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Ecological Security: The International Aspect

A.S. Timoshenko*

An analysis of the world's ecological situation inevitably leads to the conclusion that the human environment is continuing to deteriorate despite the conservation measures undertaken by the international community. A number of ecological processes have reached the pre-crisis stage. The United Nations Environment Programme (UNEP) cites several areas of particular concern in its 1987 report. Among these are: the global temperature increase and the resultant increase in ocean levels; the depletion of the ozone layer; the catastrophic loss of forests and agricultural land; the widespread extinction of plant and animal species; and the growth in the number of industrial accidents with serious ecological consequences.¹

For example, the weather during the summer of 1988 included a drought in the agricultural regions of the United States and Canada and unusual heat in Eastern Europe. These conditions may appear to be symptomatic of a global rise in temperature. However, it is uncertain whether these conditions are merely coincidental or represent a progression of events associated with a change in the overall climate of the planet.

The realities of a worldwide ecological disaster are comparable to the aftereffects of a thermonuclear war in terms of the potential impact upon the human race. Ecological problems have reached levels which threaten the survival of civilization. Overcoming this threat will require a radical change in the approach to solving ecological problems. Protec-

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1. United Nations Environment Programme (UNEP) News, No. 15, 5-7 (1987).

tion of the natural environment is becoming an important component of the protection of human civilization against self-elimination. The concept of international ecological security is based on this approach.

The concept of international ecological security transcends the framework of national political aspirations. It is global in scope. Initially formulated by Soviet theorists as a component of an all-encompassing "System of International Security" (known by its Russian acronym, VSMB), international ecological security has evolved and become more complex. It is now a key element of VSMB. This is evident in the draft resolution *International Ecological Security*² introduced jointly by the Ukrainian Soviet Socialist Republic and Czechoslovakia at the 42nd Session of the U.N. General Assembly. The draft resolution indicates that reformulating the problem of environmental protection at a qualitatively new level, the "ecological security" level, has both objective prerequisites and conceptual novelty. The objective prerequisites necessitating a policy for maintaining ecological security are: the ongoing degradation of the natural environment; a build-up of negative biospheric processes on a global scale; and the real possibility that the application of contemporary economics, science, and technology can propose effective means of guaranteeing optimal environmental conditions.³ This approach is novel because it proposes a policy of linking environmental protection with the survival of mankind, and it also places responsibility for guaranteeing ecological security on the entire international community.

Defining and accomplishing the task of guaranteeing ecological security can be viewed both independently and in the context of VSMB. VSMB presupposes an ability to achieve a synergetic effect, accomplishing the partial and general goals of VSMB by means of mutual cooperation. Recognition of "the need to create a system of international ecological security," as noted in the draft resolution, is also essential.⁴ In

2. U.N. Doc. A/C.2/42/L.34 (1987).

3. *Id.*

4. *Id.*

other words, ecological security should be understood not only as a sub-system of VSMB, but also as an independent system based on a set of special principles intended to guide the conduct of governments.

The concept of ecological security is further developed in the July 16, 1988 declaration of the member nations of the Warsaw Treaty Organization⁵ entitled, *The Consequences of the Arms Race for the Environment and Other Aspects of Ecological Security*.⁶ The declaration states that the arms race and other military preparations are among the most dangerous causes of environmental decline.⁷ The declaration also stresses the need to take advantage of recent advances in disarmament to activate efforts to control the environment,⁸ thereby causing the concrete advances in environmental security to correspond to advances in disarmament.

The Warsaw Treaty Organization has recognized the growing mutual ecological relationship of all nations of the world.⁹ It has summoned all nations to develop and implement the concept of ecological security through an effort based on broad and open international collaboration.¹⁰ The declaration defines international ecological security as "the state of international relations which guarantees the preservation, rational use, reproduction and increase in the quality of the environment."¹¹ The Warsaw Treaty Organization views the formation of a system of international ecological security as a step toward the consolidation of all positive achievements by the world community in the field of environmental protection.¹² It envisions the environmental security activity of the United Nations (U.N.) system, the U.N. Environment Pro-

5. The member nations of the Warsaw Treaty Organization include Albania, Bulgaria, Czechoslovakia, Hungary, East Germany, Poland, Romania, and the USSR. E. OSMANCIZYK, *ENCYCLOPEDIA OF THE UNITED NATIONS AND INTERNATIONAL AGREEMENTS* 907 (1985).

6. Pravda, July 17, 1988.

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

gramme and the U.N. World Commission on the Environment, known as the "Bruntland Commission."¹³

The dynamics of international relations engender certain foreign policy concepts which serve as the foundation of, and clarification for, all of the related activities of governments. Conventionally, these concepts are divided into two categories: process concepts and condition concepts. Process concepts, such as the concept of non-globalism, are usually geared toward achieving tactical goals. Frequently, such goals are attained at the expense of other nations and are unrelated to the interests of the international community as a whole. Since they do not, as a rule, coincide with the responsibilities assigned to fundamental international institutions, these tactical goals are realized by political means. Condition concepts, such as security and world order, have a permanent strategic nature. Their function is to guarantee stable relations among nations despite differences between them. Condition concepts are based on generally accepted norms of international conduct. However, they also require corresponding legal means for their realization. In other words, they are both political and legal in nature.

The concept of ecological security has components of a condition concept, thus it can be considered as a more political-legal concept. It can only be realized through a system of international and legal prescriptions based upon corresponding international and legal principles. It is no coincidence that the July 16, 1988 declaration of the Warsaw Treaty Organization indicates that "a guarantee of international ecological security requires the espousal of obligatory principles and norms of conduct for governments." The declaration proposes that special principles of ecological security be developed from the principles upon which the future system of VSMB is based, and that these principles be integrated with existing principles of international environmental law.¹⁴

Consequently, the following principles of ecological security may logically be proposed. The principle of equal-identical

13. *Id.*

14. *Id.*

ecological security proposes that the ecological well-being of one nation or group of nations may not be guaranteed apart from, or at the expense of, other nations. This follows not only from the indivisibility of global biospheric processes, but also from generally accepted norms of international conduct which have been ratified by international law. The principle of identical ecological security may involve, for example, prohibitions on the transfer of ecologically harmful technologies to other nations, the disposal of hazardous materials in the territory of other nations, or the rapacious consumption of their natural resources.

A second fundamental principle involves the prohibition of ecological aggression and ecocide. The formulation of this principle is discussed by the 1977 *Convention on the Prohibition of Military or Other Hostile Use of Means of Affecting the Environment*,¹⁵ and Resolution 35/8 of the U.N. General Assembly: *Historical Responsibility of Governments for Preserving the Earth's Environment*.¹⁶ In addition, a draft article by the Commission on International Law makes massive contamination of the biosphere an international crime.

The principle of regular exchange of ecological information on national and regional levels will provide for an adequate evaluation of the national regional contribution to guaranteeing global ecological security. Realizing this principle will require an international agreement specifying the frequency of such exchanges, the type of information required and the mechanisms by which such an exchange is to be effectuated. The comparability of the data received from all nations must also be guaranteed. This will require the development of uniform evaluation methodologies, the calibration of testing materials, and so forth.

The principle of monitoring the observance of requirements for security is closely linked to the exchange of accurate

15. *Convention on the Prohibition of Military or Other Hostile Use of Environmental Modifications Techniques*, 31 U.N. GAOR Supp. (No. 39) at 37; 1977 U.N.Y.B. 42-47.

16. *Historical Responsibility of States for the Preservation of Nature for Present and Future Generations*, 35 U.N. GAOR Supp. (No. 48) at 15, U.N. Doc. A/35/8 (1980).

information on the ecological situation. The exchange of ecological information must be the minimum basis for such monitoring. An effective monitoring system may include spot inspections, the creation of permanent international monitoring institutions, and the participation of competent international organizations. The creation of a special international agency, analagous to the U.N.-sponsored International Agency for Observation and Monitoring in the Field of Disarmament, may also be necessary. The creation of such an agency was suggested by Edward A. Shevardnadze, the USSR's Minister of Foreign Affairs, at the third special Session of the U.N. General Assembly on Disarmament.¹⁷

Preventing cross-border environmental damage is the most important principle of ecological security. This is linked with the traditional principles of not causing damage and good-neighborliness. This is a broad principle composed of independent elements. These elements are the notification of activity capable of causing cross-border ecological damage, the evaluation of the potential environmental impact of such activity, the disclosure of all relevant information on the activity, and the requirement of international consultations on any activity which could have cross-border ecological consequences. The prevention of cross-border ecological damage was given special consideration when the leading bodies of UNEP and the U.N. Economic Commission for Europe charged special groups of experts with the development of individual elements of the principle. In addition, at a 1988 session, senior advisors to the governments of the U.N. Economic Commission for Europe on the Environment and Problems of the Sea adopted a recommendation to develop a corresponding convention within the framework of the European region.

The need for international cooperation in extreme ecological situations is manifest from past experience and from the predicted increase in major industrial accidents.¹⁸ This princi-

17. Pravda, July 18, 1988.

18. V. Legasov, *From Today To Tomorrow*, Pravda, Oct. 5, 1987. Academician v. Legasov compares the destructive effect of major industrial accidents to a military threat. This thesis is confirmed by the tragic experience of Chernobyl as well.

ple should be judicially recognized. Effective international cooperation requires that a nation give early notification of an emergency situation to other interested governments. This notification should objectively disclose all available information relating to the accident. The implementation of this principle will require the possible creation of a mechanism for international consultations and assistance. Individual elements of the principle currently exist in the international law of the sea, the law of outer space, and in the latest conventions developed under the aegis of the International Atomic Energy Agency.

The development of international understandings on cooperation in extreme ecological situations continues with regard to the chemical industry. Accidents in the chemical industry have received international notoriety and inflicted considerable damage on the environment.¹⁹ Such accidents motivated UNEP to turn to governments with a proposal to conclude two conventions. The first will ratify an obligation to inform other nations about chemical accidents with cross-border consequences.²⁰ The second convention will create an international legal mechanism for urgent aid from the world community.²¹

The importance of scientific and technological collaboration in the field of environmental protection is apparent from the global nature of ecological security. The scientific and technological resources and potentials of all members of the international community must be united in order to guarantee worldwide environmental protection. An enforceable regimen must be established which would facilitate the exchange of knowledge and technical solutions pertaining to environmental monitoring, resource conservation, and low waste technologies. Such an exchange will serve to even-out previously uneven scientific and technological capabilities among

19. The most well-known cases of chemical contamination were at Minihata (Japan), Love Canal (USA), Sevezo (Italy), Bhopal (India), and the Sandos plant in Berne (Switzerland).

20. UNEP News, No. 13, 3-4 (1987).

21. *Id.*

governments, and to maximize the number of nations participating in the process of creating the ecological security system. The prescriptions of Article 33 of the U.N. Charter are the basis for the peaceful mediation of international disputes.²² Nevertheless, international judicial recognition of the principle of peaceful mediation of environmental disputes is proposed. This principle is linked with cross-border effects on the environment and during the coming decades there will be an increase in trans-frontier environmental impacts. Disputes between governments will increase correspondingly.

Experts in UNEP consider trans-frontier impacts to be a significant source of potential military conflicts. Therefore, to give effect to the UN Charter, it is necessary to create a special mechanism to mediate environmental disputes. It is possible to create a special permanent chamber in the International Court of the U.N. or an independent judicial body with obligatory jurisdiction analogous to the mechanism provided for by the 1982 U.N. Convention on the Law of the Sea.²³

The principle of international responsibility for cross-border damage to the environment may not be fully realized without an institution given the authority to address and assign such responsibility. International responsibility serves as an additional stimulus for the formation of the international judicial institution, and secures the mechanism of prevention by establishing the illegality of inflicting cross-border ecological damage. It also deters such conduct by credibly posing the threat of sanctions. Therefore, this principle must at least prescribe the cessation of activity which causes cross-border damage to the environment and compensation for any damages caused by such activity.

Another important element in the system of international ecological security is the right to a healthful environment. This is an essential component since, in the broad sense, the beneficiaries of ecological security are not so much governments as individuals. The principle of the right to a healthful

22. U.N. CHARTER art. 33, para. 1.

23. Convention on the Law of the Sea, *opened for signature* Dec. 10, 1982, United Nations Official Text, 52-63 (1983).

environment permeates environmental and ecological security. It must become the key principle of the international ecological security system and be an inseparable part of the basic rights and freedoms of man. It must be included in the future Declaration of the Rights of Peoples.

The concept of ecological security is the latest international political phenomenon. As yet, however, the concept has not received serious treatment in the policy or practice of international relations. Only in recent years has this concept been considered in UNEP materials. Individual elements of ecological security are contained in a report to the U.N.'s Bruntland Commission. However, implementation of ecological security as policy, and its international legal recognition, are urgently needed because of the acute global ecological situation. The theoretical investigation of this concept and its practical introduction into international relations must occur simultaneously or with minimum delay. Toward this end, the joining of highly-trained experts in authoritative inter-governmental and non-governmental organizations with independent interdisciplinary scientific research is needed.

A universal forum, such as the U.N. General Assembly, must be used to achieve ecological security, since the concept is of significance to the entire world. Initially, the General Assembly may charge a special inter-governmental group of experts with the task of developing an appropriate system of international legal principles. Part of the current proposals for convening a Worldwide Conference on the Problems of the Human Environment ²⁴ is a draft of the principles of ecological security which may form the basis for the final documents of this proposed conference. The worldwide conference is analogous to the proposal contained in the declaration of the Warsaw Treaty Organization to adopt an appropriate international legal document in 1992, in commemoration of the twentieth anniversary of the Stockholm Conference. These steps

24. The Worldwide Conference would be similar to a second Stockholm Conference. It would commemorate the progression from the U.N. 1972 Stockholm Conference on the Human Environment which resulted in the U.N. Declaration on the Environment.

may result in the ratification of the principles of ecological security in a universal convention.