 June 1993 | |
| – Revised European Social Charter, adopted in Strasbourg (France) on 3 May 1996 | |
| – Convention on the Protection of the Environment through Criminal Law, adopted in Strasbourg (France) on 4 November 1998 | |
| – European Landscape Convention, adopted in Florence (Italy) on 20 October 2000. | |
| 2.1.1.2. Draft texts | 138 |
| – Draft additional protocol to the Convention on Human Rights and Fundamental Freedoms of 4 November 1950, presented by the Minister of the Federal Republic of Germany at the European Ministerial Conference on the Environment at Vienna (Austria) on 28 March 1973 and recommended to the deliberation of the competent organs of the Council of Europe | |
| 2.1.2. Economic Commission for Europe of the United Nations (UN/ECE) | 139 |
| – Convention on Environmental Impact Assessment in a Transboundary Context, adopted in Espoo (Finland) on 25 February 1991 | |

- Convention on the Transboundary Effects of Industrial Accidents, adopted in Helsinki (Finland) on 17 March 1992
 - Convention on the Protection and Use of Transboundary Watercourses and International Lakes, adopted in Helsinki (Finland) on 17 March 1992
 - Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, adopted in Aarhus (Denmark) on 25 June 1998
- 2.1.3. European Community (EC)/European Union (EU) 167
- Directive 76/160/EEC concerning the quality of bathing water, adopted by the Council of the European Communities on 8 December 1976
 - Directive 82/501/EEC on the major accident hazards of certain industrial activities, adopted by the Council of the European Communities on 24 June 1982
 - Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work, adopted by the Council of the European Communities on 19 September 1983
 - Directive 84/360/EEC on the combating of air pollution from industrial plants, adopted by the Council of the European Communities on 28 June 1984
 - Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, adopted by the Council of the European Communities on 27 June 1985
 - Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work, adopted by the Council of the European Communities on 12 June 1989
 - Directive 89/618/Euratom on informing the general public about health protection measures to be applied and steps to be taken in the event of a radiological emergency, adopted by the Council of the European Communities on 27 November 1989
 - Directive 90/219/EEC on the contained use of genetically modified micro-organisms, adopted by the Council of the European Communities on 23 April 1990
 - Regulation No. 1210/90/EEC on the establishment of the European Environment Agency and the European environment information and observation network, adopted by the Council of the European Communities on 7 May 1990
 - Directive 90/313/EEC on the freedom of access to information on the environment, adopted by the Council of the European Communities on 7 June 1990
 - Directive 90/394/EEC on the protection of workers from the risks related to exposure to carcinogens at work, adopted by the Council of the European Communities on 28 June 1990

| | |
|---|-----|
| – Regulation No. 880/92/EEC on a Community eco-label award scheme, adopted by the Council of the European Communities on 23 March 1992 | |
| – Regulation No. 1836/93/EEC allowing voluntary participation by companies in the industrial sector in a Community eco-management and audit scheme, adopted by the Council of the European Communities on 29 June 1993 | |
| – Directive 96/61/EC concerning integrated pollution prevention and control, adopted by the Council of the European Union on 24 September 1996 | |
| – Directive 96/82/EC on the control of major-accident hazards involving dangerous substances, adopted by the Council of the European Union on 9 December 1996 | |
| – Directive 97/11/EC amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, adopted by the Council of the European Union on 3 March 1997 | |
| 2.1.4. European Environment Agency (EEA) | 208 |
| – Decision 97/C 282/04 on public access to European Environment Agency documents adopted by the European Environment Agency on 21 March 1997. | |
| 2.1.5. Regional conventions | 211 |
| – Nordic Environmental Protection Convention, adopted in Stockholm (Sweden) on 19 February 1974 | |
| – Convention on the Protection of the Marine Environment of the Baltic Sea area, adopted in Helsinki (Finland) on 9 April 1992 | |
| – Convention for the Protection of the Marine Environment of the North-East Atlantic, adopted in Paris (France) on 22 September 1992 | |
| – Convention on Co-operation for the Protection and Sustainable Use of the Danube River, adopted in Sofia (Bulgaria) on 29 June 1994 | |
| – Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, adopted in Barcelona (Spain) on 10 June 1995 | |
| – Protocol of the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, concerning Specially Protected Areas and Biological Diversity in the Mediterranean, adopted in Barcelona (Spain) on 10 June 1995 | |
| – Protocol of application of the Alpine Convention of 1991, on Mountain Forests, adopted Brno (Czech Republic) on 27 February 1996 | |
| 2.2. <i>Non-legally binding instruments and texts adopted by intergovernmental organisations or meetings</i> | 217 |

| | |
|--|-----|
| 2.2.1. Council of Europe (CoE) | 217 |
| 2.2.1.1. Consultative Assembly/Parliamentary Assembly | 217 |
| – Recommendation 683 (1972) on action to be taken on the conclusion of the Parliamentary Conference on Human Rights (Vienna, Austria, 18-20 October 1972), adopted by the Consultative Assembly in Strasbourg (France) on 23 October 1972 | |
| – Recommendation 854 (1979) on access by the public to government records and freedom of information, adopted by the Parliamentary Assembly in Strasbourg (France) on 1 February 1979 | |
| – Recommendation 1130 (1990) on the formulation of a European charter and a European convention on environmental protection and sustainable development, adopted by the Parliamentary Assembly in Strasbourg (France) on 28 September 1990 | |
| – Recommendation 1258 (1995) on an action programme for environmental education in teacher training, adopted by the Parliamentary Assembly in Strasbourg (France) on 1 February 1995 | |
| – Recommendation 1284 (1996) on the European environmental policy (1994-95), adopted by the Parliamentary Assembly in Strasbourg (France) on 23 January 1996 | |
| – Resolution 1087 (1996) on the consequences of the Chernobyl disaster, adopted by the Parliamentary Assembly in Strasbourg (France) on 26 April 1996 | |
| – Recommendation 1330 (1997) on the draft European charter of the Danube Basin, adopted by the Parliamentary Assembly in Strasbourg (France) on 28 May 1997 and the draft of the European charter of the Danube Basin | |
| – Recommendation 1431 (1999) on future action to be taken by the Council of Europe in the field of environment protection, adopted by the Parliamentary Assembly in Strasbourg (France) on 4 November 1999 | |
| 2.2.1.2. Standing Conference/Congress of Local and Regional Authorities of Europe (CLRAE) | 228 |
| – Resolution 171 (1986) on regions, environment and participation, adopted by the Standing Conference of Local and Regional Authorities of Europe in Strasbourg (France) on 14 October 1986 | |
| 2.2.1.3. Committee of Ministers | 230 |
| – Recommendation No. R (81) 19 of the Committee of Ministers to member states on the access to information held by public authorities, adopted in Strasbourg (France) on 25 November 1981 | |
| – Recommendation No. R (87) 16 of the Committee of Ministers to member states on administrative procedures affecting a large number of persons, adopted in Strasbourg (France) on 17 September 1987 | |

| | |
|--|-----|
| – Recommendation No. R. Env (90) 1 of the Committee of Ministers to member states on the European Conservation Strategy, adopted in Brussels (Belgium) on 12 October 1990 | |
| – Decision of the Committee of Ministers to take note of the Model Law on sustainable management of coastal zones and to forward it to the governments of member states, adopted in Strasbourg (France) on 9 September 1999 | |
| 2.2.1.4. European Conference of Ministers responsible for Regional Planning (Cemat) of the Committee of Ministers of the Council of Europe | 241 |
| – Guiding Principles for Sustainable Spatial Development of the European Continent, adopted at the 12th session of the European Conference of Ministers responsible for Regional Planning of the Member States of the Council of Europe in Hanover (Germany) on 8 September 2000 | |
| 2.2.1.5. Groups of experts | 243 |
| – Model Act on the Protection of the Environment, adopted by a group of independent experts within a programme of co-operation sustained by the Council of Europe with the central and eastern European countries in 1994 | |
| 2.2.2. Economic Commission for Europe of the United Nations (UN/ECE) | 248 |
| – Draft charter on environmental rights and obligations of individuals, groups and organisations, elaborated by an informal group of governmental experts organised under the auspices of the Netherlands for the Bergen Conference (Norway), 8-16 May 1990 | |
| – Draft UN/ECE charter on environmental rights and obligations, elaborated by an informal group of experts on environmental law, in Oslo (Norway) on 31 October 1990 and presented by the delegations of Norway and the Netherlands, at the Fourth Session of the Senior Advisers to the UN/ECE Governments on Environmental and Water Problems in Espoo (Finland), 25 February – 1 March 1991 | |
| 2.2.3. European Community (EC)/European Union (EU) | 255 |
| – Declaration on the environmental imperative, adopted by the European Council in Dublin (Ireland) on 26 June 1990 | |
| – Charter of fundamental rights of the European Union (2000/C, 364/01) solemnly proclaimed by the European Union and the European Commission at Nice (France) on 7 December 2000 | |
| 2.2.4. Pan-European Ministerial Conferences “Environment for Europe” | 258 |
| – Declaration of the Second Ministerial Conference “Environment for Europe”, adopted in Lucerne (Switzerland) on 30 April 1993 | |
| – Declaration of the Third Ministerial Conference “Environment for Europe” adopted in Sofia (Bulgaria) on 25 October 1995 | |

- Guidelines on access to environmental information and public participation in environmental decision-making, endorsed by the Third Ministerial Conference "Environment for Europe" in Sofia (Bulgaria) on 25 October 1995
 - The Pan-European Biological and Landscape Diversity Strategy, endorsed by the Third Ministerial Conference "Environment for Europe" in Sofia (Bulgaria) on 25 October 1995
 - Declaration by the Fourth Ministerial Conference "Environment for Europe", adopted in Aarhus (Denmark) on 25 June 1998
 - Resolution on biological and landscape diversity, endorsed by the Fourth Ministerial Conference "Environment for Europe" in Aarhus (Denmark) on 25 June 1998
 - Resolution on access to information, public participation in decision-making and access to justice in environmental matters, of which the Fourth Ministerial Conference "Environment for Europe" took note in Aarhus (Denmark) on 25 June 1998
- 2.2.5. World Health Organisation (WHO) 271
- European Charter on Environment and Health, adopted by the First European Conference on Environment and Health of the World Health Organisation (WHO) in Frankfurt-am-Main (Germany) on 8 December 1989
- 2.2.6. Organisation for Economic Co-operation and Development (OECD) 273
- Recommendation No. C (74) 224 on the principles concerning transfrontier pollution, adopted by the Council of the OECD on 14 November 1974
 - Recommendation No. C (76) 55 on equal right of access in relation to transfrontier pollution, adopted by the Council of the OECD on 11 May 1976
 - Recommendation No. C (77) 28 on the implementation of a regime of equal right of access and non-discrimination in relation to transfrontier pollution, adopted by the Council of the OECD on 17 May 1977
 - Recommendation No. C (78) 77 on strengthening international co-operation on environmental protection in transfrontier regions, adopted by the Council of the OECD on 21 September 1978
 - Recommendation No. C (79) 115 on environment and tourism, adopted by the Council of the OECD on 8 May 1979 (Appendix: Guidelines concerning the international and economic aspects of environmental policies in tourist areas)
 - Declaration of anticipatory environmental policies, adopted by member governments during the meeting of the Environment Committee at ministerial level on 8 May 1979
 - Decision-Recommendation No. C (88) 85 concerning provision of information to the public and public participation in decision-

| | |
|---|-----|
| making processes related to the prevention of and response to accidents involving hazardous substances, adopted by the Council of the OECD on 8 July 1988 | |
| – Recommendation No. C (90) 165 on environmental indicators and information, adopted by the Council of the OECD on 31 January 1991 | |
| – Recommendation No. C (92) 114 on integrated coastal zone management (ICZM), adopted by the Council of the OECD on 23 July 1992 | |
| – Recommendation No. C (96) 41 on implementing pollutant release and transfer registers, adopted by the Council of the OECD on 20 February 1996 | |
| – Recommendation No. C (98) 67 on environmental information, adopted by the Council of the OECD on 3 April 1998 | |
| – Shared goals, agreed by the Environment Ministers of OECD member countries in Paris (France) on 3 April 1998 | |
| 2.2.7. Conference/Organisation for Security and Co-operation in Europe (CSCE/OSCE) | 292 |
| – Charter of Paris for a new Europe, adopted by the member states of the Conference on Security and Co-operation in Europe (CSCE) in Paris (France) on 21 November 1990 | 292 |
| 2.3. <i>Texts adopted by non-governmental organisations</i> | |
| 2.3.1. Institute for a European Environmental Policy (IEEP) and International Institute of Human Rights (IIDH) | 292 |
| – Declaration of Salzburg on the protection of the right to information and the right to participation, adopted by the Second European Conference on the Environment and Human Rights, organised by the Institute for a European Environmental Policy (IEEP) and the International Institute of Human Rights (IIHR) in Salzburg (Austria) on 3 December 1980 | 296 |
| 2.3.2. European Council on Environmental Law (CEDE) | |
| – Articles prepared for the UN/ECE working group for the preparation of the draft convention on access to environmental information and public participation in environmental decision-making, on information, participation and means of recourse with respect to the implementation of treaties relating to the environment, adopted by the European Council on Environmental Law (CEDE) in Funchal (Madeira, Portugal) on 4 May 1996 | |
| – Resolution on the right to water, adopted by the European Council on Environmental Law (CEDE) in Funchal (Madeira, Portugal) on 28 April 2000 | 299 |
| 2.3.3. Global Legislators' Organisation for a Balanced Environment (Globe) | |
| – Stockholm Statement on the draft convention on access to environmental information and public participation in environmental | |

| | |
|---|-----|
| decision-making, agreed by the members of parliament from twenty-three European countries who took part in the Globe Europe Conference on Democracy to the Rescue: how should citizens help protect the environment?, in Stockholm (Sweden) on 4 September 1997 | 302 |
| 2.3.4. Permanent Forum of Civil Society | |
| – Draft European citizen’s charter, presented by the European Forum of Civil Society in Rome (Italy) on 22 March 1997 | 307 |
| III. Bibliography | 307 |
| 1. <i>General bibliography</i> | 312 |
| 2. <i>Bibliography concerning the right of access to environmental information</i> | |
| 3. <i>Bibliography concerning the right to participate in environmental decision-making</i> | 313 |
| 4. <i>Bibliography concerning the right of access to justice</i> | 314 |
| Table of contents | 315 |

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