INTERNATIONAL ENVIRONMENTAL LAW

PAT BRAZIL*

Introduction

As I begin to write this paper, I cannot help but note with some envy the relative particularity of other topics of the Seminar as compared with the large and diffuse topic of "International Environment Law". With such a large canvas on which to draw, I have chosen to essay some bold and broad strokes as well as more detailed work in particular areas. In doing so, I shall refer to the work of the International Law Association on environmental matters in recent years in which I have been personally involved. If you say that the result reminds you of a Jackson Pollock, then as an admirer of "Blue Poles" I will not mind at all. What I cannot hope to do in the confines of this paper is to produce all the light and shade of a Rembrandt which the richness of the topic truly deserves.

What is International Environmental Law?

International environmental law may be described as the aggregate of those rules and principles of international law whose purpose or effect is to protect the environment. They are concerned with activities within the jurisdiction or control of one State that affect the environment of another State or States, or of areas beyond national jurisdiction. However, their reach is wider than this. In some cases, individuals may incur liability. Also, damage by activities within a State to its own environment may entail international responsibility under certain conditions.

This body of law, to the extent that it has been developed, is composed of relevant principles and rules that form part of the body of customary international law, and also specific rules and practices that have been given binding force by or under treaty obligations undertaken by States.

Municipal rules of purely domestic import are not included. However, it would be wrong to conclude that the international rules and municipal rules can never be linked. For example, an environmental protection treaty may require manicipal legislation to be enacted, or remedies in domestic courts to be available. Also, municipal rules of law may embody and evidence general principles of law recognised by nations and thus constitute a source of international law under Article 38 (1) (c) of the Statute of the International Court of Justice.

* [MR PAT BRAZIL IS SECRETARY OF THE ATTORNEY-GENERAL'S DEPARTMENT, CANBERRA
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Also, no account of the international environment protection system would be complete if it did not refer to such matters as:

- measures for the identification and control of pollutants of international significance;
- the formation of protection, discharge and technological standards;
- the role of international organisations

Additionally, it is necessary to note that non-legal factors can have a significant influence on conduct, and in that way serve to protect the environment. Thus, installing the "best available technology" may be necessary to obtain insurance cover. In the case of high risk operations, this consideration may ensure a high degree of compliance with practices and standards that are designed to protect the environment. Finally it must be noted that international environment law is concerned with activities that in themselves may be regarded as socially useful and desirable. The environmental injury may be a by-product, sometimes an inherent by-product, of activities that in themselves are perfectly acceptable and lawful.

Values and Threats

The Declaration of the UN Conference on the Human Environment made at Stockholm in 1972 (the "Stockholm Declaration") noted that, in the long and tortuous evolution of the human race on this planet the 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 on an unprecedented scale and that, wrongly or heedlessly applied, the power can do incalculable harm to human beings. The international legal agenda must respond, and has responded, to these changes in technology. It has been truly said:

> "that there are rules of law for protection of the environment is evidence of the capacity of the law to address itself to the felt needs of the community. It is, after all, a primary characteristic of the law that it defines those values that a society holds in highest esteem, and to which it accords special protection". (Leventhal J., "Environmental Decision Making and the Courts", 122 (1974) University of Pennsylvania Law Review 509)

Environmental values, to the extent which they are accepted, provide the dynamic which shapes and develops the existing rules of international environmental law.

Protection and Preservation of the Atmosphere

I make no apology therefore for speaking about environmental values, and perceived or possible threats to those values. On such value must be to protect and conserve the Atmosphere. The Atmosphere that envelopes Earth is unique among the solar systems and, for all we know, elsewhere. For millions of years it has supported a myriad forms of life that have evolved on the Earth's surface. It is the medium in which mankind and other species "live and move and have their being". The Earth's climate is determined by a complex and delicate balance of a total system of which the atmosphere is a vital part. Recognition of the inevitable interconnectedness of all people and life itself with this medium has prompted one enthusiastic commentator to describe it as "the ultimate international commons"

As to threats to the atmospheric environment, some scientists rank acid rain with toxic chemical pollution and carbon dioxide build up (with its threat of the well known "greenhouse" effect) as the three worst "environmental timebombs". If we take just acid rain, the inventory of suspected threats to the environment is a long one. These extend to aquatic eco-system of lakes and rivers, to forests, crops, soils, wildlife, ground water and perhaps to human health. The damage to aquatic eco-systems is well documented, and severe in Europe and North America. Another well documented category is the damage caused to our cultural heritage; examples are the effects of pollution on the Parthenon and other historic buildings. In other cases of damage the evidence is ambivalent. Thus, there is some evidence of the growth of crops being in fact stimulated by acid rain in the case of poorer soils. Some of the evidence is exotic - such as the Swedish lady whose hair was tinted green - "as green as a birch in spring" - from washing in well water that had been turned green by copper sulphate leached out by acid rain.

Whether the doomsday prophets turn out to be right or not, there is a sufficient body of knowledge about known and possible hazards resulting from discharges to the Atmosphere to justify considering what steps should be taken to protect and conserve it. Some steps have already been taken. In Geneva in 1979 the ECE Convention on Long-range Transboundary Air Pollution was negotiated. The Ministerial Conference on Acidification of the Environment that met in Stockholm in June 1982 agreed that urgent action should be taken under the Convention, including concerted programs to reduce sulphur emissions, using the best technology available that is economically feasible to reduce these emissions, taking account of the need to minimize the production of wastes and pollution in other ways.

It was out of a similar concern that the Environmental Law Committee of the Australian and New Zealand Branch of the International Law Association undertook the preparation of Draft Principles for the Protection and Preservation of the Atmosphere. The Draft Principles were tabled at the 59th Conference of the International Law Association at Belgrade in 1980, and they will form part of the material that will be considered by the recently established International Committee of the International Law Association on Legal Aspects of Long Distance Air Pollution.

Article 1 of the Draft Principles states that the atmosphere is a shared natural resource and in its natural state is not capable of being the subject of ownership by anyone, State of individual. To some, this proposition may seem a radical departure from the sacred paths of national sovereignty. It is true that international law recognises the principle of State jurisdiction over superjacent "air space" over the entire expanse of the State's territory, a principle affirmed in Article 1 of the Convention for the Regulation of Aerial Navigation 1919, (the "Paris Convention") and in Articles 1 and 2 of the Chicago Convention on International Civil Aviation, 1944 (the "Chicago Convention"), in terms of State "sovereignty". While this sovereignty appears to be grounded primarily in security and economic interests pertaining to control of the use of and access to and passage through national airspace, it does present a problem in giving appropriate recognition juridically to the undoubted reality that the Atmosphere is a shared natural resource. However, it would be wrong to conclude that there is as a result a fundamental opposition between national sovereignty and desirable principles on the law of the Atmosphere. Thus, each State's sovereign right to control matters in and over its territory extends to giving it a legal interest in defence of its territorial integrity to challenge actions by another State that result in radioactive contamination of the first State's airspace. So much was said, in effect, in the joint judgment of Judges Onyeama, Dillard, Jimenez de Arechaga and Sir Humphrey Waldock in the Nuclear Tests Case, [1974] ICJ Reports paras. 101(2), 113, 117. One can say that any emission of pollutants into a neighbouring State impairs its environment, and that above a certain level this will violate the principle of territorial sovereignty. In this respect, sovereignty supports the idea of the atmosphere being a shared natural

resource

I should also refer to Article 3 of the Draft Principles, which provide:

> "States and their people have, in accordance with these Principles, the right to enjoy an atmospheric environment of a quality that permits a life of dignity and well being for present and furture generations."

This proposition may also be considered to be controversial. However, the Stockholm Declaration adopted in 1972 expressed in Principle 1 the common conviction of States 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 he bears a solemn responsibility to protect and improve the environment for present and future generations."

Massive degradation of the Atmoshpere leading to widespread destruction of living beings would be an infringement of the fundamental right to life recognised in human rights documents. It seems to follow that there must be a human right to minimum standards of atmospheric quality.

A related Article is Article XI:

> "It is an international crime for a State or individual to engage in activities that cause or are likely to cause massive pollution of the atmosphere endangering human life or causing catastrophic disturbance of the ecological balance."

The International Law Commission in its Draft Articles on State Responsibility (UN Doc A/34/10, p.244) recognised that an internationally wrongful act which results from the breach by a State of an international obligation so essential for the protection of fundamental interests of the international community that its breach is recognised as a crime by that community as a whole, constitutes an international crime. Massive pollution of the Atmosphere would come within this principle.

In the discussion of the Draft Principles on the Atmosphere at Belgrade in 1982 Professor Fred Goldie expressed strong reservations about Article XI He quoted Edmund Burke's famous disclaimer regarding the French Revolution when he said: "I do not know how to draw a Bill of Indictment against a whole people ..." On the other hand Professor Goldie said he accepted of course the Australian draft's attachment of criminal responsibility, on the interantional law plane, to individuals whose activities cause, or are likely to cause, massive pollution of the Atmosphere endangering human life or causing catastrophic disturbance to the ecological balance.

Is Professor Goldie right on his first point? Is it impossible for a State to commit an international crime? The plea made at the Nuremberg War Crimes Trials in 1945 was rather the reverse, namely that as individuals the persons accused of war crimes were not within the reach of international law The ruling given by the Nuremberg Tribunal used these words (the underlining is mine):

"It was submitted that international law is concerned with the actions of sovereign States, and provides no punishment for individuals; and further, that where the act in question is an act of State, those who carry it out are not personally responsible but are protected by the doctrine of the sovereignty of the State That international law imposes duties and liabilities upon individuals as upon States has long been recognised "

Protection of the Marine Environment

At an Environmental Law Seminar convened by the Attorney-General's Department in 1974 - also opened by Mr Justice Murphy, or rather Attorney-General Murphy as he then was - I made so bold as to suggest that there was strong evidence even then of recognition by the international community of a basic obligation to protect and preserve the marine environment. That proposition was received with some healthy scepticism by my audience; in particular it was said that such an obligation could only arise if the State concerned has specifically undertakenit in treaty form.

I pointed in particular to the United Nations Declaration on the Principles Governing the Seabed and the Ocean Floor and the Sub-soil thereof Beyond the Limits of National Jurisdiction (UNGA Res.2748 (XXV) of 17 December 1970) which laid down, as well as the principle of the common heritage of mankind in relation to areas beyond national jurisdiction, the general principle of the prevention of pollution and contamination of the marine environment. I pointed out that the principle contained in that Declaration had been reflected in provisions of international treaties negotiated subsequently to the Declaration. Thus, I referred to the preamble of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter signed in London in 1972, (the "London Dumping Convention") and the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft signed in Oslo in 1972, (the "Oslo Convention").

Events since than have lent weight to both points of view. The United Nations Convention on the Law of the Sea (UNCLOS), which was opened for signature on 10 December 1982 contains many provisions relating to the protection an preservation of the marine environment. I draw attention in particular to the general obligation set forth in Article 192: "States have the obligation to protect and preserve the marine environment". Article 192 is the first Article in Part XII of UNCLOS which itself is entitled "Protection and Preservation of the Marine Environment".

I can only mention briefly some of the other Articles contained in the Part XII. Article 194 requires State parties to take, individually or jointly as appropriate, all measures consistent with the Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source using for this purpose the best practical means at their disposal and in accordance with their capabilities, and they are required to endeavour to harmonize their policies in this connexion. The Article specifies that the measures to be taken shall include, iner alia, those designed to minimize to the fullest possible extent:

(a) the release of toxic harmful or noxious substances especially those which are persistent, from land based sources from or through the Atmosphere or by dumping;

(b) pollution from vessels;

(c) pollution from installations and devices used in the exploration or exloitation of the seabed and the subsoil;

(d) pollution from other installations and devices operating in the marine environment.

Article 198 provides that when a State becomes aware of cases in which the marine environment is in imminent danger of being damaged or has been damaged by pollution it shall immediately notify other States it deems likely to be affected by such damage as well as the competent international organisations. Article 206 provides that, when States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine

environment, they shall as far as practicable assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided Article 212 provides that States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from or through the Atmosphere, applicable to the airspace under their sovereignty and to vessels flying their flag or vessels or aircraft of their registry, taking into account internationally agreed rules, standards and recommended practices and procedures and the safety of navigation. Section VI of Part XII of UNCLOS contains specific provisions dealing with enforcement.

I understand that the Convention on the Law of the Sea has received 130 signatures (119 of these on the day upon which it was opened for signature) and that it has been ratified by 9 countries. One would expect that as the required figure of 60 ratifications is approached, the rate of ratification will increase significantly.

Those that pointed at the 1974 Seminar to the reluctance of States to commit themselves to treaty obligations in this field can still say that it remains to be seen whether UNCLOS ultimately comes into force. However, although the Convention has not yet entered into force many of the environmental provisions have no doubt that status of customary international law. For example, I do not think many States would dispute the right of Australia to protect the marine evvironment within the area that would be covered by the Australian exclusive economic zone when it is proclaimed. In this regard, reference may be made to Article 56 (1) (b) (iii) of UNCLOS. Parliament has already passed the Environmental Protection (Sea Dumping) Act, 1981 which will enable Australia to control the dumping of waste by foreign vessels in declared vessels beyond the territorial sea. s.41(2).

Nairobi Declaration 1982

At its special meeting in 1982 in Nairobi to commemorate the 10th anniversary of the UN Conference on the Human Environment at Stockholm, the Governing Council of the United Nations Environment Program (UNEP) adopted a Declaration on the State of Worldwide Environment. That declaration, the Nairobi Declaration, referred to the Stockholm Declaration saying that the principles of that Declaration were as valid today as they were in 1972. It is not proposed in this paper to examine the Stockholm Declaration in detail - a contemporaneous evaluation and assessment of its principles are to be found in the article by Louis B. Sohn entitled "The Stockhom Declaration on the Human Environment" (1973) 14 Harvard International Law Journal 423.

The Nairobi Declaration went on to identify current threats to the environment including:

- deforestation, soil and water degradation and desertification, which were said to be reaching alarming proportions;

- changes in the Atmosphere - such as those in the ozone layer, the increasing concentration of carbon dioxide and acid rain;

- pollution of the seas and inland waters;

- careless use and disposal of hazardous substances;

- extinction of animal and plant species

The Nairobi Declaration also affirmed that many environmental problems transcend national boundaries and should, where appropriate, be resolved for the benefit of all through consultations amongst States and concerted international action. Thus, it was said, States should promote the progressive development of environmental law, including conventions and agreements

Another point made in the Nairobi Declaration is that prevention of damage to the environment is preferable to the burdensome and expensive repair of damage already done In stressing the importance of prevention, the point could also have been made that some damage is irreversible

Prevention of Environmental Harm

At the 1974 Seminar to which I referred earlier in this paper, I sought to stress the importance of prior restraints on environmental harm, quoting in that regard Laylin and Bianchi on the inadequacy of monetary compensation in the case of substantial harm to an international river system. They said:"...a man dying of thirst cannot be revived with monetary compensation for his water, even when tendered in advance..." (see J.G. Laylin and R.L. Bianchi, "The Role of Adjudication in International River Disputes" (1959) 53 AJIL 30 at 31).

Thus, in the case of a dispute over which it has jurisdiction, the International Court of Justice would, in my view, be able to issue an injunction in relation to environmental damage of a substantial character where reparation would be an inadequate remedy. Reference may be made in this connexion to the discussion in Diversion of Water from the Meuse 1937 PCIJ, Ser A/B, No.7, at 4, 73, 76, where the derivation of equitable powers from the "general principles of law recognised by civilised nations" referred to in the Statute of the Permanent Court of International Justicewas discused by the Permanent Court. Injunctive relief is available in most national legal systems, and there it has played a major role in protecting environmental values, and it was in fact awarded in the Trail Smelter Case, (1941) 3 UNRIAA 1905 in the form of a permanent regime for future operations of the offending Canadian smelter that was the source of noxious fumes causing damages to orchards acrosss the border in the United States. The jurisdiction would therefore appear to cover not only prohibition of offending activities, but also power to direct the offending State to adopt e.g. "state of the art" abatement measures.

International jurisdiction to award what under our municipal system we call interim injunctions is clearly established. Such a jurisdiction is expressly conferred by Article 41 of the Statute of the International Court of Justice. Although the language used is "interim measures of protection", the type of relief referred to is clearly based upon the type of interim injunctive relief with which we are familiar with in England and Australia. In the one major environmental dispute that so far has come before the International Court of Justice - the Nuclear Tests Cases [1973] ICJ Reports 99 - the Court granted Australia interim measures of protection in order to preserve the right claimed by Australia to be protected from the deposit in Australia of radioactive fallout from French nuclear tests. A similar grant of interim measures of protection was made at the request of New Zealand.

In the study by the International Law Commission of "International Liability for Injurious Consequences Arising Out of Acts not Prohibited by International Law" - a topic of obvious relevance to International Environmental Law - emphasis is being placed on the duty, wherever possible, to avoid causing injuries, rather than to the duty of providing reparation for injury caused As an example, reference may be made to the Third Report on International Liability for Injurious Consequences Arising Out of Acts Not Prohibited by International Law (UN Doc A/CN.4/360, esp. p.4).

Montreal Rules of International Law Applicable to Transfrontier Pollution

At the 60th Conference of the International Law Association held in Montreal in 1982, the following statement of Rules of International Law aplicable to Transfrontier Pollution (designated the "Montreal Rules of International Law applicable to Transfrontier Pollution") were adopted

Article 1 (Applicability)

The following rules of international law concerning transfrontier pollution are applicable except as may be otherwise provided by convention, agreement or binding custom among the States concerned.

Article 2 (Definition)

(1) "Pollution" means any introduction by man, directly or indirectly, of substance or energy into the environment resulting in deleterious effects of such a nature as to endanger human health, harm living resources, ecosystems and material property and impair amenities or interfere with other legitimate uses of the environment.

(2) "Transfrontier pollution" means pollution of which the physicalorigin is wholly or in part situated within the territory of one State and which has deleterious effects in the territory of another State.

Article 3 (Prevention and Abatement)

(1) Without prejudice to the operation of the rules relating to the reasonable and equitable utilisation of shared national resources States are in their legitimate activities under an obligation to prevent, abate and control transfrontier pollution to such an extent that no substantial injury is caused in the territory of another State.

(2) Furthermore States shall limit new and increased transfrontier pollution to the lowest level that may be reached by measures practicable and reasonable under the circumstances.

(3) States should endeavour to reduce existing transfrontier pollution, below the requirements of paragraph 1 of this Article, to the lowest level that may be reached by measures practicable and reasonable under the circumstances.

Article 4 (Highly Dangerous Substances)

Notwithstanding the provisions in Article 3 States shall refrain from causing transfrontier pollution by discharging into the environment substances generally considered as being highly dangerous to human health. If such substances are already being discharged, States shall eliminate the polluting discharge within a reasonable time.

Article 5 (Prior Notice)

(1) States planning to carry out activities which might entail a significant risk of transfrontier polluction shall give early notice to States likely to be affected. In particular they shall on their own initiative or upon request of the potentially affected States, communicate such pertinent information as will permit the recipient to make an assessment of the probable effects of the planned activities.

(2) In order to appraise whether a planned activity implies a significant risk of transfrontier pollution, States should make environmental assessment before carrying out such activities.

Article 6 (Consultations)

Upon request of a potentially affected State, the State furnishing the information shall enter into consultations on transfrontier pollution problems connected with the planned activities and pursue such consultations in good faith and over a reasonable period of time.

Article 7 (Emergency Situations)

When as a result of an emergency situation or of other circumstances activities already carried out in the territory of a State cause or might cause a sudden increase in the existing level of transfrontier pollution the State of origin is under a duty:

(a) to promptly warn the affected or potentially affected States;

(b) to provide them with such pertinent information as will enable them to minimize the transfrontier pollution damage;

(c) to inform them of the steps taken to abate the cause of the increased transfrontier pollution level.

Paragraph (1) of Article 3 is of course based upon the well known statement by the Arbitral Tribunal in the Trial Smelter Case to which reference has already been made In its decision of 11 March 1941 the Tribunal stated in words which have been oft-quoted but which I may as well quote again -

"Under the principles of International Law, as well as of the law of the United States, no State has the right to use or permit the use of territory in such a manner as to cause injury by fumes in or to the territory of another of the properties or persons therein, when the case is of serious consequence and the injury is established by clear and convincing evidence".

The rule stated in paragraph (2) of Article 3 of the Monreal Rules is more controversial. It is based on the view that, whenever new or increased transfrontier pollution is involved, States are subject to more stringent obligations than in cases of already existing transfrontier pollution. The commentary on this provision which appears at pp.164-166 of the Report of the Montreal Conference of the ILA, suggests that any significiant emission of pollutants into a neighbouring State violates the principle of territorial integrity, and that it is not justifiable for new undertakings to limit the principle of territorial integrity by requiring the potential victim State to prove that the expected damage will be of "serious" magnitude in the sense of the Trail Smelter decision. The commentary also invokes a principle that no State has the right to change unilaterally a situation of international interest to the disadvantage of a legally interested State. This principle is said to underlie the decision of the International Court of Justice in the Fisheries Jurisdiction Case [1974] ICJ Reports 3. In that case, it was held by the International Court that Iceland was not entitled unilaterally to exclude United Kingdom fishing vessels from sea areas around Iceland to seaward of limits agreed to in a 1961 Exchange of Notes or unilaterally to impose restrictions on their activities in such areas. The Court held that the two Governments were under mutual obligations to undertake negotiations in good faith for the equitable solution of their difficulties. Reference is also made in the commentary to Principle 21 of the Stockholm Declaration which provides that States have the responsibility to ensure that activities within their jurisdiction or conrol do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction. Finally the commentary refers to various cases of bilateral negotiations between States evidencing a practice that supports the rule set out in paragraph (2) of Article 3.

Paragraph (2) of Article 3 limits new and increased transfrontier pollution by reference to the lowest level that may be reached "by measures practicable and reasonable under the circumstances" The commentary indicates that the burden to be imposed on the polluters should not exceed the level of what could be defined as "economically reasonable".

Gobal Framework Convention for the Protection of the Stratospheric Ozone Layer

One of the most interesting current exercises in the field of internatinal evironmental law is the work that is being done on what is described as a "Global Framework Convention for the Protection of the Ozone Layer" In January 1982 there was a first meeting of the UNEP ad hoc working group of legal and technical experts for the elaboration of such a convention. A draft convention was presented by Finland, Sweden and Norway to that meeting, and this Nordic draft used as a bases for discussion. In February 1983 a revised draft prepared by the UNEP Secretariat was distributed. In April 1983 there was a second meeting of the ad hoc working group in
eneva
There is still a long way to go in the exercise, but I think it is fair enough to say though the progress achieved to date has been modest it has been rather more than might have been expected.

For purposes of this paper I shall set forth Article 2 of the draft that was circulated by the UNEP Secretariat. I shall quote it, square brackets and all, to give the full flavour of the fact that the text represents work in progress with much negotiating still to be done. For paragraph 1 of the Article, the second of two alternatives has been the alternative included in what follows:

Article 2

GENERAL OBLIGATIONS

1. The Contracting Parties shall [either individually or jointly], take all appropriate measures [to control activities under their jurisdiction that have or are likely to have] [in accordance with the provisions of this Convention] [and those protocols in force to which they are party] to [protect man and the environment against] [protect the ozone layer and to that end limit and [gradually] reduce and prevent activities under their jurisdiction and control that may have] adverse effects resulting from modifications of the ozone layer [using for this purpose the best practicable means at their disposal and in accordance with their capabilities].

2. To this end the Contracting Parties shall [within the framework of the Convention]:

[a] Co-operate by means of monitoring, research and information exchange in order to better [understand [and assets]] the effects of human activities [on total column ozone and the vertical distribution of ozone and to better understand] [on the ozone layer and] the effects on human health and the environment from modifications of the ozone layer.

3. [b] [The Contracting Parties shall] co-operate in the formulation and adoption of protocols and annexes prescribing agreed measures, procedures and standards for the implementation of this Convention.

4 [c] [The Contracting Parties further pledge themselves to] [The Contracting Parties shall] co-operate [in promoting further, within] with competent international bodies [programmes and measures concerning the protection of the ozone layer] [to implement effectively this Convention and those protocols to which they are a party].

5. Within the framework of this Convention, the Contracting Parties shall co-operate, by means of monitoring, research, exchange of information and transfer of technology, in developing and harmonizing policies, strategies and measures for [minimizing] [limiting, reducing [and] [or] preventing] [regulating] the release of substances which cause or are likely to cause [modifications of the ozone layer] [adverse effects on the ozone layer]

Draft Convention for the Protection and Development of the Natural Resources and Environment of the South Pacific Region

This is an instrument that has been drafted as part of the South Pacific Regional Environment Program. It was first considered by a meeting of experts held in Noumea from 24-28 January 1983. A second Meeting of Experts was, I understand, to be held in Noumea from 7-16 November 1983. The Draft Convention is only in its formative stages. Its primary purpose is to control marine pollution in the area to be covered by the Convention. However, the area to be covered has not been finalized.

The present draft partakes of the character of a framework convention and deals with "general obligations", pollution from various sources (pollution from ships, land based sources and seabed activities, pollution from or through the atmosphere, by dumping, and from radioactive wastes and from nuclear testing) It also deals with the prohibition of the testing of nuclear devices, and the dumping of radioactive waste. Other articles of interest deal with "specially protected areas", co-operation in combatting pollution in cases of emergency, the development of environmental assessment techniques, scientific and technological co-operation, and technical and other assistance.

International Commons

"International commons" may be described as those areas or zones located beyond areas of national jurisidiction. They are also international in the sense of being open to all States (res communis omnium), and not available for permanent appropriation. It is in the interests of the international community as a whole that their environment be protected. There has been growing recognition that general international law includes an obligation, analogous to that relating to transfrontier pollution between two or more States, not to cause serious damage to those significant portions of the human environment that lie beyond the national jurisdiction of any State. So much was plainly stated in Principle 21 of the Stockholm Declaration. The UN Declaration on the Seabed (UNGA Res 2748 (xxv)) declared areas beyond national jurisdiction to be "the common heritage of mankind"; the concept is embodied now in the UN Convention on the Law of the Sea (UNCLOS). The concept of "international commons" and "the common heritage of mankind" has caused, and no doubt will continue to cause, the most acute controversy in relation to their application to particular situations, such as deep seabed mining in areas beyond national jurisdiction to give one topical example. However that may be, the concept is clearly established in international law. Where it applies, individual States may well have standing to assert the international community interest in the protection of the environment of the area (Barcelona Traction Case [1970] ICJ Reports at p.32 and Nuclear Tests Case [1974] ICJ Reports at pp.369-370).

Special Areas

There are special areas which, because of particular characteristics, need special measures of protection. The characteristics may consist of -

- particular vulnerability to major environmental harm
- particular scientific, ecological or other significance

or a combination of these characteristics. The feature that distinguishes special areas from international commons is that they usually relate to a limited, defined locality or region, and often include areas falling within national jurisdiction. The Great Barrier Reef and the Western Tasmanian Wilderness National Parks are Australian examples which have been listed on the World Heritage List under the UNESCO Convention for the Protection of the World Cultural and Natural Heritage

Another example is the Convention for the Protection of the Mediterranean Sea Against Pollution, 1976, which deals with the particular problems and concerns of that area. Special mandatory measures were earlier included in the International Convention for the Prevention of Pollution from Ships, 1973, for certain defined special areas, including the Mediterranean Sea, the Baltic Sea, the Black Sea, the Red Sea, and the "Gulfs" area, because of their particular oceanographic characteristics and ecological significance. A 1971 amendment of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, made special provision in relation to the Great Barrier Reef.

Possibility of Judicial Developments

At the present stage of international legal development, the availability of remedies for international environmental harm usually depends, apart from cases of self-help, upon the consent of the offending State, either by way of proferring reparation or other remedial action - possibly on a without prejudice or ex gratia basis as in the case of the payment by the United States of compensation in respect of Japanese fishermen on the "Fukuryu Maru" affected by fallout from the 1954 Bikini nuclear tests - or by submitting to adjudication or arbitration on the matter. Judicial settlement or arbitration depends upon the consent of the States concerned. This is one of the reasons why the international law of environmental harm still rests on a narrow base of international judicial decisions.

In the case however of problems of other than a local or bilateral character, it is possible to contemplate developing the advisory jurisdiction of the International Court of Justice. Under Article 65 of the Statute of the International Court, the Court may give an advisory opinion on any legal question at the request of bodies authorised by or in accordance with the Charter of the United Nations. Article 96 of the Charter provides that the General Assembly and the Security Council may request advisory opinions. Other organs of the UN and specialized agencies have been authorised to similar effect - these bodies include ECOSOC, FAO, UNESCO, WHO, WMO, IMCO and the IAEA The possiblity of adding UNEP to this list could be considered.

Although the Court has discretion to decline to give an opinion it has in the past tended to adopt a sympathetic attitude to the exercise of that jurisdiction and, given a willingness to invoke it, the advisory opinion could be a vehicle by which principles of environmental law could be judicially developed where the harm cuased is one of concern to the international community as a whole.

Annex

I take the opportunity of attaching for wider circulation the Index of International Documents concerning the environment which was handed up as part of the National Government brief in the successful proceedings instituted in the High Court of Australia to prevent the State of Tasmania from constructing a hydro-electric dam in an area listed on the World Heritage List by Australia under the UNESCO Convention for the Protection of the World Cultural and National Heritage: Commonwealth v. Tasmania (1983) 57 ALJR 450.

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PART II

INTERNATIONAL DOCUMENTS HANDBOOK — ANNEX

ACID RAIN

At a Canada Europe Ministerial Conference held at Ottaw on 20-21 March 1984 the representatives of the governments present committed themselves to undertake reductions of national sulphur emissions by at least 30 per cent as soon as possible and at the latest by 1993. The governments were not joined by the US and UK who are parties to the Convention on Long Range Transboundary Air Pollution of the UN Economic Commission for Europe. The following documents supplied by the Canadian High Commission are published below - a "backgrounder" on the Convention, the address to the Conference by the Canadian Minister of the Environment, Mr Charles Caccia, the final communiqué and declaration of the Conference.

CONVENTION ON LONG-RANGE TRANSBOUNDARY AIR POLLUTION

A Canada-Europe Ministerial Conference on Acid Rain is being held in Ottawa on March 20 and 21, 1984 to commemorate the first anniversary of the entry into force of the Economic Commission for Europe (ECE) Convention on Long-Range Transboundary Air Pollution. The Conference is being convened to address the urgent necessity for concerned parties to the Convention to reduce the serious effects of acid rain on our human and natural environments.

Canada's position has always been that it cannot solve the acid rain problem alone. For this reason, Mr. Caccia is appealing to his ministerial colleagues from the most environmentally concerned members of the ECE to join forces in acid rain control.

Background

A statement by President Leonid Brezhnev of the Soviet Union stimulated the idea of an international agreement on transboundary air pollution. At a 1975 East-West meeting of the Conference on Security and Cooperation in Europe, Mr. Brezhnev challenged fellow participants to reach multilateral solutions to three pressing problems: energy, transport, and the environment. Swedish and Norwegian environmental officials saw the possibility to use Mr. Brezhnev's speech as the beginning for international discussion, negotiation and perhaps even solutions to one of their long standing problems - long range transport of air pollutants. This problem has been labeled "acid rain".

Acid rain refers to precipitation (in the form of rain, hail or snow) which results when oxides of sulphur and nitrogen react chemically with oxygen and moisture in the atmosphere. The damage done to buildings, monuments, statues, to sport fishing and tourism, and to forestry are quite dramatic.

Acid rain is clearly a danger to the economic and social interests of Canada and the United States as well as European countries. Its economic effects are well known in North America. Canada's major resources threatened by acid rain are sport fishing, tourism and the forest products industry. These sectors generate eight percent of Canada's GNP. Each tonne of sulfur emissions causes roughly $277 (US) in damages - more than $5 billion per year for the US. And it's expected to increase to $15 billion a year by the year 2000.

The Significance of the Convention

In 1979, Canada's Minister of Environment along with senior ministers from other ECE countries signed the Convention. The Convention came into force on March 16, 1983 and by February 1984, 30 countries had ratified the Convention.

The Convention on Long-Range Transboundary Air Pollution is the only multilateral agreement on air pollution; therefore, it is expected that the parties to the Convention will provide leadership in acting to solve the acid rain issue.

The most promising of the Articles contained in the Convention deal with the provision for exchange of information regarding effects research, control strategies and control technologies, and that planners of any new sulfur-producing installations must take account of transboundary pollution. This last provision also states that these countries must exchange information on significant changes in pollution levels and their potential impact on other countries "downwind".

At the first session of the Executive Body to the ECE Convention (June 1983), eight countries, including Canada, endorsed a decision to reduce emissions by 30 percent by 1993 based on 1980 emission levels. This group, now comprising the Federal Republic of Germany, Norway, Sweden, Denmark, Finland, Switzerland, France, Austria and Canada, has long been concerned about the serious effects of acid rain on human and natural environments.

Ministers of Environment from this same group of countries are now invited to join Canada's Minister Caccia in Ottawa to consider the effects of acid rain on forests in Europe, to review individual national strategies to reduce long-range transboundary air pollution, and to consider new approaches to solving the acid rain problem.

CANADA RESPONDS TO UNITED STATES INACTION ON ACID RAIN

The Deputy Prime Minister and Secretary of State for External Affairs, the Honourable Allan J. MacEachen, and the Minister for Environment, the Honourable Charles Caccia, today officially registered Canada's deep disappointment with the United States Administration's announcement that efforts to combat acid rain would be limited solely to research for the foreseeable future.

A diplomatic note delivered to the USA Administration asks the United States to clarify how it intends to meet its obligations to Canada in the matter of transboundary air pollution. "We are asking our good friends to confirm their willingness, on the basis of undertakings already given, to accept their shared responsibility to protect the North American environment and move immediately towards mutually acceptable programs to combat acid rain, "the Deputy Prime Minister said.

At least half of the acid rain falling in Canada comes from the USA. "The continued delay in adopting effective abatement measures is not acceptable to Canada. Canada considers that the decision fails to take full account of USA undertakings and ignores principles contained in bilateral treaties directed at protecting the North American environment. The development of complementary control programs will be delayed as a result of the position taken by the Administration," Mr. MacEachen said. "Even if Canadian sulphur dioxide emissions were to cease altogether, we could not alone protect the Canadian environment".

Mr. MacEachen recalled assurances given by President Reagan during his visit to Canada in 1981 that both countries must cooperate to control air pollution that respects no borders.

Minister Caccia noted that unilateral programs in Canada to reduce acid-causing emissions by twenty-five per cent by 1990 have already been adopted. "Canadian federal and provincial governments are ready to proceed with an additional program of emission reductions which, in conjunction with USA abatement measures, would achieve a target loading for wet sulphate deposition of 20 kilograms per hectare per year (18 pounds per acre per year), the level needed to protect moderately sensitive lakes and streams. The damage already caused by inaction is enormous for both countries and will grow with each postponement of the action," the Minister said. "This damage has been established by clear and convincing evidence."

The Canada-USA Memorandum of Intent signed almost four years ago recognized the already serious problem of acid rain and the urgent need to protect the environment from damage being caused by transboundary air pollution by reducing emissions. The MOI is based on Principle 21 of the Stockholm Declaration that states have "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." It is also consistent with the obligations undertaken by both Canada and the United States under the 1979 ECE Convention on Long-Range Transboundary Air Pollution. The long-standing commitment of our two countries not to cause damage to the environment of the other is also enshrined in the 1909 Boundary Waters Treaty and the 1978 Great Lakes Water Quality Agreement. "Canada had anticipated and expected that control measures could be taken shortly, in view of these commitments", said Mr. MacEachen. "We therefore deeply regret there is no indication in statements by the Administration that these undertakings will be given priority. Acid rain is a grave threat unless both countries reduce their emissions now."

There have already been over 3000 scientific studies on acid rain. The Canadian Government firmly believes that sufficient scientific evidence has already been accumulated by prestigious scientific bodies in North America and Europe on which to initiate controls programs. "Further scientific studies should be undertaken as part of a program to evaluate and improve abatement efforts and not as a substitute for those efforts," said Mr. Caccia.

Like Canada, Germany, Finland, Sweden, Norway, Denmark, France, Austria and Switzerland have all agreed, on the basis of the available and overwhelming scientific evidence, to adopt programs to cut back sulphur dioxide emissions. The USA policy does not envisage any control program. The diplomatic note underlines Canada's deep regret at this lack of progress.

FELLOW DELEGATES:

AS WE MEET HERE TODAY, PEOPLE IN CANADA AND AROUND THE WORLD ARE INCREASINGLY CONCERNED ABOUT THE FUTURE OF OUR PLANET. OUR WORLD FACES DIFFICULT POLITICAL, ECONOMIC AND DEVELOPMENTAL PROBLEMS ALL REQUIRING URGENT SOLUTIONS. DISARMAMENT AND ENERGY ISSUES, FOOD AND AGRICULTURE QUESTIONS, ECONOMIC MATTERS AND ENVIRONMENTAL CONCERNS - ALL PREOCCUPY PEOPLE AND GOVERNMENTS IN MANY NATIONS. I BELIEVE ALL OF US HERE TODAY RECOGNIZE THE NEED FOR CONCERTED INTERNATIONAL ACTION TO ADDRESS ENVIRONMENTAL PROBLEMS. IN CANADA, WHERE OUR ECONOMY IS SO HEAVILY DEPENDENT ON A NATURAL RESOURCE BASE, WE KNOW THAT THE MAINTENANCE OF THE QUALITY OF OUR WATER, OUR AIR AND OUR SOIL IS ESSENTIAL TO OUR LONG-TERM DEVELOPMENT AND THE QUALITY OF LIFE TO WHICH THAT DEVELOPMENT MUST CONTRIBUTE. WE REGARD ECONOMIC AND ENVIRONMENTAL INTERESTS AS COMPLEMENTARY TO EACH OTHER. WE SEE ENVIRONMENTAL POLICIES AS ESSENTIAL PLANNING TOOLS TO SUSTAINABLE ECONOMIC DEVELOPMENT.

OVER THE NEXT TWO DAYS, WE WILL FOCUS OUR ATTENTION ON THE ACID RAIN PROBLEM - AN ENVIRONMENTAL ISSUE WHOSE ECONOMIC CONSEQUENCES ARE FORMIDABLE.

I WOULD LIKE TO DESCRIBE THE ACID RAIN SITUATION IN CANADA AND OUR POLICY TO DEAL WITH THE PROBLEM.

ACID RAIN POSES A THREAT TO THE BASIC ECONOMIC RESOURCES OF MY COUNTRY: FORESTS, LAKES AND RIVERS, FISH, AGRICULTURE AND WILDLIFE.

THERE ARE INCREASINGLY STRONG FEARS THAT ACID DEPOSITION IS RETARDING THE REGENERATION OF OUR FORESTS. CANADA'S FOREST INDUSTRY IS A MAJOR CONTRIBUTOR TO OUR ECONOMY, EMPLOYING ONE IN TEN CANADIANS, DIRECTLY OR INDIRECTLY. SHIPMENTS OF FOREST PRODUCTS FROM EASTERN CANADA AMOUNT TO ABOUT $15 BILLION A YEAR.

OF THE LAKES SURVEYED IN THE PROVINCE OF ONTARIO, 43% ARE VULNERABLE TO ACIDIFICATION; IN MANY OF THEM, THERE ARE ALREADY CRITICAL SIGNS OF REDUCED NEUTRALIZING CAPACITY. A SIMILAR SITUATION EXISTS IN THE PROVINCE OF QUEBEC. THE SALMON FISHERY IN OUR ATLANTIC PROVINCES IS SUFFERING THE IMPACT OF ACID RAIN. IN NOVA SCOTIA, SALMON NO LONGER RUN IN NINE FORMER SALMON RIVERS, AND THERE ARE INTIAL SIGNS OF ACIDIFICATION IN TWICE AS MANY AGAIN. SPORTS FISHING IN EASTERN CANADA IS A ONE BILLION DOLLAR A YEAR INDUSTRY. IT IS AT RISK.

BUILDING EROSION AND DECAY FROM ACID RAIN AND ITS PRECURSORS COSTS HUNDREDS OF MILLIONS OF DOLLARS EACH YEAR.

THE NATURAL RESOURCE BASE AT RISK DUE TO ACID RAIN SUSTAINS VITAL COMPONENTS OF THE ECONOMY AND LIFESTYLE IN MUCH OF EASTERN CANADA. THE REVENUES FROM THESE THREATENED RESOURCES ACCOUNT FOR ABOUT 8% OF CANADA'S GROSS NATIONAL PRODUCT.

IT IS NOT SURPRISING THAT PUBLIC OPINION SURVEYS SHOW THAT EIGHT OUT OF TEN CANADIANS CONSIDER ACID RAIN A SERIOUS PROBLEM.

CANADA'S POLICY ON ACID RAIN IS TO OBTAIN REDUCTIONS IN SULPHUR DIOXIDE EMISSIONS IN ORDER TO ELIMINATE DAMAGING LOADINGS TO OUR ENVIRONMENT. IN FEBRUARY 1982, FEDERAL AND PROVINCIAL ENVIRONMENT MINISTERS AGREED TO AN ENVIRONMENTAL OBJECTIVE - WE ARE COMMITTED TO LIMITING WET SULPHATE DEPOSITION TO NO MORE THAN 20 KILOGRAMS PER HECTARE PER YEAR, WHICH, ACCORDING TO OUR SCIENTISTS, IS THE LEVEL NEEDED TO PREVENT DAMAGE TO MODERATELY SENSITIVE LAKES AND RIVERS.

ALLOWABLE SO_2 EMISSIONS IN EASTERN CANADA IN 1980 TOTALLED ABOUT 4.5 MILLION TONNES. THE MAJOR SOURCE OF EMISSIONS IS THE NICKEL AND COPPER SMELTING INDUSTRY WHICH PRODUCED ABOUT 60% OF THE SO_2 EMISSIONS. UTILITIES PRODUCE ABOUT 16% AND NON-UTILITY FUEL USE ABOUT 13%. ANY ACID RAIN CONTROL PROGRAM IN CANADA WILL HAVE TO FOCUS PRIMARILY ON THE SMELTING INDUSTRY BUT THESE OTHER SOURCES ARE ALSO IMPORTANT.

WE HAVE AGREED TO REDUCE OUR SO_2 EMISSIONS IN THE EASTERN PART OF CANADA BY 50% BY 1994. AS A RESULT OF PROGRAMS, REGULATIONS AND COMMITMENTS BY PROVINCIAL GOVERNMENTS AND THE FEDERAL GOVERNMENT, A 25% REDUCTION IN SO_2 EMISSIONS FROM 1980 BASE CASE LEVELS WILL BE IN PLACE BY 1990. THESE REDUCTIONS INCLUDE:

1) SIGNIFICANT CUTBACKS IN EMISSIONS AT THE INCO NICKEL SMELTER IN SUDBURY, ONTARIO, THROUGH PROCESSES INVOLVING INCREASED PYRRHOTITE REJECTION;

2) A 40% REDUCTION IN SO_2 EMISSIONS FROM THE COPPER SMELTER IN NORANDA, QUEBEC;

3) A 43% REDUCTION IN SO_2 EMISSIONS FROM ONTARIO HYDRO, CANADA'S LARGEST UTILITY, THROUGH PROCESS CHANGES SUCH AS COAL WASHING, BLENDING FUEL AND INCREASED USE OF NUCLEAR GENERATED POWER;

4) A 300,000 TONNE REDUCTION IN SO_2 EMISSIONS AS A RESULT OF SWITCHING FROM COAL AND OIL TO NATURAL GAS IN MANY NON-UTILITY BURNERS AND UPGRADING OF LIGHT AND HEAVY OILS.

WE HAVE SET UP A WORKING GROUP OF FEDERAL AND PROVINCIAL MINISTERS TO DEVELOP A SPECIFIC PLAN TO ACHIEVE THE ADDITIONAL 25% BY 1994.

A 50% REDUCTION WILL MEAN THAT TOTAL ANNUAL EMISSIONS OF SO_2 FROM THE EASTERN PART OF OUR COUNTRY AFTER 1994 WILL BE ABOUT 2.3 MILLION TONNES. THIS LEVEL OF EMISSIONS WILL MEAN THAT MANY AREAS OF CANADA WILL RECEIVE LESS THAN 20 KILOGRAMS OF WET SULPHATE PER HECTARE PER YEAR.

HOWEVER, EVEN IF CANADIAN SO_2 EMISSIONS WERE TO CEASE ALTOGETHER, WE COULD NOT PROTECT ALL SENSITIVE REGIONS IN CANADA - DEPOSITION WOULD STILL EXCEED 20 KG/HA/YR IN SOME AREAS. THIS DEMONSTRATES THE SIGNIFICANCE OF THE CONTRIBUTION OF SO_2 FROM SOURCES BEYOND OUR BORDERS. MORE THAN 50% OF CANADA'S ACID RAIN PROBLEM ORIGINATES IN THE UNITED STATES. AT THE SAME TIME TEN TO FIFTEEN PERCENT OF THE ACID RAIN PROBLEM IN THE NORTHEASTERN USA COMES FROM CANADIAN EMISSIONS.

CANADA HAS BEEN WORKING WITH THE U.S. SINCE 1978 TO RESOLVE THIS PARTICULAR TRANSBOUNDARY AIR POLLUTION PROBLEM. IN 1980, WE AGREED ON A SET OF PRINCIPLES, WHICH HAVE BEEN USED BY OUR TWO COUNTRIES, IN THE FORM OF BOTH LAW AND CONVENTION, TO SUCCESSFULLY MANAGE BILATERAL AIR POLLUTION ISSUES. WE ALSO AGREED ON AND PUT TO WORK THE NEGOTIATING MACHINERY WHICH WOULD RESOLVE OUTSTANDING TECHNICAL QUESTIONS AND PRODUCE THE BILATERAL AGREEMENT TO REDUCE ACID-CAUSING EMISSIONS.

WE HAVE LONG RECOGNIZED THE NEED FOR A JOINT SOLUTION: OUR LAKES, RIVERS, FORESTS AND WILDLIFE WILL RECOVER ONLY WHEN IT BECOMES A REALITY.

TODAY AND TOMORROW WE ARE MEETING IN ORDER TO DEVELOP A COMMON POSITION TO REAFFIRM OUR COMMITMENT AND TO INDICATE TO THE WORLD THAT WE ARE SERIOUS ABOUT THE NECESSITY OF ELIMINATING THIS POISONOUS PROCESS THAT IS SLOWLY BUT SURELY DESTROYING THE RESOURCES ON WHICH WE DEPEND. THE INEVITABLE QUESTION, THEREFORE, IS WHAT WILL HAPPEN TO US IF WE DO NOT STOP ACID RAIN?

FINAL COMMUNIQUÉ

Deeply concerned about long-range dispersion of air pollutants, especially the alarming problem of acid rain, the Environment Ministers of ten countries met in Ottawa, March 20-21, 1984. These countries - Austria, Canada, Denmark, Federal Republic of Germany, Finland, France, the Netherlands, Norway, Sweden and Switzerland - committed themselves to undertake reductions of national annual sulphur emissions by at least 30% as soon as possible, and at the latest by 1993.

They also agreed to urge that other Signatories to the Convention on Long Range Transboundary Air Pollution of the UN Economic Commission for Europe (ECE) take similar action. The ECE encompasses the whole of Europe, USA and Canada, and the Convention was signed in Geneva in 1979 to provide a framework for cooperation on acid rain and related problems.

The countries, represented in Ottawa, recognized that a further reduction in sulphur emissions beyond the agreed 30% is, or may prove, necessary as environmental conditions warrant. Effective reductions of emissions of nitrogen oxides (NO_x) from stationary and mobile sources as soon as possible, but not later than 1993, will be undertaken by these countries.

The ten countries are actively engaged in trying to strengthen and accelerate implementation of the ECE Convention. They are aware that present emissions of air pollutants in Europe and North America are causing widespread damage to natural resources of vital importance, such as forests, agriculture, water and fish, are damaging to materials, historic monuments and works of art, and may have harmful health effects. These damages are causing major economic losses.

Canada-Europe Ministerial Conference on Acid Rain

Ottawa, 21 March 1984

DECLARATION

The Governments of Austria, Canada, Denmark, Finland, France, the Federal Republic of Germany, the Netherlands, Norway, Sweden, and Switzerland, being Parties to the Convention on Long-Range Transboundary Air Pollution (hereinafter referred to as "the Convention"),

Determined to implement the principles and obligations regarding air pollution, including long-range transport of air pollutants, laid down in the Convention,

Recalling the decision of the United Nations Economic Commission for Europe (ECE) at its 38th Session which stresses the urgency of intensifying efforts to arrive at coordinated national strategies and policies in the ECE region to reduce sulphur emissions effectively at national levels,

Recalling the recognition by the Executive Body of the Convention at its First Session of the need to decrease effectively the total annual emissions of sulphur compounds, or of their transboundary fluxes, by 1993-95, using 1980 emission levels as a basis for the calculation,

Noting the appreciation of the Executive Body of the Convention that a number of Contracting Parties are resolved to initiate measures for implementing a 30 percent reduction of national sulphur emissions or their transboundary fluxes by 1993-1995, using 1980 emission levels as a basis for the calculation of reductions,

Concerned that the present emissions of air pollution in Europe and North America are causing widespread damage to natural resources of vital importance, such as forests and waters, are damaging to materials and may have harmful health effects,

Recognizing the urgency of implementing reductions of annual sulphur emissions from those sources which make a significant contribution to the acidification of the environment,

Aware that the predominant sources of air pollution contributing to the acidification of the environment are the combustion of fossil fuels for energy production, industrial boilers and processes, individual house-heating and motor vehicles, which lead to emissions of sulphur dioxide and nitrogen oxides,

Convinced that air pollution abatement strategies for the reduction of emissions of sulphur dioxide, nitrogen oxides and other pollutants should be based on efficient measures such as energy saving and the application of the best available technologies which are economically feasible,

Recognizing that a reasonable time span is necessary for planning and implementing substantial reductions of emissions,

Aware that reducing emissions will have significant and positive results environmentally and economically,

Declare as follows:

(1) The Signatories of this Declaration will implement reductions of national annual sulphur emissions by at least thirty percent as soon as possible and at the latest by 1993, using 1980 emission levels as the basis for the calculation of reductions;

(2) The Signatories recognize that a further reduction of sulphur emissions is or may prove necessary where environmental conditions warrant and should be considered as a matter of priority;

(3) The Signatories will, in their national policies and in international cooperation, take measures to decrease effectively the total annual emissions of nitrogen oxides from stationary and mobile sources as soon as possible and at the latest by 1993;

(4) The Signatories call upon other Parties to the Convention to join them, within the framework of the Convention, in implementing reductions of national annual sulphur emissions or of their transboundary fluxes by at least thirty percent by 1993, using 1980 emission levels as the basis for the calculation of reductions;

(5) The Signatories further stress the necessity of establishing within the framework of the Convention additional action for the purpose of achieving substantial reductions of emissions of other pollutants, especially nitrogen oxides.

For the Government of Austria
Pour le Gouvernement de l'Autriche

For the Government of Canada
Pour le Gouvernement du Canada

For the Government of Denmark
Pour le Gouvernement du Danemark

For the Government of Finland
Pour le Gouvernement de la Finlande

For the Government of France
Pour le Gouvernement de la France

For the Government of the Federal Republic of Germany
Pour le Gouvernement de la République fédérale d'Allemagne

For the Government of the Netherlands
Pour le Gouvernement des Pays-Bas

For the Government of Norway
Pour le Gouvernement de la Norvège

For the Government of Sweden
Pour le Gouvernement du la Suède

For the Government of Switzerland
Pour le Gouvernement de la Suisse