

# The United Nations World Charter for Nature: The Developing Nations' Initiative to Establish Protections for the Environment

Harold W. Wood, Jr.\*

## INTRODUCTION

In response to a suggestion made by President Mobutu Sese Seko of Zaire, a multinational task force began in 1975 to draft the World Charter for Nature as a guide for regulating international environmental development.<sup>1</sup> Sponsored by thirty-four "developing nations,"<sup>2</sup> the Charter passed the General Assembly of the United Nations on October 29, 1982.<sup>3</sup>

This Article examines the development of the World Charter for Nature, the debate over the Charter in the United Nations, and the goals and principles embodied in the final form of the Charter. This analysis reveals that, despite the debate over several policy issues and the specific language of the Charter, most developing nations accept the underlying premise of the Charter: the global environment needs substantive and procedural protection from the adverse impacts of social and economic development. Finally, the Article suggests that, even though the Charter's recommendations are unenforceable general principles, the guide-

---

Copyright © 1985 by ECOLOGY LAW QUARTERLY

\* Deputy County Counsel, Tulare County, California; 1983-84, Associate in Law, School of Law (Boalt Hall), University of California, Berkeley; J.D. 1980, University of Puget Sound School of Law; M.S. 1976, University of Washington; B.S. 1973, University of California, Davis. The opinions expressed by the author in this Article do not necessarily reflect the opinions or policies of the County of Tulare.

1. W. BURHENNE & W. IRWIN, *THE WORLD CHARTER FOR NATURE: A BACKGROUND PAPER* 14 (1983) [hereinafter cited as W. BURHENNE]. The full text of the World Charter for Nature appears in the appendix to this Article.

2. The developing countries co-sponsoring the draft were: Benin, Burundi, Cape Verde, the Central African Republic, Chad, Comoros, Costa Rica, Djibouti, Egypt, Equatorial Guinea, Gabon, Gambia, Guinea, Guinea-Bissau, Haiti, the Ivory Coast, Kenya, Mali, Malta, Mauritania, Morocco, Mozambique, Niger, Pakistan, Rwanda, Senegal, Singapore, Somalia, Swaziland, Thailand, Togo, the United Republic of Cameroon, Upper Volta, and Zaire. Belgium and Yugoslavia were also co-sponsors. Provisional Verbatim Record of the Forty-Eighth Meeting, 37 U.N. GAOR (48th mtg.) at 62, U.N. Doc. A/P.V.48 (prov. ed. 1982) [hereinafter cited as Provisional Record] (statement of Kamanda wa Kamanda, Zaire).

3. W. BURHENNE, *supra* note 1, at 5.

lines will help persuade developing countries to adopt environmentally sound development strategies.

## I

### HISTORICAL BACKGROUND

The developing countries, and Zaire in particular, played a key role in the development of the World Charter for Nature. President Mobutu of Zaire originally proposed the idea of the World Charter for Nature to the Twelfth General Assembly of the International Union for Conservation of Nature and Natural Resources (IUCN)<sup>4</sup> in September 1975 when the IUCN met in Kinshasa, Zaire. President Mobutu laid the foundation for the Charter in these words:

The seas, the oceans, the upper atmosphere belong to the human community. . . . One cannot freely overuse [such] international resources. People of good will . . . are looking to you for positive results from this Assembly. . . . That is why, if I had any advice for you, I would suggest the establishment of a Charter of Nature . . . .<sup>5</sup>

The IUCN Assembly approved President Mobutu's proposal and appointed a task force to draft such a charter. The task force included representatives from the IUCN Commission on Environmental Law, Policy and Administration, as well as international ecologists, planners, and lawyers.<sup>6</sup> In November 1979, the task force presented its draft to President Mobutu on behalf of the IUCN.<sup>7</sup> In June 1980, Zaire transmitted the Draft World Charter for Nature to the Secretary-General of the United Nations.<sup>8</sup>

After submitting the Draft to the Secretary-General, Zaire shepherded the Draft Charter through two stages of revision before formally introducing it in the General Assembly.<sup>9</sup> In October 1980, the General Assembly invited member states to comment on the Draft.<sup>10</sup> With the help of an ad hoc expert group convened by the United Nations Environment Programme (UNEP),<sup>11</sup> the Secretary-General incorporated

4. The IUCN is an independent nongovernmental organization founded in 1948 to promote scientifically-based action for the conservation of wild living resources. Members include states, governmental agencies, and nongovernmental organizations. NAT'L WILDLIFE FED., 1985 CONSERVATION DIRECTORY 66 (30th ed. 1985).

5. W. BURHENNE, *supra* note 1, at 14.

6. *Id.* The task force members were Wolfgang E. Burhenne (Chair), Dr. Taslim O. Elias, Professor Alexandre Ch. Kiss, Michael McCloskey, Nicholas A. Robinson, and Dr. Nagendra Singh. The consultant to the Task Force was Frank G. Nicholls. IUCN Director General Dr. David Munro, Legal Officer Dr. Françoise Burhenne-Guilmin, and Assistant Legal Officer Daniel Navid also participated in the project. *Id.*

7. *Id.*

8. *Id.*

9. *Id.* at 14-15.

10. G.A. Res. 7, 35 U.N. GAOR Supp. (No. 48) at 14, U.N. Doc. A/48 (1980).

11. The UNEP ad hoc expert group, chaired by Hans Steinlin of Switzerland, included representatives from Australia, the Federal Republic of Germany, France, India, Kenya, Peru,

comments received from over fifty nations into a revised draft, and in October 1981 the Secretary-General issued a report recommending adoption of the World Charter.<sup>12</sup> Zaire then requested member states to submit further comments on the revised draft; fifteen states offered additional comments at this stage.<sup>13</sup> In September 1982, the Secretary-General issued a final report to the Thirty-Seventh Session of the United Nations General Assembly, again recommending adoption.<sup>14</sup>

Zaire then submitted the Charter for adoption to the General Assembly. At this point, the representative of the United States, who had not offered any comments on the Draft Charter before its final consideration on the floor of the Assembly, proposed a further delay to modify much of the wording.<sup>15</sup> This proposal was defeated, even though other nations, particularly the Amazonian countries, also objected to the wording of various sections of the Charter.<sup>16</sup> The General Assembly finally adopted the Charter in 1982 by a vote of 111 to 1, with the United States casting the sole dissenting vote.<sup>17</sup>

## II

### FRAMEWORK OF THE CHARTER

The World Charter for Nature is divided into four major parts: the preamble, "General Principles," "Functions," and "Implementation."<sup>18</sup> A brief overview of each of these parts reveals the general principles of the Charter.

#### A. Preamble

The preamble of the Charter proclaims first that "[m]ankind is a part of Nature."<sup>19</sup> The preamble then enunciates the major theme of the document: "Lasting benefits from nature depend upon the maintenance of essential ecological processes and life support systems, and upon the diversity of life forms, which are jeopardized through excessive exploita-

---

the United Kingdom, the United States, the U.S.S.R., Zaire, and several United Nations environmental agencies. W. BURHENNE, *supra* note 1, at 15 n.4.

12. Draft World Charter for Nature: Report of the Secretary-General, 36 U.N. GAOR (Agenda Item 23), U.N. Doc. A/539 (1981) [hereinafter cited as Draft Charter for Nature].

13. W. BURHENNE, *supra* note 1, at 15.

14. Consideration and Adoption of the Revised Draft World Charter for Nature: Report of the Secretary-General, 37 U.N. GAOR (Agenda Item 21), U.N. Doc. A/398 (1982).

15. Provisional Record, *supra* note 2, at 81 (statement of representative Zimmerman, United States of America). Zimmerman argued that delay would "improve [the Charter's] clarity and precision and thereby its meaning." *Id.*

16. *See infra* text accompanying notes 64-65, 69-76, and 81-85.

17. Provisional Record, *supra* note 2, at 103.

18. World Charter for Nature, G.A. Res. 7, 36 U.N. GAOR Supp. (No. 51) at 17, U.N. Doc. A/51 (1982) [hereinafter cited as Charter for Nature].

19. *Id.*

tion and habitat destruction by man."<sup>20</sup> The preamble links this theme to the fundamental purpose of the United Nations—the maintenance of international peace and security—by declaring that “conservation of nature and natural resources contributes to . . . the maintenance of peace.”<sup>21</sup> The preamble also provides: “Every form of life is unique, warranting respect regardless of its worth to man, and to accord other organisms such recognition, man must be guided by a moral code of action.”<sup>22</sup> The preamble concludes by identifying the need for measures to protect nature at all levels—“national and international, individual and collective, private and public”<sup>23</sup>—and proclaims that the principles outlined below should guide and judge “all human conduct affecting nature.”<sup>24</sup>

### B. General Principles

The “General Principles” section contains the first five articles of the Charter and sets out rules to guide human behavior. From the first draft through the final version, the text used the mandatory term “shall” in place of “should” or “shall endeavor to.” For example, Article 1 provides: “Nature shall be respected and its essential processes shall not be impaired.”<sup>25</sup> The other articles expand on this theme, proposing that the population and habitat of all life forms shall be safeguarded for their survival,<sup>26</sup> that special protection shall be given to unique ecosystems and habitats of rare and endangered species,<sup>27</sup> that ecosystems shall be managed to maintain “optimum sustainable productivity,”<sup>28</sup> and that “[n]ature shall be secured against degradation caused by warfare or other hostile activities.”<sup>29</sup>

### C. Functions

The “Functions” section of the Charter recommends controls on economic development. The seven articles of this section urge that people involved in economic planning and development processes consider the long-term capacity of natural systems to sustain human use,<sup>30</sup> to con-

---

20. *Id.*

21. *Id.* An ecological view of history supports the preamble’s assertion that “[c]ompetition for scarce resources creates conflicts.” Conservation is a means to reduce such conflicts. See generally B. DEVALL & G. SESSIONS, *DEEP ECOLOGY* (1985).

22. Charter for Nature, *supra* note 18, at 17. This view is strikingly similar to the environmental philosophy labeled “Deep Ecology.” See B. DEVALL & G. SESSIONS, *supra* note 21.

23. Charter for Nature, *supra* note 18, at 17.

24. *Id.*

25. *Id.* art. 1.

26. *Id.* art. 2.

27. *Id.* art. 3.

28. *Id.* art. 4.

29. *Id.* art. 5.

30. *Id.* art. 8.

serve natural resources,<sup>31</sup> and to avoid activities likely to cause irreversible damage to nature.<sup>32</sup> A key provision in this section is the requirement of Article 11 that activities which might disturb nature shall be preceded by an assessment of the impact of development, and that projects shall be planned and carried out in a manner which minimizes the potential adverse effects.<sup>33</sup> Several of the articles advocate traditional methods of conservation of soil,<sup>34</sup> water,<sup>35</sup> timber, grazing land, and fisheries.<sup>36</sup>

#### D. Implementation

The "Implementation" section of the Charter directs countries to implement eleven types of activities to carry out the principles of the document. The Charter encourages states to: (1) enact and support domestic and international environmental law;<sup>37</sup> (2) develop ecological education;<sup>38</sup> (3) increase public participation in planning;<sup>39</sup> (4) set up funding and administrative programs;<sup>40</sup> (5) support scientific research and the dissemination of research;<sup>41</sup> (6) implement environmental monitoring;<sup>42</sup> (7) assess the impact of military activities;<sup>43</sup> (8) encourage cooperation among states, international organizations, individuals, groups and corporations;<sup>44</sup> (9) adopt administrative regulations for both domestic and foreign application;<sup>45</sup> (10) allow citizen redress for environmental damage;<sup>46</sup> and (11) stress the need for individuals to meet their environmental duties.<sup>47</sup> While these eleven categories are comprehensive, none sets forth more than a general admonition that all nations should strive to operate in a fashion which minimizes the adverse impact of development on nature. The Charter allows decisionmaking entities within each state to select an appropriate mix of social, economic, and political methods to achieve the goals of the Charter.

---

31. *Id.* art. 10(d).

32. *Id.* art. 11(a).

33. *Id.* art. 11(c).

34. *Id.* art. 10(b).

35. *Id.* art. 10(c).

36. *Id.* art. 11(d).

37. *Id.* art. 14.

38. *Id.* art. 15.

39. *Id.* art. 16.

40. *Id.* art. 17.

41. *Id.* art. 18.

42. *Id.* art. 19.

43. *Id.* art. 20.

44. *Id.* art. 21.

45. *Id.* art. 22.

46. *Id.* art. 23.

47. *Id.* art. 24.

## III

## DEBATE ON THE CHARTER

A. *The Legal Effect of the Charter*

Despite comments from several states expressing a reluctance to adopt the mandatory language of the Charter,<sup>48</sup> the ad hoc group of experts retained the original mandatory language of the draft text. In their report, the group noted that, "by its very nature, the Charter could not have any binding force, nor have a regime of sanctions attached to it."<sup>49</sup> The group preferred "shall" to "should" because a charter, though entirely non-mandatory in its effect, has the character of a proclamation directed to states for their observance.<sup>50</sup>

The group of experts was correct in its view that the Charter could not have any legally binding force. The majority of legal scholars recognize that although resolutions adopted by the General Assembly of the United Nations have political and moral force they have no legally binding effect.<sup>51</sup> Even those who believe that United Nations declarations can, under certain conditions, become binding under international law, could not find that the World Charter for Nature satisfied the prerequisites to having binding force.<sup>52</sup>

A careful reading of the text of the World Charter for Nature affirms that it was intended to exert political and moral, but not legal, force on member states. In the adopting preamble, the General Assembly embraced "principles of conservation" by which "all human conduct affecting nature is to be guided and judged."<sup>53</sup> Such purposefully abstract language speaks to "human conduct" and is not limited to the conduct of "nations."<sup>54</sup> Such a broad principle is clearly unenforceable. The text also avoids naming who might "guide" and "judge" this conduct.<sup>55</sup> The

---

48. Provisional Record, *supra* note 2, at 108. The United States expressed this as a reason for its vote against the final draft of the Charter but never forwarded to the Assembly this or any other objection during the circulation of the 1980 draft. *Id.*

In contrast, some nations believed that the provisions of the Charter were not strong enough. For example, Togo suggested that the Charter contain provisions designed to compel states to observe its terms, "because without penalties for infringements, the Charter would be a dead letter . . ." Draft Charter for Nature, *supra* note 12, at 50.

49. Report of the Ad Hoc Group Meeting on the Draft World Charter for Nature held at Nairobi, from 24 to 27 August 1981, 36 U.N. GAOR Annex 1 (Agenda Item 23) at 7, U.N. Doc. A/539 (1981) [hereinafter cited as Annex 1].

50. *Id.*

51. See generally J. CASTANEDA, LEGAL EFFECTS OF UNITED NATIONS RESOLUTIONS 193-96 (1969).

52. For an analysis of the conditions necessary for United Nations resolutions to become legally binding, see Schwebel, *Confrontation, Consensus and Codification in International Law*, in 1979-80 PROCEEDINGS AND COMMITTEE REPORTS OF THE AMERICAN BRANCH OF THE INTERNATIONAL LAW ASSOCIATION 14 (1980).

53. Charter for Nature, *supra* note 18, at 17.

54. *Id.*

55. *Id.*

absence of an identified judge also indicates that the Charter prescribes a set of moral principles, not precepts cognizable by a judicial body.<sup>56</sup>

In addition, although the Charter uses the mandatory word "shall," the principles fail to present a legally enforceable standard. For example, Article 20 states: "Military activities damaging to nature shall be avoided."<sup>57</sup> The text does not say military activity is prohibited or limited by any definable standard. The term "shall be avoided" suggests nothing more controversial than the call in the United Nations Charter for "world peace";<sup>58</sup> both documents merely express the common sentiment that peace is preferable to warfare.<sup>59</sup>

Furthermore, many United Nations resolutions use similar mandatory language,<sup>60</sup> but are also not legally enforceable. For example, the Universal Declaration of Human Rights provides that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."<sup>61</sup> Similar language pervades other articles of the Declaration.<sup>62</sup> Although many countries have yet to comply with the standards in these resolutions, no international body subjects wayward countries to direct legal enforcement action. Some individual countries and international bodies do, however, exert indirect pressures which may influence the countries violating these principles.<sup>63</sup> The United Nations designed the World Charter for Nature to encourage such voluntary and indirect

---

56. Ironically, the absence of a forum in which the conduct of nations could be judged was a criticism raised by some of the states which also objected to the Charter because of its mandatory language. See Provisional Record, *supra* note 2, at 97 (statement by Correa da Costa, Brazil).

57. Charter for Nature, *supra* note 18, art. 20.

58. U.N. CHARTER art. 1, para. 1.

59. Several countries objected to Article 20 on technical grounds. For example, Australia contended that "an international charter dealing with environmental principles . . . is not an appropriate forum for discussion of these issues." See Draft Charter for Nature, *supra* note 12, at 6.

60. See, e.g., U.N. Declaration on the Elimination of All Forms of Racial Discrimination, G.A. Res. 1904, 18 U.N. GAOR Supp. (No. 15) at 35-38, U.N. Doc. A/5155 (1963); Declaration on the Elimination of Discrimination Against Women, G.A. Res. 2263, 22 U.N. GAOR Supp. (No. 16) at 35-37, U.N. Doc. A/6716 (1967); U.N. Declaration of the Rights of the Child, G.A. Res. 1386, 14 U.N. GAOR Supp. (No. 10) at 19-20, U.N. Doc. A/4354 (1959); and Universal Declaration of Human Rights, G.A. Res. 217, U.N. Doc. A/810, at 71-79 (1948).

61. Universal Declaration of Human Rights, *supra* note 60, art. 5.

62. See, e.g., Article 4: "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms"; Article 9: "No one shall be subject to arbitrary arrest, detention or exile"; and Article 26(1): "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit." *Id.* arts. 4, 9, 26(1).

63. For example, international pressure has been exerted on many nations for violations of Article 5 of the Universal Declaration of Human Rights which prohibits torture and inhumane treatment. While improved compliance is difficult to document, such pressure has probably increased international scrutiny of policies in countries permitting torture and other forms of severe punishment.

enforcement, and the mandatory "shall" is suitable given the general principles of the document.

### B. *The Aspirational Tone*

On behalf of other Amazonian nations, Brazil repeatedly expressed concern over the aspirational tone of the Charter. For example, Correa da Costa, the Brazilian representative, argued that the last provision of Article 18, which urged that constant efforts be made to increase knowledge of nature by scientific research and to disseminate such knowledge "unimpeded by restrictions of any kind,"<sup>64</sup> was one of "those aspirations which should never have found expression in a document of this kind."<sup>65</sup>

This objection is difficult to reconcile with the broad nature of a United Nations charter. Given its non-binding effect as a United Nations resolution, the very purpose of the World Charter for Nature is to present "aspirations." Other resolutions contain similar aspirational assertions which may also be unrealistic. The Charter is comparable to the Universal Declaration of Human Rights which contains numerous aspirational passages that no one has ever directly enforced.<sup>66</sup> In the same way, the various aspirational provisions of the World Charter for Nature set standards that many nations have not yet obtained but for which they should strive. For example, the free flow of scientific information on nature "unimpeded by restrictions of any kind"<sup>67</sup> is probably not likely to occur in the near future, but this goal helps promote the ultimate values of the United Nations.<sup>68</sup>

### C. *The Environmental Assessment Requirement*

Although Article 11(c) recommends that countries conduct environmental impact studies,<sup>69</sup> the Charter does not comprehensively specify the type of environmental protection procedures countries should adopt. Several nations raised objections to the parts of the Charter that attempted to detail such procedures. For example, Brazil and the eight

---

64. Charter for Nature, *supra* note 18, art. 18.

65. Provisional Record, *supra* note 2, at 101 (statement of Correa da Costa, Brazil).

66. For example, Article 10 of the Universal Declaration of Human Rights asserts that "everyone is entitled . . . to a fair and public hearing by an independent and impartial tribunal, in determination . . . of any criminal charge against him." Universal Declaration of Human Rights, *supra* note 60, art. 10. This "human right" is not universally respected, but it remains a vital aspirational goal for humankind.

67. Charter for Nature, *supra* note 18, art. 18.

68. Brazil also objected to the last phrase of Article 18—"including information exchange and consultation"—stating that it is "unacceptable to the Amazonian countries. It will therefore be treated as non-existent by them. They regret very much the inclusion of such a concept and I want to emphasize this point very clearly." Provisional Record, *supra* note 2, at 101 (statement of Correa da Costa, Brazil).

69. Charter for Nature, *supra* note 18, art. 11(c).



Amazonian states objected to the implication in Article 11<sup>70</sup> that developing countries should use environmental impact assessments like those used in the United States.<sup>71</sup> In the final debate, Brazil asserted that the Amazonian countries could not accept Article 11(c) because such studies were "costly and often unnecessary."<sup>72</sup> Similarly, the representative from Argentina, who abstained on the final vote, explained that Argentina hesitated to support the document because the text "does not distinguish between the environmental problems of the developed and those of the developing countries, which we understand call for different treatment."<sup>73</sup>

Several other developing countries shared the sentiments of Argentina. Even though India voted to approve the Charter, in explaining its vote, the Indian delegation also expressed serious objection to Article 11(c).<sup>74</sup> The Indian delegation noted that, at the time of adoption of the International Development Strategy<sup>75</sup> two years earlier, "the developing countries furiously opposed the insertion of a similar provision in the relevant section of the Strategy."<sup>76</sup>

Despite these objections, nothing in the Charter prevents developing nations from adopting an individual approach to environmental assessment. In response to the statement of Brazil, the representative of Zaire argued that Article 11(c) "simply says that when development projects are undertaken, they should be conducted in a planned fashion, so as to minimize any possible adverse effects. Who could rationally favour executing development projects so haphazardly as to disturb nature?"<sup>77</sup> Zaire's interpretation of Article 11(c) is the most faithful to the main principles underlying the Charter. Article 11(c) suggests only that assessments of some kind precede development projects, and that such assessments be performed early enough in the planning process to influence decisions that may have adverse environmental effects.<sup>78</sup> While the

70. Charter for Nature, *supra* note 18, art. 11.

71. Provisional Record, *supra* note 2, at 98-100 (statement of Correa da Costa). In the debate, Correa da Costa complained specifically of changes made in the Charter's language adopting an environmental assessment requirement. *Id.* The earlier language of Article 11 had only vaguely referred to environmental impact assessment. Annex 1, *supra* note 49, at 21.

For an example of environmental impact assessment requirements in the United States, see the National Environmental Policy Act of 1969, § 102, Pub. L. No. 91-180, 83 Stat. 852, 42 U.S.C. § 4332 (1982).

72. Provisional Record, *supra* note 2, at 101 (statement of Correa da Costa, Brazil).

73. *Id.* at 106 (statement of Guevara Achaval, Argentina).

74. *Id.* at 107 (statement of representative Puroshottam, India).

75. See generally Comm. Int'l Dev. Insts. Env't (CIDIE), Partnership in Conservation III: Mechanisms for Cooperation with Development Aid Agencies (1984) (IUCN 16th General Assembly, Paper for Technical Meeting F).

76. Provisional Record, *supra* note 2, at 107 (statement of representative Puroshottam, India).

77. W. BURHENNE, *supra* note 1, at 67 (statement of Kamanda wa Kamanda, Zaire).

78. Economic development financed by multilateral development agencies is already be-

Charter does not address such issues as who should pay for such studies or the precise form they should take, the Charter serves a useful purpose by encouraging environmental assessment for all development projects.<sup>79</sup> If Article 11(c) succeeds in encouraging the development of refined procedures for assessing environmental effects as projects are planned, it will benefit both the developing and the developed world.

#### D. The "Best Available Technology" Requirement

Another debate focused on the central provision of Article 11 which states that "the best available technologies that minimize significant risks to nature or other adverse effects shall be used."<sup>80</sup> Brazil again took exception to the provision, asserting that the "best available technologies" provision would amount to making developing countries "indefinitely dependent upon the technologies of developed countries."<sup>81</sup> The representative from India also asserted that the provision was impracticable given that most developing nations lack the necessary industrial and technological capability.<sup>82</sup> Zaire responded that "best available technologies" referred to "the most appropriate—not the most sophisticated—technologies that can minimize risks to or adverse effects on nature."<sup>83</sup> Zaire correctly asserted that certain local technologies may be more appropriate than advanced technologies in minimizing risks.<sup>84</sup> Zaire insisted that "it is with that in mind that the experts formulated this article and not to promote the most sophisticated or advanced technologies of the developed countries . . . ."<sup>85</sup>

Perhaps the phrase "the best available" should have been changed to "the most appropriate" technologies,<sup>86</sup> but in light of Zaire's interpretation of the term, developing nations should recognize the intent of the provision. Furthermore, the World Conservation Strategy, a booklet

---

ginning to consider environmental impact assessments. *See, e.g.*, The Declaration of Environmental Policies and Procedures Relating to Economic Development, February 1, 1980 (signed by the major international development banks); and *Draft Recommendation on the Multilateral Banks and the Environment: Hearings Before the Subcomm. on International Development Institutions and Finance of the House Comm. on Banking, Finance and Urban Affairs*, 98th Cong. 2nd Sess. 4 (1984). *See also* the Article by Bruce Rich in this issue of the ECOLOGY LAW QUARTERLY.

79. Charter for Nature, *supra* note 18, at 17.

80. *Id.* art. 11.

81. Provisional Record, *supra* note 2, at 98-100 (statement of Correa da Costa, Brazil).

82. *Id.* at 107 (statement of representative Purushottam, India).

83. W. BURHENNE, *supra* note 1, at 67 (statement of Kamanda wa Kamanda, Zaire).

84. *See* INT'L UNION FOR CONSERVATION OF NATURE AND NAT. RESOURCES, WORLD CONSERVATION STRATEGY ch. 14 (1980) [hereinafter cited as WCS].

85. W. BURHENNE, *supra* note 1, at 67 (statement of Kamanda wa Kamanda, Zaire).

86. The term "appropriate technology," coined by E.F. Schumacher, implies that the best use of resources should be determined with special deference to local economic and political preferences. Appropriate technology is a standard ideology of many overseas social development programs. E. SCHUMACHER, SMALL IS BEAUTIFUL 178 (1973).

prepared in 1980 by the IUCN, which advocates retaining and adapting many traditional methods of resource management,<sup>87</sup> bolsters Zaire's interpretation.

#### *E. Resource Conservation for Sustainable Development*

A major environmental issue in the international community is whether attention to environmental protection will detract from economic development in developing nations.<sup>88</sup> This concern surfaced during the debate on the World Charter for Nature, with the Amazonian countries reiterating the concern that environmental protection would hinder development.<sup>89</sup> But several developing nations countered that the "protection of nature" intended in the Charter merely recognizes the limited capacity of environmental systems to support development, and this goal does not conflict with sustainable development.<sup>90</sup>

In response to the 1981 Report of the Secretary-General,<sup>91</sup> numerous developing countries expressed the view that conservation is consistent with development. Commenting on the Draft Charter, the Ivory Coast stressed the need to tie conservation to development and to protect the poorest members of a nation from the misuses of natural resources which could deprive them of their livelihood.<sup>92</sup> Focusing on what it regarded as an inseparable link between development and conservation, Turkey similarly asserted that the "pointless destruction of nature and uncontrolled development might lead to the breakdown of the economic, social and political framework of civilization . . . ."<sup>93</sup>

87. WCS, *supra* note 84, ch. 14, para. 11.

88. See generally U.N. ENV'T PROGRAMME, THE STATE OF THE ENVIRONMENT 1972-1982 (1982).

89. W. BURHENNE, *supra* note 1, at 18.

90. This view accords with evolving principles of development assistance. See WCS, *supra* note 84, ch. 14; R. DASMANN, J. MILTON & P. FREEMAN, ECOLOGICAL PRINCIPLES FOR ECONOMIC DEVELOPMENT 1-4 (1973) [hereinafter cited as ECOLOGICAL PRINCIPLES].

91. Draft Charter for Nature, *supra* note 12.

92. The representative from the Ivory Coast stated:

The purpose of management and planning of our development is to combat the erosion of fertile land and the destruction of forests by means of an integrated approach drawing on the principles of applied ecology, agro-forestry, the protection of natural forests and wildlife development . . . . The misuse and impoverishment of our natural resources may, if care is not taken, deprive our peoples of their cultural, spiritual, economic, scientific, and technical bedrock . . . . The Ivory Coast maintains that conservation must become the inseparable handmaiden of development through the judicious exploitation of natural wealth, founded on the raising of the gross national product and the effective preservation and development of forests.

*Id.* at 28.

93. The Turkish comment on the Draft Charter emphasized the symbolic value of the document:

Although the draft contains some general principles for nature conservation which have been taken from various international agreements such as the Stockholm Declaration and the World Conservation Strategy, nevertheless, the reaffirmation of these principles at the global level in a World Charter for Nature is of great importance for

During the debate on the Charter in the Thirty-Seventh Session of the General Assembly, other nations repeated the theme that conservation is consistent with development. Kamanda wa Kamanda, speaking on behalf of Zaire and thirty-five other sponsors of the Draft Charter,<sup>94</sup> emphasized that Zaire's objective in introducing the Charter "was not to put an end to progress nor to prevent anyone from taking necessary development measures."<sup>95</sup> The representative of Pakistan supported this theme, stating that "[t]he draft world charter for nature seeks an equilibrium between the uses of nature and its conservation."<sup>96</sup>

Adherence to the environmental protection principles outlined by the World Charter for Nature will probably not overburden the economic growth plans of developing countries. The Charter can be read practically and flexibly; it demands nothing more burdensome than the use of a nation's existing capability for environmental planning.

#### IV

##### IMPACT OF THE CHARTER

###### A. *The Applicability of the Charter to Both Developing and Developed Countries*

The guidelines of the Charter apply to a broad range of activities that have an impact on nature. By providing a regulatory structure to control such activities, the Charter addresses the problems of both developing and developed countries. Many of the provisions of the Charter, however, are particularly applicable to developing countries, and the Charter might have a significant positive impact in these countries.

The Charter's first five "General Principles"<sup>97</sup> focus upon relatively natural ecosystems, such as forests, which are crucial in developing countries. A few industrialized nations such as the U.S.S.R., Canada, and the United States retain large forest ecosystems.<sup>98</sup> In contrast, many developing nations in the tropics and sub-tropics are rapidly destroying their large forests for farmland and fuel with little concern for the long-range

---

it will help to promote man's awareness of the need for preserving the natural balance and rational management of the environment as a whole.

W. BURHENNE, *supra* note 1, at 33.

94. Provisional Record, *supra* note 2, at 62 (statement of Kamanda wa Kamanda, Zaire).

95. *Id.* at 59-60.

96. *Id.* at 66 (statement of representative Bhandara, Pakistan). Bhandara went on to stress that developing countries face important environmental problems. "The consequences of altering nature and exploiting it recklessly, heedless of the forces that constitute nature, have been irreparable damage to the earth's environment. I need only mention the erosion of the top soil in our arable lands as an example." *Id.*

97. See *supra* notes 25-29 and accompanying text.

98. COUNCIL ON ENVTL. QUALITY, GLOBAL 2000 REPORT TO THE PRESIDENT 118 (1980).

impact of improper development techniques.<sup>99</sup> Thus, in the more rapidly growing economies of the developing world, these general principles are important to guiding prudent development. If followed, the principles of the Charter will help ensure that developing nations retain resource diversity, thereby providing protection against unforeseen ecological disasters.<sup>100</sup>

The seven articles under the "Functions" section of the Charter<sup>101</sup> likewise seem aimed toward the needs and concerns of developing countries. Articles 6, 7, 8, and 9 call for countries to consider the "conservation of nature" in planning activities.<sup>102</sup> The guidelines of the Charter should help developing countries improve their ability to plan for the conservation of nature. In contrast to developing countries, many developed countries lack any kind of national environmental planning for economic or resource development. For example, the United States Congress has only recently considered the possibility of developing long-range national environmental planning.<sup>103</sup> Therefore, this part of the Charter may be more readily implemented by developing countries because they may better recognize their own need and greater opportunity for planning.

Article 10 of the Charter focuses on renewable and non-renewable resources with a view toward prevention of waste. Regardless of the type of natural resource, the "wise use" of such resources concerns developed and developing countries alike. This concern might seem too self-evident to require presentation in a United Nations document, but countries around the world continue to imprudently manage their natural resources. Many countries have harvested wildlife species without regard to their capacity for regeneration, and countries also often severely deplete their soil and water resources.<sup>104</sup> Both developing and developed nations can profit from abiding by the requirements of Article 10.

Similarly, the control of pollution, addressed in Article 12, concerns both developing and developed countries. Pollution results not only from chemical wastes from factories, but also from pesticides, agricultural runoff, and human sewage. Proper treatment or disposal of such pollutants directly benefits both the environment and human health.<sup>105</sup>

---

99. *See id.*; *see also* N. MYERS, *THE PRIMARY SOURCE* (1984).

100. *ECOLOGICAL PRINCIPLES*, *supra* note 90, at 24.

101. *See supra* notes 30-36 and accompanying text.

102. *Id.*

103. *See* H.R. 2491, 98th Cong., 1st Sess., 129 CONG. REC. H1992 (daily ed. Mar. 12, 1983). Sponsored by forty-one Representatives, H.R. 2491 called for the establishment of an inter-agency council in the Office of the President that would monitor and report on short and long-term national and global trends concerning demographic changes, natural resource usage, and environmental impacts.

104. *ECOLOGICAL PRINCIPLES*, *supra* note 90, at 35-42.

105. Developing countries are not only vulnerable to toxic contaminants, but also to air pollution from automobiles and other industrial sources. Carbon dioxide added to the atmos-

Despite Brazil's assertion that the industrialized nations are the most likely to pollute,<sup>106</sup> developing countries also have a clear and pressing need to address environmental contamination.

The "Implementation" section of the Charter<sup>107</sup> addresses the environmental responsibilities not only of states, but also of international organizations, corporations, groups, and even individuals. The broad scope of these articles drew criticism from some participants in the United Nations debate.<sup>108</sup> But if the Charter is seen as a code of moral conduct, as is the Universal Declaration of Human Rights,<sup>109</sup> its application must necessarily be extensive. The goals of the Charter are for humankind, not merely for the political organizations of the world. All human social organizations share responsibility for both environmental harm and the potential for environmental improvement.

### B. *Practical Effect of the Charter*

Will the World Charter for Nature encourage global "conservation of nature"? As only a United Nations resolution, the Charter will not solve any of the difficult problems of funding, staffing, and technical assistance necessary to coordinate economic development with conservation. But the Charter does not seek to achieve such issue-specific goals. Rather, it provides a philosophical and political framework to "guide and judge" worldwide efforts at conservation.<sup>110</sup> As such, the primary value of the Charter may be to prompt governments to address neglected environmental problems.

Evidence already exists to suggest that the Charter will achieve this goal. Even before the United Nations formally adopted the Charter, Pakistan adopted legislation based "on the principles set forth in the draft world charter for nature."<sup>111</sup> The adoption of the Charter has also encouraged other countries to reevaluate their development practices. For example, when the government of Mali first learned of the Charter, it commented that observance of the Charter would require Mali to make important decisions never before made because "in the field of environment we have done very little."<sup>112</sup> The fact that some nations have never before considered these issues suggests that the Charter, a written formu-

---

phere may be the most important long-term problem because of the possible adverse consequences for the global climate. One of the major sources of carbon dioxide pollution is the widespread burning of tropical forests. N. MYERS, *supra* note 99, at 283-93.

106. Provisional Record, *supra* note 2, at 96 (statement of Correa da Costa, Brazil).

107. See *supra* notes 37-47 and accompanying text.

108. W. BURHENNE, *supra* note 1, at 71-89.

109. Universal Declaration of Human Rights, *supra* note 60.

110. See *supra* text accompanying note 24.

111. Provisional Record, *supra* note 2, at 66 (statement of representative Bhandra, Pakistan).

112. Draft Charter for Nature, *supra* note 12, at 34.

lation of important ecological planning principles, will be a valuable guide for environmental conservation.

#### CONCLUSION

The World Charter for Nature deserves attention from international political, business, and social leaders, those who ultimately decide the impact of humankind on the environment. As the first international declaration of human responsibilities with respect to nature, the World Charter for Nature emerges at a time when its guidance is urgently needed. However symbolic, the Charter marks an important step toward protecting natural resources. As IUCN's Peter Jackson concluded: "The World Charter for Nature will not suddenly change the world. Nor did the Universal Declaration of Human Rights. But it is a major step forward to have conservation enshrined among the highest principles of the United Nations."<sup>113</sup>

---

113. Jackson, *A World Charter for Nature*, 12 *AMBIO* 133 (1983).

## APPENDIX

## THE WORLD CHARTER FOR NATURE

*The General Assembly,*

*Reaffirming* the fundamental purposes of the United Nations, in particular the maintenance of international peace and security, the development of friendly relations among nations and the achievement of international co-operation in solving international problems of an economic, social, cultural, technical, intellectual or humanitarian character,

*Aware that:*

(a) Mankind is a part of nature and life depends on the uninterrupted functioning of natural systems which ensure the supply of energy and nutrients,

(b) Civilization is rooted in nature, which has shaped human culture and influenced all artistic and scientific achievement, and living in harmony with nature gives man the best opportunities for the development of his creativity, and for rest and recreation,

*Convinced that:*

(a) Every form of life is unique, warranting respect regardless of its worth to man, and, to accord other organisms such recognition, man must be guided by a moral code of action,

(b) Man can alter nature and exhaust natural resources by his action or its consequences and, therefore, must fully recognize the urgency of maintaining the stability and quality of nature and of conserving natural resources,

*Persuaded that:*

(a) Lasting benefits from nature depend upon the maintenance of essential ecological processes and life support systems, and upon the diversity of life forms, which are jeopardized through excessive exploitation and habitat destruction by man,

(b) The degradation of natural systems owing to excessive consumption and misuse of natural resources, as well as to failure to establish an appropriate economic order among peoples and among States, leads to the breakdown of the economic, social and political framework of civilization,

(c) Competition for scarce resources creates conflicts, whereas the conservation of nature and natural resources contributes to justice and the maintenance of peace and cannot be achieved until mankind learns to live in peace and to forsake war and armaments,

*Reaffirming* that man must acquire the knowledge to maintain and enhance his ability to use natural resources in a manner which ensures the preservation of the species and ecosystems for the benefit of present and future generations,



*Firmly convinced* of the need for appropriate measures, at the national and international, individual and collective, and private and public levels, to protect nature and promote international co-operation in this field,

*Adopts*, to these ends, the present World Charter for Nature, which proclaims the following principles of conservation by which all human conduct affecting nature is to be guided and judged.

## I.

### GENERAL PRINCIPLES

1. Nature shall be respected and its essential processes shall not be impaired.
2. The genetic viability of the earth shall not be compromised; the population levels of all life forms, wild and domesticated, must be at least sufficient for their survival, and to this end necessary habitats shall be safeguarded.
3. All areas of the earth, both land and sea, shall be subject to these principles of conservation; special protection shall be given to unique areas, to representative samples of all the different types of ecosystems and to the habitats of rare or endangered species.
4. Ecosystems and organisms, as well as the land, marine and atmospheric resources that are utilized by man, shall be managed to achieve and maintain optimum sustainable productivity, but not in such a way as to endanger the integrity of those other ecosystems or species with which they coexist.
5. Nature shall be secured against degradation caused by warfare or other hostile activities.

## II.

### FUNCTIONS

6. In the decision-making process it shall be recognized that man's needs can be met only by ensuring the proper functioning of natural systems and by respecting the principles set forth in the present Charter.
7. In the planning and implementation of social and economic development activities, due account shall be taken of the fact that the conservation of nature is an integral part of those activities.
8. In formulating long-term plans for economic development, population growth and the improvement of standards of living, due account shall be taken of the long-term capacity of natural systems to ensure the subsistence and settlement of the populations concerned, recognizing that this capacity may be enhanced through science and technology.
9. The allocation of areas of the earth to various uses shall be planned, and due account shall be taken of the physical constraints, the

biological productivity and diversity and the natural beauty of the areas concerned.

10. Natural resources shall not be wasted, but used with a restraint appropriate to the principles set forth in the present Charter, in accordance with the following rules:

(a) Living resources shall not be utilized in excess of their natural capacity for regeneration;

(b) The productivity of soils shall be maintained or enhanced through measures which safeguard their long-term fertility and the process of organic decomposition, and prevent erosion and all other forms of degradation;

(c) Resources, including water, which are not consumed as they are used shall be reused or recycled;

(d) Non-renewable resources which are consumed as they are used shall be exploited with restraint, taking into account their abundance, the rational possibilities of converting them for consumption, and the compatibility of their exploitation with the functioning of natural systems.

11. Activities which might have an impact on nature shall be controlled, and the best available technologies that minimize significant risks to nature or other adverse effects shall be used; in particular:

(a) Activities which are likely to cause irreversible damage to nature shall be avoided;

(b) Activities which are likely to pose a significant risk to nature shall be preceded by an exhaustive examination; their proponents shall demonstrate that expected benefits outweigh potential damage to nature, and where potential adverse effects are not fully understood, the activities should not proceed;

(c) Activities which may disturb nature shall be preceded by assessment of their consequences, and environmental impact studies of development projects shall be conducted sufficiently in advance, and if they are to be undertaken, such activities shall be planned and carried out so as to minimize potential adverse effects;

(d) Agriculture, grazing, forestry and fisheries practices shall be adapted to the natural characteristics and constraints of given areas;

(e) Areas degraded by human activities shall be rehabilitated for purposes in accord with their natural potential and compatible with the well-being of affected populations.

12. Discharge of pollutants into natural systems shall be avoided and:

(a) Where this is not feasible, such pollutants shall be treated at the source, using the best practicable means available;

(b) Special precautions shall be taken to prevent discharge of radioactive or toxic wastes.

13. Measures intended to prevent, control or limit natural disasters, infestations and diseases shall be specifically directed to the causes of these scourges and shall avoid adverse side-effects on nature.

### III.

#### IMPLEMENTATION

14. The principles set forth in the present Charter shall be reflected in the law and practice of each State, as well as at the international level.

15. Knowledge of nature shall be broadly disseminated by all possible means, particularly by ecological education as an integral part of general education.

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.

17. Funds, programmes and administrative structures necessary to achieve the objective of the conservation of nature shall be provided.

18. Constant efforts shall be made to increase knowledge of nature by scientific research and to disseminate such knowledge unimpeded by restrictions of any kind.

19. The status of natural processes, ecosystems and species shall be closely monitored to enable early detection of degradation or threat, ensure timely intervention and facilitate the evaluation of conservation policies and methods.

20. Military activities damaging to nature shall be avoided.

21. States and, to the extent they are able, other public authorities, international organizations, individuals, groups and corporations shall:

(a) Co-operate in the task of conserving nature through common activities and other relevant actions, including information exchange and consultations;

(b) Establish standards for products and manufacturing processes that may have adverse effects on nature, as well as agreed methodologies for assessing these effects;

(c) Implement the applicable international legal provisions for the conservation of nature and the protection of the environment;

(d) Ensure that activities within their jurisdiction or control do not cause damage to the natural systems located within other States or in the areas beyond the limits of national jurisdiction;

(e) Safeguard and conserve nature in areas beyond national jurisdiction.

22. Taking fully into account the sovereignty of States over their

natural resources, each State shall give effect to the provisions of the present Charter through its competent organs and in co-operation with other States.

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.

24. Each person has a duty to act in accordance with the provisions of the present Charter; acting individually, in association with others or through participation in the political process, each person shall strive to ensure that the objectives and requirements of the present Charter are met.