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**MONTEVIDEO PROGRAMME: AS AN PILOT PROJECT TO  
PROTECT ENVIRONMENT AT GLOBAL LEVEL**

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**I. INTRODUCTION**

Since its creation UNEP had placed development of environmental law among its major activities. This was the mandate given to UNEP by the UN General Assembly resolution 2997(XXVII) and subsequent decisions of the UNEP Governing Council. During the 1970s these activities were mostly of an Ad hoc nature in response to specific requests from the Governing Council. The speedy pace of international environmental law – making in general and of the respective UNEP actions, in particular required a clear cut programmatic approach.

The United Nations Environment Programme (UNEP) acted as a catalyst in the development of International Environmental Law. At the beginning of its initiation, UNEP prepared a set of 15 draft principles on the conduct of states in the field of the environment regarding conservation and harmonious utilization of natural resources shared by two or more states.<sup>2</sup> These principles were prepared by the request of the U N General Assembly which called for adequate international standards for the conservation and utilization of natural resources common to two or more states. The Charter of Economic Rights and Duties of States adopted by the General Assembly also incorporated similar principles.<sup>3</sup> These principles were adopted by the UNEP Governing Council but it was not considered by the General Assembly.

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<sup>2</sup> UNEP Principles on Conservation and Harmonious Utilization of Natural Resources Shared by Two or More States (1978); for the text, see *ILM*, Vol. 17, 1978, pp.1097-99.

<sup>3</sup> Article 3 of the Charter of Economic Rights and Duties of States (1974) provided:

In the exploitation of natural resources shared by two or more countries, each state must cooperate on the basis of a system of information and prior consultation in order to achieve optimum use of such resources without causing damage to the legitimate interest of others; See *ILM*, Vol.14, 1974, p.251.

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The reason for this, it did not provide a specific legal obligation under International Law, or the absence of such obligations.<sup>4</sup>

For the formulation of some general principles of International Environmental law, the Governing Council of UNEP adopted an ambitious plan for the development and periodic review of environmental law, which was prepared at an Ad hoc meeting of senior government official's expert in environmental law at Montevideo (Montevideo Programme).<sup>5</sup> Montevideo Programme contributed to the development of both soft law and hard law instruments in international environmental law. It became an ambitious exercise in laying down a framework, method and programme for the development of environmental law. It recognized the importance of codification and progressive development of environmental law to promote international cooperation, mutual understanding and friendly relations among states, apart from serving as an essential instrument for proper environmental management and improvement of the quality of life.

The Montevideo Programme not only established the milestones to be followed in the development of international environmental law, it also required a periodical review to determine its adequacy to current needs and to assess the result of its implementation. This would help for addition of new emerging issues in the decade and also take initiation for tackling that issue. UNEP has organized and coordinated its Environmental Law activities through a series of Ten year Programmes for the Development and Periodic Review of Environmental Law. One of the problem faced at the time of designing the programme was to anticipate the emerging issues that would need to be tackled and those issues were related to multilateral environment agreements or to other emerging issues.

In 1981, a group of senior Government Officials Expert in environmental law representing Governments from around the world met in Montevideo, and developed a long – term, strategic guidance for United Nation's Environment Programme(UNEP) in the field of Environmental Law. It was adopted by the Governing Council of UNEP in 1982 and become

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<sup>4</sup>Bharat H Desai (2004), *Institutionalizing international Environmental Law*, New York: Transnational Publishers, p 88.

<sup>5</sup> See Report of the Ad hoc Meeting of Senior Government Officials Expert in Environmental Law, UNEP/GC 10/5/Add.2, and Corr.1.

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a UNEP long – term programme(The Montevideo Programme for the Development and Periodic Review of Environmental Law).

## **II. PROCESS OF MONTEVIDEO PROGRAMMES ADOPTION**

The Executive Director of the United Nation's Environment Programme (UNEP) to undertake a process for the preparation of a strategic Environmental Law Programme for UNEP. For preparation of this programme, Secretariat of the United Nation's Environment Programme (UNEP) with the assistance of a group of experts in environmental law draft a Environmental Law Programme (Montevideo Programme).

The process involves an initial consultation with environmental law experts who produce a report, followed by consideration of the report by governments, the result of that initial consultation, which leads to a negotiated document laying out priority areas for work in developing environmental law. That document is then reviewed and adopted by the UNEP Governing Council. Each Montevideo Programme is reviewed in mid- term, after five years to determine progress and to identify any new needs that may have arisen. That review produces a publicly available progress report that is presented to the Governing Council and a final progress report is also published at the end of the ten year period.

Montevideo Programmes I – III have been the basis for developing UNEP's biennial work programmes with respect to environmental law – both development of the law and implementation of law and have also served the broader environmental law community as expressions of the areas that need the most work. The increased emphasis on developing domestic environmental law and implementing environmental agreements were also presaged by the Montevideo Programme.

## **III. IMPORTANCE OF THE MONTEVIDEO PROGRAMME**

Montevideo Programme is a living document in the international environmental law. It has given a long term strategic guidance to UNEP for acting at international level for tackling various environmental issues. Montevideo Programme stressed for the conclusion of international agreements, developments of guidelines, rules and assistance to developing countries for implementation and compliance of environmental law. From 1982 to till date Montevideo Programme had included various subject areas which are challenging at

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international level. UNEP as worked according to the strategy mentioned by the Montevideo Programme and adopted various international conventions, guidelines, rules on the subject areas. The subject areas under the Montevideo Programme from the first phase to fourth phase has increased from three to twenty seven, it trace out the emerging environmental issues and discussed within. This would helpful for UNEP to take action on these issues. The Programme for the Development and Periodic review of Environmental Law is action oriented and requested the UNEP to address substantive environmental issues. The Montevideo Programme has special focus on developing countries and countries with economies in transition at the time of implementation of subject areas and requested the UNEP to give all assistance in the form of technical co-operation, appropriate assistance in the field of institution building, education, training and information regarding environmental law to developing countries. This is helpful for the proper codification, progressive development and implementation of environmental law at the international level. Montevideo Programme also addressed the relationship of environment with other fields especially trade, military and security. This is the important step at the international level for rise environmental voice at the international forums for protection of environment. So Montevideo Programme is showing a path to UNEP for initiating actions at the international level on the subject areas. The Montevideo Programme is still surviving because from its beginning focused on national, regional and international agreements on subject areas mentioned under each Montevideo Programme.

#### **IV. MONTEVIDEO PROGRAMME AND UNEP**

Since its establishment in 1972 UNEP is active in the development of environmental law. Its involvement in the work of environmental law, however, had been determined and carried out on an Ad hoc basis. More systematic approach was needed for Governments and UNEP to address the subject from long-term perspectives with clearly defined benchmarks. Montevideo Programme has served as an important part of UNEP's initiatives for a programmatic approach to law making on sectoral environmental issues.

Under the Montevideo Programme, a number of global conventions have been developed under UNEP's auspices. These include the 1985 Vienna Convention for the Protection of the

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Ozone Layer<sup>6</sup>, the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer,<sup>7</sup> the 1989 Basel Convention on the Control of Trans-boundary Movements of Hazardous wastes and their Disposal,<sup>8</sup> the 1992 Convention on Biological Diversity,<sup>9</sup> the 1998 Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade,<sup>10</sup> and 2001 Stockholm Convention on Persistent Organic Pollutants.<sup>11</sup>

UNEP has facilitated the development of other global and regional conventions by providing environmental assessment and information on significant environmental issues. It also coordinated international actions that led to the development of such instruments. Examples of such UNEP's involvement included the 1992 United Nations Framework Convention on Climate Change (through the Intergovernmental Panel on Climate Change, organized jointly by UNEP and the World Meteorological Organization) and the 1994 United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa (through UNEP's activities to combat desertification). UNEP provided substantive support to the parties concerned to develop the 1999 Basel Protocol on Liability and Compensation for Damage Resulting from Trans-boundary Movements of Hazardous wastes and Their Disposal and the 2000 Cartagena Protocol on Biosafety.

UNEP had promoted the development of non-binding international legal instruments which are designed to urge Governments and other parties to undertake actions to protect the environment on a voluntary basis. Those include guidelines and principles for Governments in the field of shared natural resources (1978), Weather modifications (1980), Offshore Mining and Drilling (1982), Information exchange on hazardous chemicals in international trade (1984, 1987 and 1989), marine pollution from land based activities (1987), management of hazardous chemicals (1987), environmental impact assessment (1987), the code of ethics

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<sup>6</sup>Convention for the Protection of the Ozone Layer (Vienna, 1985), entered into force on 22 September 1988. See *I.L.M.*, Vol. 26, 1987, p.1529.

<sup>7</sup>Protocol on Substances that Deplete the Ozone Layer (Montreal, 1987), entered into force on 1 January 1989. See *I.L.M.*, Vol. 26, 1987, p.1550.

<sup>8</sup>Convention on the Control of Trans-boundary Movements of Hazardous wastes and Their Disposal (Basel, 1989), entered into force on 24 May 1992: see *I.L.M.*, Vol. 28, 1989, p. 657.

<sup>9</sup>Convention on Biological diversity (Rio de Janeiro, 1992), entered into force on 29 December 1993. See *I.L.M.*, Vol. 31, 1992, p. 822.

<sup>10</sup>Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam, 1998), entered into force on 24 February 2004.

<sup>11</sup>Convention on Persistent Organic Pollutants (Stockholm, 2001), entered into force on 17 May 2004.

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on the international trade in chemicals (1994), the international technical guidelines for safety in biotechnology(1995). The Global programme of Action for the Protection of Marine Environment from Land based Activities (1995) complements the provision on this subject set forth in the 1982 United Nations Convention on the Law of the Sea. At the regional level, UNEP had facilitated the development of Regional seas Conventions and Protocols including the conventions and protocols for the Mediterranean, the Gulf, the Red sea, west and East African Coastal Zones, the Caribbean, the South Pacific, the South- east Pacific and the Black sea. Those conventions and protocols are supplemented by related action plans. Action plans have been developed also for the regions where legally binding instruments are yet to be developed, including east and south Asian Seas and the Northwest Pacific.

UNEP assisted various Governments in the development of regional environmental conventions, such as the 1987 Agreement on the action Plan for the Environmentally Sound Management of the Common Zambezi River system and the 1994 Lusaka agreement on Co – operative Enforcement Operations directed at Illegal Trade in Wild Fauna and Flora.<sup>12</sup> Currently, UNEP is providing assistance to states in the Caspian Sea region to develop a convention on the Caspian environment. UNEP is also providing similar assistance to ASEAN member states to develop the ASEAN agreement on Trans-boundary Haze Pollution.

## V. CONCLUSION

From the initiation of Montevideo Programme, UNEP has worked enormously on the subject areas mentioned in the Montevideo programme. It has completed number of activities and other activities are under way. The Divisions of the UNEP are also cooperating for the proper implementation of the programme. Now a days, UNEP in its environmental actions, taken into consideration of the programme for further development of international environmental law. UNEP environmental law programmes are revolving around the Montevideo programmes. Montevideo Programmes have effectively guided the work of UNEP in the field of environmental law. It helped UNEP for the development of a number of global and regional multilateral environmental agreements and international legally non binding instruments and also for the systematic provision of technical assistance to a large number of developing countries and countries with economies in transition.

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<sup>12</sup>Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora (Lusaka, 1994), entered into force on 10 December 1996.

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