



BUREAU EUROPEEN DE L'ENVIRONNEMENT  
EUROPEAN ENVIRONMENTAL BUREAU  
EUROPEES MILIEUBUREAU  
EUROPÄISCHES UMWELTBÜRO  
UFFICIO EUROPEO DELL'AMBIENTE  
OFICINA EUROPEA DEL MEDIO AMBIENTE  
SECRETARIADO EUROPEU DO AMBIENTE  
EUROPÆISK MILJØSEKRETARIAT  
ΕΥΡΩΠΑΙΚΟ ΓΡΑΦΕΙΟ ΠΕΡΙΒΑΛΛΟΝΤΟΣ

Visit of Raymond VAN ERMEN  
Secretary General  
Washington - May 1993.

The European Environmental Bureau (EEB) is the European Federation of Environmental NGOs. It represents 153 member organisations from 23 countries. Its main role is to dialogue with the European Community Institutions (Commission, Council, Parliament) regarding the EC internal and external policies.

Its Board is composed of one representative of each of the national NGOs' conferences of the 12 EC Member States. The EEB Board meets regularly the President of the EC Council and the President of the Commission.

European NGOs have the status of Delegation in the Pan-european and Euro-Mediterranean Environmental Ministerial Conferences.

The EEB has working relations with other international institutions like UNEP and the OECD, with Business Sector representatives, such as the International Chamber of Commerce and some Transnational Companies.

The application of the principle of sustainable development is a priority with respect to two aspects:

- security in the world and in Europe
- the economic future.

The United States, Japan and Europe have special responsibilities. They have the possibility to make carry their weight in order to modify the rules of the game at global level. At present, they don't do it and they must be held responsible for that.

In Europe the putting into action of sustainable development has not yet got off the ground. On initiative of the Belgian EC Presidency, an important conference on this question is envisaged for 21 and 22 October 1993. Vice-President Gore has been invited.

We would like the United States and the European Community to take initiatives in the following fields:

- Peace and environment. In view of the reform of the United Nations in 1995, the EEB proposes to draw up a report allowing to propose amendments to the international rules (see annex), including the assessment of the adjustment of the IMF's and the World Bank's structural policies.

- Trade and environment. In view of the GATT negotiations the rules of international trade have to be revised with regard to the application of the principle of sustainable development (see annex 2).

- Macro-economic policies and the environment. The economic indicators forming the basis of the decision-making processes have to be revised urgently (A conference on this issue will be organised by the European Community in fall). The market instruments, such as energy taxes, must allow for a better protection of the environment, the restructuring of the fiscal system, and a remission of work taxes.

The European Continent has to reinvent its future. The EEB sees the European Community open to both regions, the pan-European region and the Euro-mediterranean region. The United States have a vital interest in the entire region.

The E.C.E. Commission of the U.N. (based in Geneva), from which the USA is an active member, should play a major role and should host the European Regional Commission on Sustainable Development.

It should be in charge, in the framework of the Environmental Programme for Europe, of the implementation of the Agenda 21, in a harmonised way in all the European and Mediterranean Countries (see annex 3).

The European Continent has no future without the application of the principle of sustainable development or without a more participatory democracy being based on a broader concept of human rights. The EEB stresses that the United States' contribution, in the spirit of their contribution to the pan-European conference of Luzern, could be essential in this context. In case President Gore responds favourably to the invitation by the EC Presidency to participate at the European Conference on the follow-up of the UNCED commitments, the EEB suggests he takes an initiative in this field, such as to propose the signing of a USA/Europe Charta on this issue.

<b>PEACE AND ENVIRONMENT</b>
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NGOs call for the European Council of Brussels - December 93 - to give mandate to a task force including public authorities and NGOs to present a report on peace and the environment at the next European Council meeting, particularly on the following subjects :

- strengthening legal rules in the wake of the 1977 Convention on the modification of the environment to military ends, for instance by supporting the drawing up of a fifth Geneva convention for the protection of the environment during an armed conflict as is proposed by Greenpeace;
- military pollution towards ecology for which measures should be negotiated at international level, particularly in the framework of the C.S.C.E.. It should be so in particular as regards the procedure for destructing conventional, chemical and nuclear weapons as well as for radioactive pollution caused by certain types of arms;
- the reallocation of dividends from peace to this ecological rehabilitation and the restructuring of the military/industrial system;
- the resolution of eco-conflicts and the acknowledgement of the mandatory jurisdiction of the International Court of Justice in The Hague (out of the 5 countries in the Security Council, only the United Kingdom acknowledges this mandatory jurisdiction);
- the acknowledgement of prevention duties to be borne by a State towards areas and species on its own territory, a trend taken up from the 1972 Paris Convention on the world cultural and natural heritage;
- a supra-national control over the respect of commitments entered into by States and defined as measures of confidence and verification (such as those taken on the initiative of the International Agency on Nuclear Energy and of the International Convention on the Prohibition of Chemical Weapons);
- the support of European States to the inclusion in the United Nations Charter of the acknowledgement of the rights of future generations;
- an environmental and social audit of the IMF structural adjustment policies and the European Investment Bank policies.

GREENING THE GATT
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**NGOs' proposals to be supported by European Members States on Trade and Environment<sup>1</sup>**

1. The Preamble to the GATT should be amended to place "protection of the environment" alongside "ensuring full employment" and the other stated goals. The call for "developing the full use of the resources of the world and expanding the production and exchange of goods" should also be refined to read "sustainably developing the resources of the world...". These changes, while seemingly trivial, would help to establish a context of environmental awareness and a recognition that "raising standards of living" is not purely an economic concept.
2. Environmental impact analyses should be undertaken in the early stages of any trade negotiation. These analyses need not be exhaustive modeling efforts designed to trace every impact of more open markets. Instead, they should be seen as guides to negotiators designed to provide a broad gauge sense of where the negotiations will touch upon environmental sensitivities and some analysis of alternative ways of addressing the issues identified.
3. The GATT dispute resolution process has evolved into a quasi-judicial decisionmaking mechanism. Panels should therefore be required to meet in public and to publish their decisions as soon as they are issued. All written submissions to panels should be immediately available to the public, and any interested party should be able to make a written submission.
4. The GATT would also benefit from enlarging its environmental staff which currently stands at three people. Broader technical expertise would facilitate GATT sensitivity to track more systematically environmental developments and negotiations. In fact, while the Multilateral Trade Organisation (MTO) has been tainted by association with the insufficiently "green" Dunkel text, an expanded GATT Environmental Office within a restructured GATT bureaucracy (perhaps called the Multilateral Trade Vehicle or MTV) could enhance the GATT's ability to address environmental issues. The creation within the MTV of a standing committee on "trade and the environment" with meetings open to NGO participation would also be a step forward so long as it were part of a comprehensive GATT environmental reform package and not a substitute for real change.
5. Complete revision of Article XX, or better yet the development at a new comprehensive GATT "Environment Code", represents a better long-term basis for trade and environmental policy integration.
6. The GATT should welcome the opportunity to pass responsibility for environmental disputes to the Sustainable Development Commission.

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<sup>1</sup>. Proposals based on a Draft Report "Greening the GATT" by D.C. Esty, Institute for International Economies

**ANNEXE 3****PAN-EUROPEAN FOLLOW-UP MECHANISMS TO THE LUZERN CONFERENCE**

Europe will only be able to restore the equilibrium needed for stability if it rethinks its prospects for economic development.

The States participating in the Luzern Conference have signed Agenda 21 which is an opening towards this reorientation.

Solidarity with neighbouring strategic areas, in particular the Mediterranean and the Black Sea, will be a crucial factor.

"Regional and subregional cooperation was recognized in Agenda 21 as an important part of the outcome of the Conference (...). According to Agenda 21, the (UN) regional commissions, as appropriate, should play a leading role in coordinating regional and subregional activities (...).

The (UN) General Assembly "further requests the ECOSOC to decide on the arrangements required so that the reports of the regional commissions with the conclusions relates to such a review be made available to the Commission on Sustainable Development in 1993 or at the latest 1994"<sup>1</sup>

**Recommendation n° 1**

**We propose that the Luzern Conference decides to set up a European Regional Commission On Sustainable Development to implement Agenda 21 and give a mandate to set it up before end 1993.**

The Commission would meet in Geneva in plenary or working groups prior each meeting of the U.N.C.S.D. and discuss the implementation of sustainable development in Europe and the Mediterranean Basin. It would report to Governments, Parliamentary Assemblies and the United Nations Commission for Sustainable Development.

At its Plenary Sessions, E.C.E. Member States would be represented at ministerial level.

Heads of State and Governments and Ministers meeting at Pan-European level would invite the U.N. Regional Commission on Sustainable Development to delegate representatives.

**Recommendation n° 2**

**The U.N. Regional Commission would have for competences**

- to design a Pan-European long term strategy towards sustainability;
- to develop and review mechanisms to implement this strategy as the Environmental Evolving Plan for Europe, the State of Environment Report, the Eastern and Central Europe Plan of Action, the Fifth Action Programme of the European Community, the Environmental Performance Review Reports, the National Reports to the U.N.C.S.D.;

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<sup>1</sup> Note of the ECE Secretariat to the Senior Advisors meeting, 16 to 19 March, 1993.

7. Where a country acts pursuant to the express trade restrictions of an international environmental agreement (e.g., banning the importation of ivory as required by CITES, the Convention on International Trade in Endangered Species), its actions are not "unilateral" and should be examined, regardless of their extraterritorial reach, only to see if the implementation of the trade measure comports with the intent of the parties to the environmental accord.

This enquiry must be left to parties to the international agreement and not undertaken by the GATT.

8. Instead of a bar on the use of unilateral trade measures to promote adherence to production process standards, the GATT's new Environment Code should differentiate among 2 sets of circumstances.

- First, where a party's unilateral action addresses a transboundary or global environmental issue (affecting shared resources) with a direct impact on domestic public health or its own environment, the party should have the benefit of a presumption that its policy is justified. Established international law and traditional notions of sovereignty support the principle that nations may act in response to environmental effects within their own territory. Once the party whose action has been questioned establishes that its domestic interests are directly affected (thereby demonstrating the legitimacy of its policy), a challenger would bear the burden of showing the action to be "arbitrary" or "unjustifiable" under the tests outlined above. This structure might well permit, for example, the United States to act unilaterally to bar all products (domestic and imported) made with CFCs ahead of the Montreal Protocol programme, based on scientifically-derived concerns about increased rates of skin cancer and cataracts due to a thinning of the ozone layer.
- Second, where a party's unilateral action addresses an issue without a direct domestic effect (e.g., US actions to protect elephants), the party would have to justify its policy by demonstrating it was acting :
  1. to further the effectiveness of an international environmental agreement or;
  2. in support of an environmental policy addressing a significant threat to the integrity or sustainability of the global environment.

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- to monitor the implementation of the Agenda 21, the Legal Instruments, the financial resources flow related to the Eastern and Central Europe Plan of Action;
- to promote "shared responsibilities" and "partnership" securing access to information and supporting "participatory democracy"
- to debate and adopt a Regional Report to the U.N.C.S.D.

#### Recommendation n°3

The regional Commission would have a tri-partite composition and be representative of the North/South and East/West dialogue by inviting to participate representatives of the European continent and the Mediterranean Basin. Would be members with :

- E.C.E. Member States, all States bordering on the Mediterranean (as allowed by the art 11 of ECE standing order) and the European Community;
- economic and social partners;
- third parties (NGOs, ...)

Would be representatives of the second and third sectors

- international networks and organisations
- representatives of the second and third sectors in National Councils for Sustainable Development.

#### Recommendation n°4

To facilitate NGO's participation in the process a "Participatory Fund" will be set up. It will be funded by

- the Member States
- the World Bank, E.I.B., E.B.R.D.
- Foundations and Companies

and managed by a U.N. Regional Commission Trustee. The Board of this Trustee will be composed of 50% of donors' representatives and 50% of recipients' representatives.

#### Recommendation n°5

E.C.E. Member States should be invited by the Luzern Conference to set up, at the national level, a "National Council for Sustainable Development" to secure full integration of sustainability in the sectorial policies.

#### Recommendation n°6

NGO's are encouraging environment and development NGO's, consumers' organisations and other social movements belonging to the civic society to set up, on a voluntary basis, "national roundtables on sustainable development"