

**Session of Strasbourg - 1997**

**Environment**

*(Eighth Commission, Rapporteur : Mr Luigi Ferrari Bravo)*

*(The French text is authoritative. The English text is a translation.)*

*The Institute of International Law,*

*Having considered* during previous Sessions the problems raised by the management of the environment as much at the level of international law as that of conflicts 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 at 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 1*

For the purposes of this Resolution, the concept of “environment” includes abiotic and biotic natural resources, in particular air, water, soil, fauna and flora, as well as the interaction between these factors. It also includes the characteristic features of the landscape.

*Article 2*

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

*Article 3*

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

*Article 4*

International law determines the basic principles and minimum rules for the protection of the environment.

International law also establishes such rules as may be necessary when national regulations are insufficient or inadequate.

*Article 5*

The environmental impact assessment of any project, whether international, national or local, which may have consequences for the environment shall take into account the living conditions and the development prospects of the human societies with which the project is concerned. The assessment shall be carried out in accordance with criteria which are comparable to criteria used by other countries and in a spirit of international co-operation.

*Article 6*

Every State, when intervening on the basis of decisions taken in the exercise of its sovereignty in fields of activity where the effects of such decisions on the environment are clear, has the responsibility to ensure that activities within its jurisdiction or under its control do not cause damage which may affect the lives of the present and future generations.

To this end, such activities shall be decided upon and carried out in the light of available scientific data.

If the activities referred to above involve the risk of causing significant damage to the environment, the State shall provide prior and timely notification to potentially affected States.

#### *Article 7*

Whenever a State has at its disposal a monitoring system which may give it advance warning of any risk of impact on the environment resulting from activities conducted within its territory, it shall make any information obtained from such system immediately available to the countries where such a risk may occur and, where necessary, to the international community.

Whenever a State has at its disposal a monitoring system which may give it advance warning of any risk of impact on the environment resulting from activities conducted outside its boundaries, it shall make any information obtained from such system immediately available to the country where the threat to the environment may originate and, where necessary, to the international community.

In this field, international co-operation through appropriate institutions is highly recommended.

#### *Article 8*

Any State which fears that activities carried out by another State within its own jurisdiction or under its control affect its rights may request an impartial assessment of the ultimate consequences of such activities. The State show activities are challenges shall be obliged to facilitate such an assessment.

#### *Article 9*

States, regional and local governments and juridical or natural persons shall, to the extent possible, ensure that their activities do not cause any damage to the environment that could significantly diminish the enjoyment of the latter by other persons. In this respect, they shall take all necessary care.

The obligation to prevent damage exists independently of any obligation to make reparation.

#### *Article 10*

The assessment of the circumstances which have given rise to the damage in respect of which reparation is to be made, as well as of any factual element concerning the environment, must be effected in a reliable manner, whether the matter arises within the international legal order or within a competent domestic legal order.

To this end, any enquiry has to be conducted by impartial authorities and the results arrived at be as acceptable at the domestic as at the international level. It is strongly recommended that the assistance of competent international organizations be obtained.

*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.

\*

(September 4, 1997)