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Preface

Dinah Bear

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Preface

Dinah Bear*

With the publication of this issue, the *Pace Environmental Law Review* provides a most useful service both to scholarship on environmental law and to cooperation between the United States of America and the Union of Soviet Socialist Republics. Since 1972, U.S. and Soviet legal specialists have worked to better understand each nation's legal regime for environmental protection under the terms of a bilateral "Agreement on Cooperation in the Field of Environmental Protection."¹ There have been many practical and applied benefits from this cooperation.² However, there have not been as many scholarly publications on either side as there should have been.³

This publication goes a long way toward filling the need to disseminate knowledge about current environmental law developments in the USSR. The symposium which follows offers a fertile range of subjects for further study and analysis, from a number of the leading Soviet specialists.

These essays are the result of two undertakings sponsored by Area XI of the bilateral Environmental Agreement. Area

* General Counsel, Council on Environment Executive Office to the President, and Co-chair, U.S. Side, Area XI (Administrative and Legal Issues) of the USA-USSR Agreement on Cooperation in the Field of Environmental Protection.

1. Agreement on Cooperation in the Field of Environmental Protection, May 23, 1972, 23 U.S.T. 845, T.I.A.S. No. 7345.

2. See generally Robinson and Waxmonsky, *The U.S.-USSR Agreement to Protect the Environment: 15 Years of Cooperation*, 18 *Envtl. L.* 1 (1988). See also Greene, *The Amerikanskis Are Coming*, 12 *EPA J.* 21 (Jan.-Feb. 1986).

3. For papers written on Soviet Environmental Law, see Kolbasov, *Legal Protection of the Environment in the USSR*, 1 *Earth L.J.* 51 (1975); Butler, *Recent Environmental and Natural Resource Law in the USSR*, 2 *Earth L.J.* 94 (1976); Yost, *The Citizens' Role in Nature Protection in the USSR*, 11 *Envtl. L. Rep. (Envtl. L. Inst.)* 50,051 (Aug. 1981). For a recent essay, see Robinson, *Soviet Environmental Law: Nature Protection Under Perestroika*, 8 *N.Y. St. B.A. Env'tl. Sec. J.* 1 (1988).

XI focuses cooperation on the legal and administrative aspects of environmental protection. The work pursued under Area XI ranges from International Environmental Law, to comparative techniques of environmental impact assessment, to the operations of nature sanctuaries.

In 1987, the Center for Environmental Legal Studies at Pace University School of Law organized and hosted a colloquium on "Comparative American and Soviet Environmental Law," under the auspices of Area XI. Several of the essays published here were first delivered at this one-day program in 1987.⁴ Other essays were delivered as papers for the 7th Joint Meeting of USA-USSR Environmental Law Specialists under Area XI.⁵

The essays have been collected here to introduce environmental law specialists to evolving policy considerations in the USSR. Professor Nicholas A. Robinson's introductory article⁶ describes the current configuration of the Soviet Union's environmental protection regime. It is a useful background to the more specific topics of the subsequent essays.

Professor William E. Butler, of the Faculty of Law of University College, London, is the leading western specialist on Soviet Law. He has followed the rapid growth of Soviet environmental law over the past two decades. His article⁷ surveys recent law reform efforts on environmental law.

Professor Oleg S. Kolbasov is the leading environmental law specialist in the USSR. He has worked on the legal aspects of nature protection, water resource use, agricultural activity and related fields since the 1950s. In the 1970s and 1980s, he built up a small group of researchers in the Institute of State and Law of the USSR Academy of Sciences into what is today the Institute's increasingly prestigious Sector on Eco-

4. See *Readings and Materials for Colloquium: Comparative American and Soviet Environmental Law*, (Pace University School of Law, Feb. 23, 1987).

5. The Seventh Joint Meeting of USA-USSR Environmental Law Specialists under Area XI, Washington, D.C., and Boulder, Colorado, May 3-14, 1988.

6. Robinson, *Perestroika and Priroda: Environmental Protection in the USSR*, 5 Pace Envtl. L. Rev. 351 (1988).

7. Butler, *Law Reform in Soviet Environment Law*, 5 Pace Envtl. L. Rev. 425 (1988).

logical Law. He has lectured widely in the USA and Europe, and participated in international environmental law consultations in Africa and Latin America. His papers cover two topics. The first is an outline of the Soviet framework for environmental law and its implementation.⁸ The second is an elaboration on some of these themes, putting them into an international context.⁹

Professor Marshall I. Goldman, Associate Director of the Russian Research Institute at Harvard University, is the author of one of the early treatises documenting patterns of environmental degradation in the USSR.¹⁰ His essay¹¹ takes the form of a commentary on Professor Kolbasov's first presentation. Many of the comparative points he makes provides a context by which to judge the effectiveness of the current Soviet environmental protection reforms which Professors Butler and Robinson describe.

The leading specialist in international aspects of environmental law is one of Professor Kolbasov's graduate students and now fellow colleague in the Sector on Ecological Law, Alexandre S. Timoshenko. He is familiar to readers internationally from his testimony quoted by the UN Commission of Environment and Development in its report.¹² He contributes two articles to this symposium. The first¹³ examines the protection of wetlands under International Law, a topic familiar to readers of the *Pace Environmental Law Review* from prior published studies.¹⁴ The second article¹⁵ is an important expo-

8. Kolbasov, *Environmental Law Administration & Policy in the USSR*, 5 *Pace Env'tl. L. Rev.* 439 (1988).

9. Kolbasov, *Modern Ecological Policy and the Utilization of a Global Environmental Protection Strategy*, 5 *Pace Env'tl. L. Rev.* 445 (1988).

10. M. Goldman, *The Spoils of Progress: Environmental Pollution in the Soviet Union* (1972).

11. Goldman, *The Development of Environmental Policies in the United States and the Soviet Union*, 5 *Pace Env'tl. L. Rev.* 455 (1988).

12. The Bruntland Commission Report, reprinted in *The World Commission on Environment and Development, Our Common Future* 294 (1987).

13. Timoshenko, *Protection of Wetlands by International Law*, 5 *Pace Env'tl. L. Rev.* 463 (1988).

14. See Comment, *An Analysis of Municipal Wetlands Laws and Their Relationship to the Convention on Wetlands of International Importance, Especially Waterfowl Habitat (Ramsar)*, 4 *Pace Env'tl. L. Rev.* 177 (1986); Research Guide,

sition on the duty under international law to undertake environmental assessments and engage in international consultations on activities which can have an impact on the shared environment of the commons or other nations.

Essential to the effectiveness of environmental law in the USA and the USSR is public participation. This theme has been studied closely under Area XI. Professor William Futrell, now president of the Environmental Law Institute, describes¹⁶ the role of environmental interest groups and the long-standing Soviet policies which encourage public involvement. Under current Soviet policies of *glasnost*, the role for citizen participation has grown, building on the foundations described in Professor Futrell's article.

Two articles describe new subjects for legislative reform in Soviet Environmental Law. The first¹⁷ is a discussion of the growing concern in the USSR to regulate more comprehensively the handling of hazardous industrial wastes. Mikhail M. Brinchuk is a senior legal researcher in the Sector of Ecological Law of the Soviet Academy of Science's Institute of State and Law. His article describes the scope of the chemical waste problems which the USSR now confronts. The second essay¹⁸ examines a subject which has received little attention in most jurisdictions, the legal protection of wild plants. Most environmental law has focused on fauna; the essay by Aida B. Iskoyan, a lecturer in the Department of Civil Law at Yerevan State University, discusses the need for establishing a stable regulatory framework for effective plant protection.

One topic which deserves more extensive comparative law study is the law of land use. A more informal exchange of views than the foregoing articles are the transcripts of talks by

Wetlands: Federal Law and National Policy Research Guide, 5 Pace Envtl. L. Rev. 167 (1987).

15. Timoshenko, *The Problem of Preventing Damage to the Environment in National and International Law*, 5 Pace Envtl. L. Rev. 475 (1988).

16. Futrell, *Public Participation in Soviet Environmental Policy*, 5 Pace Envtl. L. Rev. 487 (1988).

17. Brinchuk, *Legal Protection of the Environment from Pollution by Dangerous Industrial Wastes*, 5 Pace Envtl. L. Rev. 509 (1988).

18. Iskoyan, *Issues Related to Legal Protection of Wild Plants*, 5 Pace Envtl. L. Rev. 519 (1988).

Mikhail Galyatin¹⁹ and Professor Donald Stever.²⁰ Both specialize in their respective nation's legal regime for land use. Their exchange identifies, in a preliminary way, some topics for further research.

Concluding the symposium is a commentary by Dr. Gary Waxmonsky, formerly the Executive Secretary for the U.S. Side of the Joint Committee on Cooperation in the Field of Environmental Protection.²¹ Dr. Waxmonsky worked with all of the scientific bilateral environmental areas of cooperation, including the legal area. He refers to useful trends, including the creation of an equivalent in the USSR to the U.S. Environmental Protection Agency. In fact, on January 7, 1988, the Council of Ministers of the USSR and Central Committee of the Communist Party of the Soviet Union jointly announced the decision²² to create the State Committee on Environment Protection (*Goskompriroda*), described in Professor Robinson's article.²³

Environmental Law is of growing importance in both the USSR and the USA. It is expanding rapidly into a major field of international law. The birth of the field of comparative environmental law between the USA and USSR has taken place in the context of the bilateral Agreement for Environmental Cooperation. On behalf of all the jurists who have worked together through Area XI, I am pleased to introduce this symposium and welcome the *Pace Environmental Law Review's* readers to the subject of comparative American and Soviet Environmental Law.

19. Galyatin, *Comparative American-Soviet Environmental Land Use Laws, A: A Soviet View*, 5 *Pace Env'tl. L. Rev.* 531 (1988).

20. Stever, *Comparative American-Soviet, Environmental Land Use Law B: An American View*, 5 *Pace Env'tl. L. Rev.* 535 (1988).

21. Waxmonsky, *U.S.-USSR Cooperation in Environmental Policy*, 5 *Pace Env'tl. L. Rev.* 541 (1988).

22. *Supra* note 6, at 375.

23. *Id.*

Organization of Environmental Administration in the USSR*

GENERAL ADMINISTRATION

The Supreme Soviet (Two Houses, 1500 deputies)
Two Permanent Commissions on Nature Protection and
Rational Use of Natural Resources (35 deputies in each)
Presidium (39 deputies)

Council of Ministers

Presidium
Commission on Environmental Protection and Rational
Use of Natural Resources

State Planning Committee (Gosplan)

Nature Protection and Rational Use of Natural
Resources Unit
Assessment Commission

State Committee on Science and Technology

Pollution Prevention and Wasteless Technology Unit

State Investment Committee

Environmental Assessment Commission

State Committee on Material Supply

Solid Waste Disposal Unit

State Committee on Standardization

Division on Environmental Standards

Ministry of Finance

Environmental Finance Planning Unit

Central Bureau of Statistics

Environmental Data Unit

SPECIAL ADMINISTRATION

State Agro-Industrial Committee
Soil Protection Service
Division on Nature Conservation, Agro-Forestry,
Wildlife and Preserves
Commission on Pesticide and Fertilizer Control

Ministry of Water Economy and Land Reclamation
Department of Water Pollution Control
Department of Comprehensive Water Use Planning

Ministry of Geology

Department of Geological Control
Department of Fresh Groundwater Use Control

State Committee on Work Safety and Mining Control

Department of Mining Control
Department of Salt Groundwater Use Control

State Committee on Forestry

(Various Departments)

State Committee on Hydrometeorology and Envi-

ronmental Monitoring (Hydromet)
Department of Environmental Monitoring
Inspectorate on Air Pollution Control

Ministry of Interior

Inspectorate on Air Pollution Control from
Moving Sources

Ministry of Public Health

Department of Sanitary Services

Ministry of Fisheries

Inspectorate on Fishing Control

ADMINISTRATION WITHIN BRANCHES OF NATIONAL ECONOMY

Ministry of Electricity
Environmental Control Unit

Ministry of Chemistry
Environmental Control Unit

Ministry of Coal Mining
Environmental Control Unit

Ministry of Iron Metallurgy
Environmental Control Unit

Ministry of Electro-Technical Equipment
Environmental Control Unit

Ministry of Oil Production
Environmental Control Unit

(Other ministries with the same environmental
control units)