



**Using International Law  
and Institutions  
to Protect Children's  
Environmental Health**



Authors:

Anne Perrault, JD, MS and Joanna Levitt, BA  
Center for International Environmental Law (CIEL)

This publication was developed under Cooperative Agreement Number CH - 83033001 awarded to Physicians for Social Responsibility by the US Environmental Protection Agency. The Agency reviewed this document; however views expressed in this document are solely those of [Physicians for Social Responsibility and Center for International Environmental Law]. EPA does not endorse any products or commercial services mentioned in this publication.

Acknowledgements:

The authors would like to express their deep appreciation to Susan West Marmagas (Physicians for Social Responsibility) and Martha Berger (Office of Children's Health Protection, US Environmental Protection Agency) for conceiving the idea to prepare this document and providing critical advice and guidance. This work would not have come to fruition without their vision and support.

This document benefited greatly from the contributions of the following individuals, each of whom reviewed the document and provided valuable comments: Daniel Magraw, Peter Illig, Maaiké Jansen, Peter Lallas, Lane Porter, Jenny Pronczukj, Peter van den Hazel, Carole Vidal, Naquet, Steve Wolfson, Laura Perrault, and staff in the Office of Children's Health Protection at US EPA. We are very thankful for their insights.

Additionally, we are grateful to the following CIEL interns, fellows, and staff for their assistance in the preparation of this document: Deborah Ann Scott, Laura Little, Zachary Kamykowski, Sara Aminzadeh, Claudio Rechdem, Saskia Rohm, Rajkumar Deepak Singh, Tazeen Hasan-Granier, and Cameron Aishton. Finally, we are thankful for the support provided by Aline Perrault, Peter Marra, and Tess Bridgeman.

The middle photograph on the front cover was provided by the Pan American Health Organization.

For questions or comments about this handbook please contact the following individuals:

Susan West Marmagas, MPH  
Director, Environment and Health Program  
Physicians for Social Responsibility  
1875 Connecticut Avenue, NW  
Suite 1012  
Washington, DC 20009  
202.667.4260, ext: 224

Anne Perrault, JD, MS  
Senior Attorney  
Center for International Environmental Law  
1367 Connecticut Avenue, NW  
Washington, DC 20036  
202.785.8700

USING INTERNATIONAL LAW AND INSTITUTIONS  
TO  
PROTECT CHILDREN'S ENVIRONMENTAL  
HEALTH

Physicians for Social Responsibility  
Center for International Environmental Law

March 31, 2005

## TABLE OF CONTENTS

TABLE OF CONTENTS .....	2
i. List of Acronyms .....	5
ii. ABOUT THIS HANDBOOK AND HOW TO USE IT .....	6
I. INTRODUCTION.....	12
II. ENVIRONMENTAL THREATS TO CHILDREN’S HEALTH.....	12
<b>A. RELATIONSHIP BETWEEN ENVIRONMENTAL QUALITY AND CHILDREN’S HEALTH</b> .....	12
<b>B. ENVIRONMENTAL THREATS</b> .....	13
<b>C. POVERTY AS AN UNDERLYING FACTOR</b> .....	14
<b>D. TRANSBOUNDARY NATURE OF ENVIRONMENTAL HAZARDS</b> .....	15
III. WHAT IS INTERNATIONAL LAW? .....	15
<b>A. INTERNATIONAL LAW</b> .....	15
<b>B. INTERNATIONAL INSTITUTIONS</b> .....	17
IV. OPPORTUNITIES PROVIDED BY INTERNATIONAL LAW AND INSTITUTIONS.....	18
<b>A. PROVIDING BLUEPRINTS FOR ACTION</b> .....	20
1. Treaties .....	21
a. Human Rights and Labor Treaties.....	21
<i>i. The right to health and health services and the right to a healthy environment</i> .....	23
<i>ii. The right to life, survival and development</i> .....	23
<i>iii. The right to an adequate standard of living</i> .....	24
<i>iv. The right to a healthy workplace environment</i> .....	25
<i>v. The right to education</i> .....	25
c. Environment.....	26
<i>i. Hazardous Chemicals</i> .....	27
Stockholm Convention on Persistent Organic Pollutants .....	27
Rotterdam Convention on Prior Informed Consent.....	28
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal .....	29
<i>ii. Water Pollution</i> .....	29
Convention on the Law of the Non-Navigational Uses of International Watercourses .....	31
International Convention for the Prevention of Pollution from Ships, 1973, .. as modified by the Protocol of 1978 (MARPOL) .....	31
UN Convention on the Law of the Sea (UNCLOS).....	32
<i>iii. Air Pollution</i> .....	32
Long-Range Transboundary Air Pollution Treaty (LTRAP).....	32
Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol to the Vienna Convention for the Protection of the Ozone Layer).....	33
Kyoto Protocol to the UN FCCC.....	34
<i>iv. Food Safety</i> .....	35
Biosafety Protocol .....	35

d. Health.....	35
i. <i>Framework Convention on Tobacco Control (Tobacco Convention)</i> .....	36
ii. International Health Regulations.....	37
2. Customary Law .....	37
a. State Responsibility for Transboundary Harm.....	38
b. The Precautionary Principle.....	38
c. Intergenerational Equity.....	39
3. General Principles of Law Recognized by Civilized Nations .....	40
4. Non-binding rules.....	40
5. Developing New Rules.....	42
<b>B. RESOLVING DISPUTES.....</b>	<b>43</b>
1. Dispute Mechanisms in Treaties .....	43
a. Human Rights and Labor .....	43
b. Environment.....	45
2. The International Court of Justice.....	45
<b>C. ENCOURAGING AND FACILITATING COMPLIANCE .....</b>	<b>46</b>
1. Human Rights .....	47
a. Convention on the Rights of the Child (CRC).....	49
b. International Covenant on Economic, Social and Cultural Rights (ICESCR)..	50
c. International Covenant on Civil and Political Rights (ICCPR) .....	51
d. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).....	52
e. Convention on the Elimination of Racial Discrimination (CERD).....	52
f. American Convention on Human Rights and the Inter-American Human Rights System .....	53
g. European Convention on Human Rights and the European Human Rights System .....	54
h. The African Charter on Human and Peoples' Rights.....	55
2. Labor.....	56
3. Environment.....	57
a. Stockholm Convention on Persistent Organic Pollutants .....	57
b. Rotterdam PIC Convention on Prior Informed Consent.....	58
c. Basel Convention on Hazardous Wastes .....	58
d. Convention on the Law of the Non-navigational Uses of International Watercourses.....	59
e. International Convention for the Prevention of Pollution from Ships (MARPOL).....	60
f. United Nations Convention on the Law of the Sea (UNCLOS).....	60
g. LRTAP and Protocols.....	61
h. Montreal Protocol on Ozone Depletion.....	61
i. Kyoto Protocol on Climate Change.....	62
j. Cartagena Protocol on Biosafety.....	63
k. North American Agreement on Environmental Cooperation (NAAEC) .....	63
4. Health.....	65
a. Tobacco Framework Convention .....	65
b. International Health Regulations.....	65

5. Other Accountability Mechanisms .....	65
a. UN Commission on Human Rights .....	65
b. Alien Tort Claims Act .....	67
c. Accountability Mechanisms of Multilateral Development Banks .....	67
<b>D. PROVIDING FORA FOR DISCUSSION, COORDINATION AND DECISION-MAKING .....</b>	<b>68</b>
<b>E. BUILDING CAPACITY .....</b>	<b>70</b>
1. Human Rights .....	70
2. Environment.....	71
a. Stockholm Convention on Persistent Organic Pollutants .....	71
b. Rotterdam Convention on Prior Informed Consent .....	71
c. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.....	72
d. Convention on the Law of the Non-Navigational Uses of International Watercourses.....	72
e. MARPOL Convention on the Prevention of Pollution from Ships.....	73
f. United Nations Convention on the Law of the Sea (UNCLOS).....	73
g. The Convention on Long-range Transboundary Air Pollution (LRTAP) .....	74
h. Montreal Protocol on Ozone Depletion.....	74
i. Kyoto Protocol on Climate Change.....	75
j. Biosafety Protocol.....	76
3. Health.....	76
a. Tobacco Convention .....	76
<b>F. PROMOTING COOPERATIVE ACTIVITIES .....</b>	<b>77</b>
<b>V. GLOBAL, REGIONAL, AND BILATERAL INSTITUTIONS.....</b>	<b>78</b>
<b>A. GLOBAL AND REGIONAL INSTITUTIONS WITH A PROGRAMMATIC FOCUS ON CHILDREN’S ENVIRONMENTAL HEALTH .....</b>	<b>79</b>
1. World Health Organization.....	79
2. The United Nations Children’s Fund (UNICEF).....	82
3. United Nations Environment Programme (UNEP).....	82
4. United Nations Development Programme (UNDP).....	84
5. International Labour Organisation (ILO) .....	84
6. Regional Organizations .....	85
<b>B. INTERNATIONAL AND REGIONAL FINANCIAL INSTITUTIONS.....</b>	<b>85</b>
1. Global Environment Facility (GEF).....	85
2. International and Regional Development Banks.....	86
<b>VI. CASE STUDIES .....</b>	<b>88</b>
<b>VII. CONCLUSION.....</b>	<b>92</b>
Appendix A .....	93
Appendix B.....	102

## **i. List of Acronyms**

**ATCA:** Alien Tort Claims Act [p. 66]  
**CAH:** Child and Adolescent Health Program [p. 80]  
**CEC:** Commission for Environmental Cooperation [p. 62]  
**CEDAW:** Convention on the Elimination of All Forms of Discrimination Against Women [p. 21]  
**CERD:** Convention on the Elimination of all Racial Discrimination [p. 14]  
**CFCs:** Chlorofluorocarbons [p. 33]  
**CHE:** Children’s Health and Environment Program [p. 79]  
**CRC:** Convention on the Rights of the Child [p. 21]  
**CSW:** Commission on the Status of Women [p. 65]  
**ECOSOC:** United Nations Economic and Social Council [p. 49]  
**FAO:** Food and Agriculture Organization of the United Nations [p. 67]  
**FCTC:** Framework Convention on Tobacco Control [p. 35]  
**GEF:** Global Environment Facility [p. 75]  
**GEOs:** Genetically Engineered Organisms [p. 34]  
**HECA:** Healthy Environments for Children Alliance [p. 68]  
**IACHR:** Inter-American Commission on Human Rights [p. 52]  
**ICCPR:** International Covenant on Civil and Political Rights [p. 21]  
**ICESCR:** International Covenant on Economic, Social and Cultural Rights [p. 21]  
**ICJ:** International Court of Justice [p. 43]  
**ICPD:** International Conference on Population and Development [p. 40]  
**IHR:** International Health Regulations [p. 36]  
**ILO:** International Labour Organization [p. 17]  
**IPEN:** International Pops Elimination Network [p. 67]  
**LRTAP:** Long-Range Transboundary Air Pollution [p. 26]  
**MARPOL:** International Convention for the Prevention of Pollution from Ships [p. 26]  
**MEA:** Multilateral Environmental Agreement [p. 33]  
**NAAEC:** North American Agreement on Environmental Cooperation [p. 62]  
**NAFTA:** North American Free Trade Agreement [p. 62]  
**NGO:** Non-Governmental Organization [p. 15]  
**OAS:** Organization of American States [p. 52]  
**OAU (now African Union):** Organization of African Unity [p. 83]  
**OECD:** Organization for Economic Cooperation and Development [p. 77]  
**PAHO:** Pan-American Health Organization [p. 77]  
**PIC:** Prior Informed Consent [p. 26]  
**POPs:** Persistent Organic Pollutants [p. 27]  
**UNCLOS:** United Nations Convention on the Law of the Sea [p. 26]  
**UNDP:** United Nations Development Programme [p. 17]  
**UNEP:** United Nations Environment Programme [p. 17]  
**UNFCCC:** United Nations Framework Convention on Climate Change [p. 31]  
**UNICEF:** United Nations Children’s Fund [p. 17]  
**WHO:** World Health Organization [p. 17]

## ii. ABOUT THIS HANDBOOK AND HOW TO USE IT

The health of our environment directly impacts the health of the world's children. When children live, play and work in environments that are polluted and degraded, they can suffer severe negative impacts to their health. Environmental quality impacts the health of fetuses also, both directly and via impacts to the well-being of pregnant women. Environmental degradation disproportionately harms children, because they breathe, ingest and absorb more toxins than adults on a weight-basis ratio. Worldwide this year, at least three million children under the age of five will die due to environment-related illnesses.<sup>1</sup>

In addition to being more vulnerable biologically, children are also more vulnerable socially. Children have few legal rights to influence the structures and routines that order their daily lives, and they have limited abilities to vocalize their views on many of the issues that affect them. They are dependent on adults to represent them in many aspects of their everyday life. As rapid globalization creates unprecedented economic change and movement of people and goods, children are increasingly facing risks such as exposure to new hazardous substances, unsafe working conditions associated with child labor, and exploitation. Children are our most vulnerable segment of society.

The vulnerability of children to harmful environmental conditions is of global concern for several reasons. First, many environmental hazards cross national borders. Toxic chemicals, for example, move in international trade, as does hazardous waste. Polluted water flows from one country into another, as does polluted air. Because these threats are international in scope, they cannot be dealt with by action only at the local and national levels. Additionally, pressures resulting from activities at the international level, such as increased global trade, create or exacerbate many other environmental health threats. International markets, for example, can drive the demand for child labor that so often occurs in environmentally unhealthy conditions. Moreover, because some



environmental health threats impact individuals or communities who have limited power and capacity to address the problem, regional or global assistance may provide the only meaningful way for them to address the problem. Finally, addressing these vulnerabilities is central to sustainable development, which depends on the protection of human rights and the environment.

What actions can we take at an international level to address these concerns? What tools and avenues for action are available to individuals, civil society organizations, health practitioners, or government officials who care about protecting the health of our children from environmental threats?

Physicians for Social Responsibility (PSR) and the Center for International Environmental Law (CIEL) believe that international law provides a logical starting point for individuals, institutions, and countries to work together to address many of the major environmental health threats. International law and institutions provide specific opportunities for action—ranging from mechanisms to hold one’s national government accountable for its international environmental obligations, to resources for capacity-building and information-sharing for health initiatives. *Using International Law and Institutions to Protect Children’s Environmental Health* explains what international law is and what it can be used to do. This handbook systematically describes how each key international and regional law and institution is relevant to efforts by civil society, government officials, individuals, and institutions to protect the environmental health of children. It is a resource that a wide range of actors can use to move forward with authority and savvy to protect children’s health.

The international conventions, treaties, and other instruments described in this handbook fall into four major thematic categories: human rights, labor, environment, and health. Although this may seem like a wide range of issues, instruments in each of these categories relate significantly to children’s environmental health. Human rights law in the context of children’s health focuses on ensuring that the basic rights of children, such as the “right to health and health services,” are secured. Labor law focuses on a portion

of these human rights, preventing child labor practices that place children in unhealthy work environments. Environmental law helps ensure that environmental conditions are sufficient to secure these basic human and labor rights of children. Health law focuses on health-specific international issues, such as tobacco use.

The following is a complete list of treaties and other binding instruments described in this handbook:

#### Human Rights and Labor

- Convention on the Rights of the Child
- International Covenant on Economic, Social and Cultural Rights
- International Covenant on Civil and Political Rights
- Convention on the Elimination of all Forms of Discrimination Against Women
- Convention on the Elimination of Racial Discrimination
- ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor
- ILO Convention 138 Concerning Minimum Age for Admission to Employment
- American Convention on Human Rights
- San Salvador Additional Protocol to the American Convention on Human Rights
- European Convention on Human Rights
- African Charter on Human and Peoples' Rights of 1981

#### Environment

- Stockholm Convention on Persistent Organic Pollutants
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
- Convention on the Law of the Non-Navigational Uses of International Watercourses
- International Convention for the Prevention of Pollution from Ships
- United Nations Convention on the Law of the Sea
- Convention on Long-Range Transboundary Air Pollution
- Montreal Protocol on Substances that Deplete the Ozone Layer, protocol to the Vienna Convention for the Protection of the Ozone Layer
- Kyoto Protocol to the United Nations Framework Convention on Climate Change
- Cartagena Protocol on Biosafety, protocol to the Convention on Biological Diversity

#### Health

- Framework Convention on Tobacco Control
- International Health Regulations

The majority of the international law instruments that we describe in this handbook are not focused primarily on children and their health but do relate in significant ways to children's health. For each of these instruments, we point out the important articles, sections, and obligations that relate to children's rights and environmental conditions, and the ways in which the instrument could be useful in the protection of children's health. For example, the International Covenant on Economic, Cultural and Social Rights has a very wide focus, but includes articles that address the specific rights of children to special protection and health, among other rights. To clarify and simplify this information, we have included a series of tables in the back of this handbook that summarize the most important information for each convention and list the articles or sections that relate specifically to children's environmental health.

In addition to these instruments, multiple international institutions exist with major programs focusing on the protection of children's health. Some of these institutions, such as the United Nations Fund for Children and the World Health Organization, house significant expertise and useful information on well-proven and cutting-edge ways to address problems of children's health. Other institutions, such as the World Bank, undertake activities that have the potential to affect, in both positive and negative ways, the health of hundreds of thousands of children each year.

We have tried to structure this handbook in a way that would be most useful to a wide range of groups and individuals who want to learn more about how they can use specific international laws and institutions to advance their work on protecting children's health. The handbook begins with a short introduction, followed by an overview of the major threats to children's environmental health. The third section provides an introduction to international law, explaining the different types of instruments (from binding treaties and customary international law to non-binding guidelines and other "soft-law"); the major international institutions relevant to children's environmental health; and the rules governing how countries, institutions and international law all interact.

Section IV constitutes the major part of this handbook; it provides in-depth information on the six major functions of international law as they pertain to children's health. These functions are: (A) providing blueprints for action, including legal obligations; (B) resolving disputes; (C) promoting compliance of nations with their obligations under international law; (D) providing fora for discussions and decision-making; (E) building capacity and transferring technology; and (F) promoting cooperative activities. Section IV is divided into sub-sections according to these functions. For each function of international law, we cover its importance to protecting children's health and describe how each treaty can be used to achieve that function. For example, under the section on "Promoting Compliance," we explain the compliance mechanisms for each treaty. The handbook is structured in this way to facilitate readers finding the information they need to meet their goals, such as highlighting the importance of complying with a specific environmental obligation, or determining who to contact to initiate new capacity-building activities.

Section V describes the major international institutions relevant to the field of children's environmental health. This section covers international and regional institutions that have a programmatic focus on children's health. The section outlines the kinds of information and resources these institutions have to offer to advocates, as well as ongoing programs and initiatives. These institutions include: the World Health Organization, the United Nation's Children's Fund, the United Nations Environment Programme, the United Nations Development Programme, the International Labour Organization, and several regional organizations. Section V also describes the major international financial institutions, such as the World Bank and the regional development banks, and the ways in which these institutions can influence children's health through their funding and development-related activities. The mechanisms within these institutions that can be used to hold the institutions accountable are also briefly described.

The final section, "Case Studies and Conclusions," includes several real-life examples in which individuals, organizations, or national governments have used

international law and institutions in innovative ways to advance protection of children's health. These case studies are designed to give readers a concrete grasp of how they can enter into international processes and use these instruments and institutions to advance their efforts to protect children's health. This section concludes by offering ways to move forward and general approaches to collaborating most effectively in the protection of children's health.

We hope that members of civil society organizations, individuals, public health practitioners, government officials, and policy-makers will use this handbook. For all of these groups, their efforts can benefit from a stronger understanding of how international law and institutions can be employed to protect children's health from environmental threats. Throughout the handbook, we have tried to highlight opportunities and entry-points for these different groups, identifying, for example, a provision in a treaty that allows non-governmental organizations to submit formal complaints, or international organizations that offer capacity-building services to government programs working on children's health. Our hope is that this handbook can serve as a common tool for all who want to better understand how they can access international law and institutions, and how they can shape international processes that will have an impact on children's environmental health and future.

## **I. INTRODUCTION**

This year, at least three million children under the age of five, most from low-income communities in developing countries, will die from illnesses related to dangerous environmental conditions.<sup>2</sup> Many millions more will suffer as a result of these conditions, which include lack of access to safe water, poor environmental sanitation, indoor and outdoor air pollution, inadequate hazardous chemicals management, deficient food hygiene, and unsafe waste disposal. In fact, a growing number of the physical and cognitive development problems that most affect children today are linked to unhealthy and unsafe environments.

Addressing this crisis requires greater and more coordinated action by governments, individuals, intergovernmental organizations, non-governmental public-interest organizations, private sector interests, financial institutions, and other stakeholders, at all levels—local, national, and international.

This handbook describes how international law and institutions provide opportunities for these groups and individuals to advance the protection of children's health. Specifically, this handbook describes: (1) major environmental threats to the health of children; (2) opportunities provided by international law to respond to these threats; and (3) major roles played by international institutions in promoting the protection of children's health.

## **II. ENVIRONMENTAL THREATS TO CHILDREN'S HEALTH**

### **A. RELATIONSHIP BETWEEN ENVIRONMENTAL QUALITY AND CHILDREN'S HEALTH**

Environmental quality is a key factor in determining the likelihood of survival of young children, and it continues to profoundly impact a child's physical and mental development in subsequent years.<sup>3</sup> Environmental quality impacts the health of fetuses also, both directly and via impacts to the well-being of pregnant women. Children are

more vulnerable than adults to toxic environmental hazards due to their differing physical characteristics and metabolic rates, their close interaction with the physical world, and the fact that their bodies are still in the process of developing.

Children breathe more air, drink more water, and eat more food in proportion to their body weight than adults.<sup>4</sup> For example, children will receive more than double the dose of residual pesticides or chemicals in contaminated water than adults drinking the same water.<sup>5</sup>

Due to their small size and patterns of play, children are in closer contact with their physical environment. Babies and small infants are more likely to put their hands and other objects into their mouth and are, therefore, more at risk from pathogens and pollutants on these surfaces. Small infants play close to the ground and crawl, thereby exposing themselves to dust and chemical compounds present on floors and soil.<sup>6</sup>

Since children's bodies are still in the process of growing and developing, they can also be easily disrupted. For example, a child's kidneys, which are among the main organs responsible for the elimination of toxicants from the body, do not reach full functional capacity until the child's first birthday.<sup>7</sup> Exposure to air and water pollution during early stages of infant growth can lead to permanent and irreparable harm to these organs.

In addition to being more biologically vulnerable, children are also in a more vulnerable position socially. Children are marginalized due to their lack of legal capacity in a range of circumstances. Their restricted participation in decision-making processes limits their ability to vocalize their views on many of the issues that affect them, and they are dependent on adults to represent them in many aspects of their everyday life.

## **B. ENVIRONMENTAL THREATS**

Environmental threats and hazards come from a growing number of sources. Common threats can include: a lack of access to safe water; poor environmental sanitation; indoor air pollution from cooking and heating using coal or biomass fuel; high prevalence of vector-borne diseases such as malaria; deficient food hygiene; and unsafe waste disposal. Rapid economic development can lead to a wide range of additional threats to human health, particularly children's health. These threats include water pollution from populated areas, industry, and intensive agriculture; urban air pollution from motor cars, coal power stations, and industry; inadequate waste management; hazardous wastes; chemical and radiation hazards from industrial and agricultural technologies; climate change; ozone layer depletion; large-scale deforestation; and land degradation.<sup>8</sup> All of these forms of environmental degradation and pollution create health threats that are particularly devastating to children.

### **C. POVERTY AS AN UNDERLYING FACTOR**

Children who live in poverty face significantly higher risks of suffering health problems caused by the environment in which they live. Children in poorer, developing countries experience much more severe environmental health threats than do children living in richer, developed countries. In fact, children in developing countries are thirteen times more likely to die before their fifth birthday than children in developed countries.<sup>9</sup> In every country—in both the developing and developed world—the poorest sections of society suffer disproportionately from unsafe environmental conditions at the household and community levels.<sup>10</sup>

Toxic chemicals and other environmental hazards tend to exacerbate the vicious cycle of poverty and ill health, with families using precious income to pay for their children's medical costs. Furthermore, children who suffer these sicknesses throughout childhood can lose much of their potential for a healthy and productive adulthood.<sup>11</sup>

Not surprisingly, there is a strong, well-established linkage that exists between poverty and child labor. Children's working conditions, particularly in poorer countries,



can expose them to highly toxic chemicals. Children in the workplace are particularly vulnerable since they are susceptible to exploitation, often have no protective equipment, and are prone to other serious risk factors such as malnutrition and inadequate living conditions.<sup>12</sup>

#### **D. TRANSBOUNDARY NATURE OF ENVIRONMENTAL HAZARDS**

Environmental hazards often cross national borders. For example, toxic chemicals move in international trade, as does hazardous waste. Polluted water flows from one country into another, as does polluted air. Persistent organic pollutants and heavy metals move across borders, bioaccumulating as they progress up the food chain to humans. Insects and other disease vectors travel between countries. Factors such as these cannot be dealt with by action only at the local and national levels. We cannot successfully combat these transboundary problems of environmental threats to health by focusing only on a single country. International and regional approaches based on knowledge-sharing and cross-border cooperation are essential, in conjunction with national and subnational approaches, to protecting children's health.

Through such approaches, international law and institutions offer a set of powerful tools to use in our efforts to protect the environmental health of children. These tools can be useful for all those who care about the health of the children, including governments, intergovernmental organizations, policy-makers, health practitioners, environmental health specialists, individuals, non-governmental organizations (NGOs) and other members of civil society.

### **III. WHAT IS INTERNATIONAL LAW?**

#### **A. INTERNATIONAL LAW**

International law is the set of rules that governs the relations of nations with each other, with international organizations, and, in some circumstances, with other persons. Under international law, only subjects of international law can be entitled to rights and

bound by international obligations. However international law has also evolved rapidly toward a recognition of individuals, both by subjecting them to international obligations under international criminal law, and granting them international rights under human rights law. International law traditionally derives from three sources: (1) treaties, 2) customary international law, and 3) general principles of law recognized by “civilized nations.”<sup>13</sup>

*Treaties* are agreements between and among nations or international organizations and are the primary basis for binding rules of international law. Treaties often are called by other names, such as “convention”, “protocol”, or “accord”; the name itself does not determine whether an instrument is legally binding. An example of a treaty is the Convention on the Rights of the Child.

*Customary international law* is found by observing regular and accepted behavior among nations. Instead of deriving from formal agreements, customary law arises from widespread international practice carried out in the belief that that behavior is required by international law. Customary international law can be either global or regional in scope.

*General principles of law recognized by civilized nations* are those principles and rules used in the domestic law of all or most nations. (The term “civilized nations” is a remnant of colonization; today it signifies nations with stabilized legal systems.) One example of such a principle of law and a norm of customary law is estoppel, a basic concept in most national systems that provides that a party is prevented by his own acts from claiming a right to the detriment of another party who was entitled to rely on such conduct and has acted accordingly.

Treaties bind only those nations that have agreed to abide by the terms of the treaty. It is thus necessary to determine what countries are, in fact, Parties to treaties. This can be done by asking the “depository” identified in each treaty or, if none is listed, by asking the country concerned, usually via its ministry of foreign affairs. Customary international law and general principles of law recognized by civilized nations apply to

all nations with one exception: customary international law does not apply to any nation that has persistently objected to the rule during its formation.

Under some circumstances, international organizations (such as the United Nations, via the United Nations Security Council or the United Nations General Assembly) also can contribute to international law. Judicial opinions of courts interpreting and applying international law, such as the European Court of Human Rights, and the writings of scholars can be evidence of international law. *Non-binding rules*, such as declarations, codes of conduct, and guidelines, can also influence activities of nations because they reflect agreed moral norms or represent a political commitment. These are often referred to as “soft law” whereas treaties and customary international law are referred to as “hard law.”

As described in greater detail below, several areas of international law directly influence children’s health. These areas include human rights law, labor law, environmental law, and health law. These areas of law are often interrelated and can be used jointly to protect children’s health. Trade law can also influence children’s health, providing benefits but also posing challenges to greater protection (for more information on trade and impacts to health, see Box 2, on page 52).

## **B. INTERNATIONAL INSTITUTIONS**

In addition to international law, *international institutions* affect the health of children around the world. The World Health Organization (WHO), United Nations Children’s Fund (UNICEF), United Nations Environment Programme (UNEP), United Nations Development Programme (UNDP), and International Labour Organisation (ILO) are among the major institutions that address children’s environmental health issues, and that influence and support children’s health activities of governments and local communities. Important regional institutions with a programmatic emphasis on children’s health also exist, such as the Pan-American Health Organization. International and regional *financial institutions*—such as the World Bank, the Asian Development

Bank, and the East European Development Bank—influence children’s health through their funding and development-related activities. Projects funded or insured by these financial institutions can positively or adversely impact the health of large numbers of children. Private foundations, such as the Gates Foundation and Soros Foundations, can also significantly assist efforts to address children’s environmental health concerns.

#### **IV. OPPORTUNITIES PROVIDED BY INTERNATIONAL LAW AND INSTITUTIONS**

International law and institutions serve various functions that provide opportunities to advance protection of children’s health. These functions include: (A) providing blueprints for action, including legal obligations; (B) resolving disputes; (C) promoting compliance of nations with their obligations under international law; (D) providing fora for discussions, priority-setting, and decision-making; (E) building capacity and technological and scientific support; and (F) promoting cooperative activities. These functions are summarized below and described in greater detail after the summary.

- (A.)        Providing a blueprint for action – Binding international law seeks to regulate the behavior of countries, institutions, and, in some instances, individuals. In this sense, it serves as a binding blueprint for action. Non-binding instruments, such as programs of action, guidelines and codes of conduct, can also serve to promote and guide behavior.
  
- (B.)        Resolving disputes – Treaties often contain provisions describing how disputes can be resolved between countries when a country is alleged to be in non-compliance with its obligations. Frequently these disputes are centered on issues of interpretation of treaty provisions or on technical issues related to treaty implementation. Customary international law issues can also be the subject of

dispute under some dispute mechanisms. Human rights disputes involve disputes between individuals (or communities) and countries.

- (C.) Promoting compliance – In addition to dispute resolution mechanisms, the use of which might result in greater compliance by a government with its obligations, treaties often provide mechanisms by which not only governments but, also, other interested groups or individuals may seek to motivate countries to comply.
- (D.) Providing fora for discussions and decision-making - International treaties almost always provide for meetings or other means of communication in which problems can be highlighted, solutions identified and discussed, dialogue promoted, priorities set, and decisions made. International institutions often excel at providing meetings and other events that serve these purposes (indeed, one often-heard criticism is that there are too many meetings and not enough action.)
- (E.) Building Capacity and Technological and Scientific Support – The abilities of countries to implement international obligations depend on their financial, technical, educational, and institutional capacity, as well as on their political will. Most international treaties contain provisions to support at least some aspect of capacity building, particularly in developing countries. Activities of international institutions also contribute significantly to enhancing abilities to implement norms.
- (F.) Promoting Cooperative Activities - Many environmental hazards that impact children's health can be addressed only through cooperation between governments, as well as among governments, civil society, international institutions, and other stakeholders. Most treaties and non-binding instruments either explicitly promote cooperation or promote measures that achieve cooperation. Activities of international institutions frequently serve to achieve greater cooperation among these entities.

Although most of international law does not directly target children, some of it addresses concerns that are central to the protection of children's health. This paper examines those areas of international law (treaties, customary law, general principles of law) that apply to children's health and its relationship to the environment.

#### **A. PROVIDING BLUEPRINTS FOR ACTION**

As stated earlier, binding rules and non-binding declarations, programs of action, codes, etc. that can advance protection of children's health include those in the areas of human rights, labor, environment, and health. Human rights law in the context of children's health is focused on ensuring that the basic rights of children, such as the "right to health and health services," are secured. Labor law focuses on a portion of these human rights, preventing child labor practices that place children in unhealthy work environments. Environmental law helps ensure that environmental conditions necessary to secure these basic human and labor rights of children are provided. Health law focuses on health-specific international issues, such as tobacco use. Trade law, which is intended to promote sustainable development by facilitating international commerce in goods, services, investment, and intellectual property, can pose challenges to efforts to protect children's health as well as facilitate protection.

Binding rules of law, created by treaties, customary law, and general principles of law, may be very specific in scope, such as prohibiting a government from consuming or producing a specified amount of ozone-depleting substances, or relatively general in scope, such as directing a government to "ensure the survival and development of the child."

Most treaties provide a way for governments to change the rules or to establish new agreements, or protocols, to the existing treaty to respond to new concerns. This almost always involves obtaining the countries' consent once again. International institutions frequently play a primary role in developing new binding and non-binding

rules, acting as meeting conveners, idea generators, providers and promoters of the underpinning science, mediators, and drafters.

## 1. Treaties

Treaties may be global (e.g., Convention on the Rights of the Child), regional (e.g. European Convention of Human Rights), or bilateral (e.g., the 1983 La Paz Agreement for Cooperation on Environmental Programs and Transboundary Problems between the U.S. and Mexico) in scope. Many treaties explicitly recognize that nations that become Parties to the treaty are obligated to take all appropriate legislative, administrative, and other measures to implement the provisions in the treaties.<sup>14</sup> Even if a treaty does not include such a provision, nations are required to perform the obligations to which they consented by implementing the treaty through their domestic systems.

### a. Human Rights and Labor Treaties

The regional and global human rights and labor treaties that are most important to the protection of children's health are the following<sup>15</sup>:

- Convention on the Rights of the Child<sup>16</sup>
- International Covenant on Economic, Social, and Cultural Rights (ICESCR)<sup>17</sup>
- International Covenant on Civil and Political Rights (ICCPR)<sup>18</sup>
- Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)<sup>19</sup>
- International Convention on the Elimination of Racial Discrimination (CERD)<sup>20</sup>
- ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO 182)<sup>21</sup>
- ILO Convention 138 Concerning Minimum Age for Admission to Employment (ILO 138)<sup>22</sup>
- American Convention on Human Rights (American Convention)<sup>23</sup>
- Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (San Salvador Protocol)<sup>24</sup>
- Convention for Protection of Human Rights and Fundamental Freedoms (European Convention)<sup>25</sup>
- African Charter on Human and Peoples' Rights of 1981 (African Charter)<sup>26</sup>

Most of these conventions contain provisions that relate specifically to children and their well-being, although only the Convention on the Rights of the Child (CRC) focuses primarily on children. Conventions that do not contain child-specific provisions still address issues that are important to children’s health (Table 1.1 in Appendix A outlines the child-specific provisions of each convention addressed in this handbook). The CRC identifies the basic human rights-related rules that support protection of children’s health, including specifically from environmental health threats. The rights identified include: the right to the highest attainable standard of health (including the provision of clean drinking water, taking into consideration the dangers and risks of environmental pollution, and hygiene and environmental sanitation) and health services; the right to life, survival, and development; the right to an adequate standard of living; the right to a healthy workplace environment; and the right to education (including development of respect for the natural environment). Many of these and other closely related obligations are reflected in the other human rights agreements also. (Table 1, in Appendix A, identifies the rights associated with each convention.) Although only the San Salvador Protocol and African Charter explicitly recognize a right to a healthy environment<sup>27</sup>, official interpretations of other rights in other human rights treaties indicate that implementation of these rights requires attention to environmental concerns.<sup>28</sup>

Nations are obligated to “respect, protect, and fulfill” these rights.<sup>29</sup> The obligation to *respect* requires nations to refrain from interfering with the enjoyment of human rights. The obligation to *protect* requires nations to prevent violations of such rights by private persons, such as individuals or corporations. Because individuals and corporations, such as employers, may not be directly bound to respect other individuals’ human rights and yet can still violate human rights, a victim’s only form of redress may be to hold the State accountable for not preventing the violation. The obligation to *fulfill* requires nations to take appropriate legislative, administrative, budgetary, judicial and other measures towards the full realization of such rights. The rights that are most



relevant to the protection of children’s health are defined below, and a matrix showing which conventions include these rights is in Appendix A.

*i. The right to health and health services and the right to a healthy environment*

The CRC identifies conditions that are essential to securing the right to health, including, for example, attention to environmental pollution and environmental sanitation.<sup>30</sup> The right to health has been interpreted, elsewhere, as extending to underlying conditions of health, including access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, and healthy occupational and environmental conditions.<sup>31</sup> The San Salvador Protocol recognizes both a right to health and a related right—the “right to live in a healthy environment and to have access to basic public services.”<sup>32</sup> Similarly, the African Charter contains a right to health and a right of “all peoples...to a general satisfactory environment favorable to their development.”<sup>33</sup>

As applied to child and maternal health, the right to health requires, “measures to improve child and maternal health, sexual and reproductive health services, including access to family planning, pre- and post-natal care, emergency obstetric services and access to information, as well as to resources necessary to act on that information.”<sup>34</sup>

This right is closely related to and dependent upon the realization of other human rights, including the rights to life, food, housing, work, education, human dignity, non-discrimination, equality, privacy, and access to information; the prohibition against torture; and the freedoms of association, assembly, and movement.<sup>35</sup> All of these rights must be upheld in order for children and their communities to be able to secure the underlying conditions for healthy childhood development.

*ii. The right to life, survival and development*

The right to life, survival, and development is considered essential to other rights.<sup>36</sup> One official interpretation of this right characterizes it as “not only the right of every human being not to be deprived of his life arbitrarily, but also the right that he will not be prevented from having access to the conditions that guarantee a dignified existence.”<sup>37</sup> These conditions include the right to housing, nutrition, and the highest attainable standards of health.<sup>38</sup> According to the U.N. High Commissioner for Human Rights, “the term ‘development’ in this context should be interpreted in a broad sense, adding a qualitative dimension: not only physical health is intended, but also mental, emotional, cognitive, social and cultural development.”<sup>39</sup>

*iii. The right to an adequate standard of living*

The right to an adequate standard of living has been interpreted to include a right to food and clothing, housing, water, and sanitation.<sup>40</sup> According to the Commission on Human Rights, the right to food includes the right of everyone to have access to safe and nutritious food as well as to be free from hunger so as to be able fully to develop and maintain their physical and mental capacities.<sup>41</sup>

The right to water “entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements.”<sup>42</sup> The emergence of the right to water is currently the subject of strong international debate.<sup>43</sup>

The right to housing includes not just shelter but “the right to live somewhere in security, peace and dignity.”<sup>44</sup> Adequate housing must provide inhabitants with adequate space and protect them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. Given that the World Health Organization (WHO) views housing as the environmental factor most frequently associated with conditions for disease, addressing this right is central to protection of children’s health.

*iv. The right to a healthy workplace environment*

The right to a healthy workplace environment has been interpreted to include measures to prevent occupational accidents and diseases, the requirement to ensure an adequate supply of safe and potable water and basic sanitation, and the prevention and reduction of the population's exposure to harmful substances such as radiation and harmful chemicals or other detrimental environmental conditions that directly or indirectly impact upon human health.<sup>45</sup>

Convention 138 of the International Labour Organisation (ILO) concerns Minimum Age for Admission to Employment, and ILO Convention 182 concerns the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor. Both address the right to a healthy workplace environment and the right to avoid hazardous work altogether, and both emphasize the need to protect the “health, safety and morals of young persons.”<sup>46</sup>

*v. The right to education*

The right to education is regarded as a human right and an indispensable means of realizing other human rights.<sup>47</sup> In this sense, it is viewed as an “empowerment right,” a “primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty, and obtain the means to participate fully in their communities.”<sup>48</sup>

The CRC emphasizes that full implementation of the right to health requires “that all segments of society, in particular parents and children, are informed, have access to education, and are supported in the use of basic knowledge.”<sup>49</sup> In the context of ensuring a sound environment for the protection of children’s health, this right enables children to be informed participants in decisions affecting their environment.<sup>50</sup>

### c. Environment

Environmental treaties identify obligations to address activities that pose threats to the environment (e.g., introduction of hazardous chemicals) or to protect a certain environmental resource (e.g., air). Although none of these treaties focuses primarily on protection of children's health, many environmental treaties address an environmental health threat that could significantly adversely impact children. Below we highlight the provisions of the environmental treaties that are most significant to the protection of children's health. Several treaties contain provisions that relate specifically to children's health. For example, the Stockholm Convention on Persistent Organic Pollutants requires governments to consult with groups involved in the health of children and to develop and implement, for children, awareness programs about persistent organic pollutants. To address these environmental health threats, national governments must act in concert with other stakeholders to implement the obligations of these conventions – negotiating, signing, and ratifying these treaties is simply the beginning of the process.

Environmental treaties that relate to protection of children's health can roughly be placed into four overlapping categories of environmental concerns: chemicals and hazardous waste, water pollution, air pollution, and food safety. These treaties include the following:

- Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention)<sup>51</sup>
- Rotterdam Convention on the Prior Informed Consent (Rotterdam PIC Convention) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade<sup>52</sup>
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention)<sup>53</sup>
- Convention on the Law of the Non-Navigational Uses of International Watercourses<sup>54</sup>
- International Convention for the Prevention of Pollution from Ships (MARPOL)<sup>55</sup>
- United Nations Convention on the Law of the Sea (UNCLOS)<sup>56</sup>
- Convention on Long-Range Transboundary Air Pollution (LRTAP)<sup>57</sup>

- Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol), protocol to the Vienna Convention for the Protection of the Ozone Layer<sup>58</sup>
- Kyoto Protocol to the United Nations Framework Convention on Climate Change (Kyoto Protocol)<sup>59</sup>
- Cartagena Protocol on Biosafety (Biosafety Protocol) protocol to the Convention on Biological Diversity<sup>60</sup>

A description of the key commitments made by Parties pursuant to each of these environmental treaties is included in Table 2, in Appendix A.

#### *i. Hazardous Chemicals*

A number of key conventions, including the Stockholm Convention, Rotterdam Convention, and Basel Convention, address chemicals in the environment. As noted in the introduction, the impact of several hazardous and toxic chemicals on health, particularly children's health, is well documented.<sup>61</sup> Children are most vulnerable to these chemicals, which can, among other impacts, impair immune systems and damage organs.<sup>62</sup> Sound management of toxic chemicals is critically important to protecting human health, particularly children's health; in 2000, five percent of children's deaths in developing countries were due to toxic poisoning.<sup>63</sup>

#### *Stockholm Convention on Persistent Organic Pollutants*

The primary objective of the Stockholm Convention is to ban production, trade, and use of persistent organic pollutants (POPs)—chemicals that persist in the environment for a long time, are toxic to humans, have a strong tendency to bioaccumulate (to increase in concentration in living organisms, particularly those higher up on the food chain), and are prone to long-range transport.<sup>64</sup> The Convention also covers the safe disposal of existing stockpiles of POPs. Given the impact of POPs on children's health, achieving the objectives of the Stockholm Convention would considerably boost efforts to advance protection of children's health globally. The Stockholm Convention will have its first Conference of the Parties in May 2005 in

Uruguay,<sup>65</sup> and the Parties have discussed putting children's environmental health issues on the agenda.

The convention identifies goals and outlines approaches to addressing intentionally introduced POPs, unintentionally introduced POPs, and POPs found in stockpiles and wastes. The convention requires Parties to assess existing chemicals to identify others that might qualify as POPs, and thus be added to the convention, and obligates Parties to consider candidates that have been forwarded by countries. Although nominations are required to come from governments, interested and informed members of the public might be able to influence the list of candidate chemicals.

#### *Rotterdam Convention on Prior Informed Consent*

The Rotterdam Convention's primary objective is to reduce risks posed to human health and the environment by international trade in certain hazardous chemicals.<sup>66</sup> The Convention obligates Parties to ensure that the export of a chemical covered by the Convention takes place only with the prior informed consent of the importing party. Through this requirement, the convention seeks to ensure that importing countries have the tools and information they need to identify potential hazards and to exclude chemicals they cannot manage safely. The Rotterdam Convention entered into force in February 2004, and its first conference of the Parties was in September 2004.<sup>67</sup>

The Rotterdam Convention covers most of the POPs covered by the Stockholm Convention. The Rotterdam Convention also covers many additional pesticides and industrial chemicals that have been banned or severely restricted for health or environmental reasons by Parties, and which have been noted by Parties for inclusion in the PIC (prior informed consent) procedure. For both conventions, however, the responsibility of Parties to address issues related to listed substances, e.g., issues related to phase-out timing, as well as consider new substances, i.e., either for inclusion in the PIC list or the POPs list, can also be crucial to protecting children's health. Chemical

hazards from industrialization and the increased use of chemicals necessitate follow-through by nations on international efforts to tackle these environmental dangers, as well as careful assessment of substances not yet listed, to effectively protect children's health.

*Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal*

The Basel Convention seeks to control the transboundary movement of hazardous wastes and hazardous recyclable materials, and to promote the environmentally sound management of these wastes and materials.<sup>68</sup> The Convention was developed in response to a need to prevent the movement of toxic and hazardous wastes to developing countries—the primary recipients of these wastes and those least able to manage such wastes.

The Convention obligates Parties to classify wastes and recyclable materials as hazardous based on agreed-upon criteria, and to take specified actions to reduce their impact.

*ii. Water Pollution*

Freshwater pollution is one of the major causes of illness and death, particularly in the developing world.<sup>69</sup> Over 1.2 billion people a year are put at risk of illness and death due to lack of access to clean water and exposure to waterborne diseases resulting from inadequate sanitary waste disposal.<sup>70</sup> The primary water-borne disease, diarrhoeal disease, is responsible for 4 billion illnesses a year, 3 to 4 million of which result in death—mostly among children.<sup>71</sup> No binding international treaty exists to require countries to provide safe drinking water. Numerous treaties regulate the quality of water that flows in rivers, watersheds, and other international watercourses between countries. All of these, except the Convention on the Law of the Non-Navigational Uses of International Watercourses, are bilateral or regional agreements.<sup>72</sup> The UN Member

States have pledged to reduce by 50% the proportion of people without sustainable access to safe drinking water by 2015, as part of the UN Millennium Development Goals.<sup>73</sup> At the World Summit on Sustainable Development in Johannesburg in 2002, the international community reaffirmed this goal and added a new target of halving by 2015 the proportion of people without access to basic sanitation.<sup>74</sup> Various international organizations, national governments and NGOs are working to achieve this goal, and while this target is not binding, it does represent a political commitment.

Marine pollution is another major source of impact to children's health; children suffer health consequences from direct and indirect exposure to marine pollution. Contamination of the sea by sewage pollution has "precipitated a health crisis of massive proportions globally."<sup>75</sup> Bathing in polluted seas is estimated to cause some 250 million cases of gastroenteritis and upper respiratory disease in the general population every year, disabling some of those impacted.<sup>76</sup> Additionally, consumption of fish and mammals from the marine environment can be a significant source of exposure to heavy metals and other compounds, such as mercury, impacting development in the prenatal period most significantly.<sup>77</sup>

Marine pollution is derived from three main sources: ships, dumping at sea, and land-based sources. Land-based pollution, entering the oceans through rivers and deposition of air pollution, is currently the major source of marine pollution, accounting for over 80 percent of the total load of contaminants and pollutants entering the ocean.<sup>78</sup>

Several international instruments address water pollution issues, such as the Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities<sup>79</sup> and the many conventions under UNEP's Regional Seas Programmes, the first of which was the Barcelona Convention for the Mediterranean.<sup>80</sup> The three most notable global conventions addressing water pollution are the Convention on the Law of the Non-Navigational Uses of International Watercourses, the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78), and the UN Convention on the Law of the Sea (UNCLOS).



*Convention on the Law of the Non-Navigational Uses of International Watercourses*

The Convention on the Law of the Non-Navigational Uses of International Watercourses promotes the protection and sustainable management of surface water and groundwater resources shared by States. Generally, it provides measures to guide the negotiation of agreements relating to specific watercourses and outlines principles to govern the conduct of riparian States relative to watercourses. More specifically, it directs Parties to utilize an international watercourse in an equitable and reasonable manner, not cause significant harm to other watercourse States, cooperate, regularly exchange information, and notify other watercourse States of planned measures.<sup>81</sup>

To protect and preserve the ecosystems of watercourse systems, shared watercourse States are directed to prevent, reduce and control pollution to an international watercourse that may cause significant harm, including harm to health or safety; take all necessary measures to prevent the introduction of species that may detrimentally impact the ecosystem; take all measures that are necessary to protect and preserve the marine environment, including estuaries; and take all appropriate measures to prevent or mitigate other harmful conditions.

*International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL)*

The MARPOL Convention is the main international convention covering prevention of pollution—including oil, chemicals, harmful substances in packaged form, sewage and garbage—by ships into the marine environment.<sup>82</sup> Under MARPOL, Parties are obligated to eliminate or reduce the discharge of some of these pollutants and otherwise address the remaining pollutants.

### *UN Convention on the Law of the Sea (UNCLOS)*

Under UNCLOS, Parties assume a general obligation to protect and conserve the marine environment. The Convention requires nations to take all necessary measures to prevent, reduce and control pollution of the marine environment from any source, using “best practicable means.”<sup>83</sup> UNCLOS stipulates that measures shall prevent, reduce and control pollution from land-based sources, seabed activities subject to national jurisdiction, activities in the high sea area, dumping, vessels, and the atmosphere.<sup>84</sup>

#### *iii. Air Pollution*

Several conventions, most notably the Convention on Long-Range Transboundary Air Pollution, the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol to the Vienna Convention for the Protection of the Ozone Layer), and the Kyoto Protocol to the UN Framework Convention on Climate Change (UN FCCC) focus on issues related to air pollution. According to the World Health Organization, sources of dust, gases, and smoke contribute to respiratory diseases, asthma, chronic obstructive pulmonary disease, cardiovascular disease, and cancer of the lungs.<sup>85</sup> Young children are particularly vulnerable to air pollution given that their lungs are still developing, they take in more air per unit body weight, and they exert themselves more than adults.<sup>86</sup> Air pollution also contributes to contaminating food and water sources.

#### *Long-Range Transboundary Air Pollution Treaty (LTRAP)*

The primary objective of the 1979 Convention on Long-Range Transboundary Air Pollution, the first multilateral treaty addressing air pollutants, is to reduce and limit air pollution that impacts human health and the environment, particularly air pollution whose sources are so distant that it is not possible to distinguish the contribution of individual sources. The treaty is regional in scope, open primarily to most European nations, but also to other specified countries, including the United States.

The Convention is a framework treaty; it does not establish binding commitments to undertake concrete measures for the reduction of specific pollutants, but instead establishes general principles and sets the stage for subsequent protocols on specific problems. The text states only that countries shall try to limit, reduce and prevent air pollution by using the best available technology that is economically feasible. It outlines the general principles of international cooperation for air pollution abatement and sets up an institutional framework bringing together research and policy.

Parties to the Convention have agreed, based on the general principles of the Convention, to eight protocols, which identify specific obligations or measures to be taken by Parties to regulate emissions of sulphur, nitrogen pollutants, volatile organic compounds, photochemical oxidants, heavy metals and persistent organic pollutants.<sup>87</sup>

Generally, the specific obligations include a wide range of control and management actions, from banning or phasing out substances to restricting their use and controlling their emissions. Several of the protocols allow for modifying the list of substances and actions without requiring a renegotiation of the entire protocol.

*Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol to the Vienna Convention for the Protection of the Ozone Layer)*

This agreement is a protocol to the Vienna Convention for the Protection of the Ozone Layer (1985), under which governments made general commitments to protect the ozone layer and to cooperate in scientific research. The primary objective of the Montreal Protocol is to phase-out the production and consumption of chemicals that reduce atmospheric ozone levels.<sup>88</sup> Phase-out schedules are designed to be revised based on periodic scientific and technological assessments. In addition, they vary for developed and developing countries. The protocol contains important provisions limiting or banning trade in ozone-depleting chemicals and products containing them. The protocol allows Parties to seek exemptions from prohibitions in the agreements.<sup>89</sup>

Ozone depletion results in increasing ultraviolet radiation at the Earth's surface, which ultimately leads to higher incidence of skin cancer in humans, weakened immune systems, eye cataracts and other health problems. Children are at a higher risk of suffering damage from exposure to UV radiation than adults because their skin is thinner and more sensitive, and they generally are more exposed to the sun.<sup>90</sup> Frequent sun exposure and sunburn in childhood sets the stage for high rates of skin cancer, and other health problems, later in life.

Since the Protocol's entry into force in 1987, most ozone-depleting substances have been phased out in the industrialized world. As such this protocol is often cited as the most successful multilateral environmental agreement (MEA) to date. The continued success of the Montreal Protocol will hereafter largely depend on the capacities of developing countries to achieve obligations. Impediments to developing country compliance include the low cost of chlorofluorocarbons (CFCs), the high cost of alternatives, and the continued export of CFC- based products to developing countries.

#### *Kyoto Protocol to the UN FCCC*

The primary objective of the Kyoto Protocol, which entered into force in 2005, is to address causes of global warming. Under the Kyoto Protocol, developed nations commit to specific limits on their emissions of greenhouse gases in order to slow the rate of climate change. The specific limits vary from country to country.<sup>91</sup> These measures have direct relevance to protecting children's health, as children are particularly vulnerable to both the air pollution that catalyzes climate change as well as the potential effects of climate change, such as increased transmission of water-borne diseases due to flooding.

Measures include enhancing energy efficiency, protecting and enhancing sinks and reservoirs of greenhouse gases, promoting sustainable agriculture, researching and promoting use of new and renewable forms of energy and other environmentally-sound technologies, reducing market imperfections and incentives that run counter to objectives

of the Convention, encouraging reforms in relevant sectors that reduce greenhouse gases, limiting or reducing greenhouse gas emissions, and limiting and reducing methane emissions.

*iv. Food Safety*

*Biosafety Protocol*

The Biosafety Protocol to the Convention on Biological Diversity is intended to provide a framework for addressing the environmental impacts of certain genetically engineered organisms (referred to in the protocol as “living modified organisms” or LMOs) that cross international borders.<sup>92</sup> The potential impacts of LMOs, generally, on health are not yet well understood, and are the subject of research.

Among the primary obligations of the Convention is a requirement that those seeking to export a LMO seek consent from an importing country prior to the first shipment of a LMO intended for intentional introduction into the environment (e.g., of LMOs, including seeds for planting, fish for release and microorganisms for bioremediation). The procedure does not apply to LMO commodities that are intended for food, feed, or processing (e.g., corn), to LMOs in transit, or to LMOs destined for contained use (e.g., vials for scientific research). Another requirement obligates governments to provide the Biosafety Clearinghouse, which was created by the convention, with information concerning any final decisions on the domestic use of a LMO commodity.

d. Health

Most of the environmental treaties mentioned above have significant implications for human health, but typically are not referred to as “health” treaties. The Framework Convention on Tobacco Control (FCTC)<sup>93</sup> has been characterized as the first multilateral instrument to address a public health concern.<sup>94</sup> It contains provisions that relate specifically to children, including a provision addressing the sale of tobacco to and by

minors. Many of the other provisions, while not child-specific, address issues that concern children's health, including indoor air pollution, among others.

The only other international binding health-specific obligations are the International Health Regulations, which are binding regulations adopted by majority vote of the Health Assembly of the World Health Organization (WHO), pursuant to the Constitution of the WHO.<sup>95</sup>

Much of the remainder of international health law is non-binding standards and guidelines to assist national governments in responding to health threats. These are described in greater detail in the non-binding law section, below.

*i. Framework Convention on Tobacco Control (Tobacco Convention)*

The objective of the Tobacco Convention, which recently entered into force, is “to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by the Parties at the national, regional and international levels in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke.”<sup>96</sup>

Tobacco impacts children's health primarily through secondhand smoke (otherwise known as environmental tobacco smoke) produced by adults smoking in environments where children live, study, play and work.<sup>97</sup> Environmental tobacco smoke is a significant public health risk to young children. Children exposed to environmental tobacco smoke are more likely to suffer from reduced lung function, lower respiratory tract infections and respiratory irritations.<sup>98</sup> Children who smoke are even more likely to suffer from these maladies.

As a framework convention, the Tobacco Convention establishes general rules and principles to guide development of protocols that elaborate more specific obligations. General substantive obligations include developing tobacco control policies that are

consistent with provisions of the Tobacco Convention; adopting and implementing effective national legislation on tobacco control; and protecting tobacco control policies from commercial and other vested interests of the tobacco industry.<sup>99</sup>

Additionally, the Convention articulates obligations related to demand for, and supply of, tobacco, including measures to regulate packaging, labeling, pricing and taxing.<sup>100</sup> International regulation of such measures can help to prevent tobacco companies from targeting under-age youth.

### *ii. International Health Regulations*

The International Health Regulations (IHR) represent the only binding international health-related rules on communicable diseases.<sup>101</sup> Their purpose is to maximize security against the international spread of diseases while minimizing interference with global trade and travel. They establish a global surveillance system for certain diseases, require some health-related capabilities at ports and airports, and set out disease-specific provisions for the covered diseases.<sup>102</sup>

Because the regulations apply only to three infectious diseases—cholera, plague and yellow fever—the usefulness of the IHR currently is limited.<sup>103</sup> The WHO is in the process of considering how to update these regulations, particularly in light of increased risks of spread of communicable diseases posed by globalization.

## **2. Customary Law**

As noted earlier, international customary law is developed by widespread practice of nations where such practice is carried out in the belief that it is required by law. At any given time, norms of customary international law may be in the process of being formed by, or may even be emerging from, the practice of states and the international obligations to which countries have agreed. The overall situation often results in disagreement among countries about whether a particular concept is, in fact, a binding

norm of customary international law. The situation is further complicated because the term “principle” is used to describe both binding and non-binding concepts (as well as in the separate source of international law referred to as “general principles of law recognized by civilized nations”, discussed in the following section). Even when customary international law is general it constitutes a useful standard against which the behavior of States regarding the protection of children’s health can be tested. Several existing or potentially emerging rules of customary law have relevance to protecting children’s health, including State (e.g., national) Responsibility for Transboundary Harm, the Precautionary Principle, and the Principle of Intergenerational Equity.

#### a. State Responsibility for Transboundary Harm

All nations have the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other nations or of areas beyond the limits of national jurisdiction.<sup>104</sup> This principle is critically important to the protection of children’s health because, for example, POPs and many other potent toxic substances are prone to long-range transport and swept around the world by winds and ocean currents. No single nation can effectively work alone to protect its children from, for example, respiratory illness or mercury poisoning resulting from long-range air pollution. The transboundary nature of these problems requires international cooperation and national responsibility for the impacts that national activities may have beyond national borders.

#### b. The Precautionary Principle

The precautionary principle (also referred to as the “Precautionary Approach”) is directed at addressing the issue of whether, and, if so, how, to take action when there is scientific uncertainty. As articulated in Principle 15 of the Rio Declaration, the precautionary principle states that when there are threats of serious or irreversible environmental damage, nations may not use a lack of full scientific certainty as a reason for postponing action to prevent this damage.<sup>105</sup> Other articulations of the precautionary principle exist, including the use of the term “precautionary approach” in the Biosafety



Protocol, and there is considerable debate about its precise meaning and whether it is, in fact, binding international law.<sup>106</sup>

Whether or not it is binding international law, precaution is a widely acknowledged concept and, in fact, part of virtually all domestic, health, safety and environmental regulatory systems (which inevitably have to make decisions under conditions of uncertainty), in some contexts with specific reference to children. One example of a domestic regulatory system incorporating a precautionary approach, specifically with regard to children's health, is the U.S. Food Quality Protection Act of 1996, which requires at several points a 10-fold safer standard where children are concerned.<sup>107</sup> As recognized by experts, given the significant threats posed to children's health by environmental hazards such as toxic chemicals, use of the precautionary approach to exclude or otherwise control these chemicals and to promote use of safer alternatives is clearly warranted.<sup>108</sup>

### c. Intergenerational Equity

Intergenerational equity incorporates three components. First, each generation should conserve the diversity of the natural and cultural resource base so that the options available to future generations in meeting their needs and solving their problems are not unduly restricted. Second, each generation should be entitled to receive—and be required to maintain—overall environmental quality comparable to that enjoyed by previous generations. Third, that within each generation, members of that generation should be provided with equitable rights of access and should help conserve this access for future generations.<sup>109</sup> The concept of intergenerational equity suggests that the welfare of future generations—including the children already born—should be an implicit consideration in today's decision-making. Intergenerational equity is inherent within the concept of sustainable development, and, as such, concern for children should be at the forefront of the efforts to achieve sustainable development. As with the precautionary principle, there is disagreement about whether inter-generational equity is a binding principle of international law.

### **3. General Principles of Law Recognized by Civilized Nations**

“General principles of law recognized by civilized nations” are rules found in the domestic laws of all or most nations with established stable legal systems, as noted above. A general principle of law relevant to protection of environmental health of children that may be emerging is assessment of environmental impacts. Many legal systems (as well as some treaties) now include a requirement that the environmental impacts of at least certain types of projects be assessed, and alternatives considered, before approval for the project is granted.<sup>110</sup>

### **4. Non-binding rules**

Non-binding rules of law, also termed “soft law,” can also influence action to protect children’s health. In addition to providing guidance to nations and other interested stakeholders, documents such as declarations, programs of action and guidelines can guide/promote/support development of law and policy at the sub-national and national level and can even pave the way for the adoption of binding rules. When instruments of soft law reference each other and support similar messages, they establish a common understanding and build consensus necessary for establishment of “hard law.” For example, the Charter on Transport, Health and Environment, Agenda 21, and other soft law instruments are playing an important role in international public health law’s response to increased health risks posed by globalization.

The process of developing soft law often embraces a broader range of actors than the process of developing binding rules, and the soft law process also tends to be less constrained by politics. As such, more opportunities exist for participation of non-governmental interests.

Hundreds of non-binding international human rights, environment and sustainable development, labor, and health soft-law documents support, in various ways, the idea that

the environment must be protected to ensure the health of children. Examples of soft-law documents related to children's health include:

- The Rio Declaration recognizes that “the health of children is affected more severely than other population groups by malnutrition and adverse environmental factors.”<sup>111</sup> The vulnerability of children to the effects of environmental degradation as well as their inheritance of today's environmental problems gives them specific interests that need to be taken fully into account in the participatory process on environment and development.
- The Copenhagen Declaration on Social Development,<sup>112</sup> produced pursuant to the World Summit for Social Development in 1995, emphasizes the particular needs and challenges involved in protecting the health and rights of children;
- The Habitat Agenda,<sup>113</sup> adopted by nations at the Second United Nations Conference on Human Settlements (Habitat II) in 1996, strongly recognizes the needs of children and youth for safe, healthy and secure living conditions. It also articulates international norms and standards for promoting the environmental health of the most vulnerable groups of our societies as a central component of global sustainable development;
- The Programme of Action<sup>114</sup> resulting from the International Conference on Population and Development (ICPD) in Cairo 1994 calls for increased respect for and international recognition of the vital importance of promoting women's human rights as a foundation to sustainable development and to the protection of the health and well-being of children;
- The 1997 Declaration of the Environmental Leaders of the Group of Eight on Children's Environmental Health<sup>115</sup> makes several important acknowledgments, including that the health and well-being of families depends upon a clean and healthy environment. It notes that children are particularly vulnerable to pollution. The Declaration elaborates a list of items for action that can benefit most from the collective effort of the eight countries, including improving environmental risk assessments and standard setting to better address children's exposure to lead, microbiologically safe drinking water, air quality, environmental tobacco smoke, emerging threats to children's health from endocrine disrupting chemicals, and the impacts of global climate change to children's health;
- The 2001 G8 Environment Ministers Communiqué<sup>116</sup> recognizes that poverty and insufficient protection from environmental threats are often found together. The environmental ministers describe themselves as “determined” to develop policies to provide children with a safe environment;
- In A World Fit for Children (Declaration and Plan of Action of the UN General Assembly Special Session on Children),<sup>117</sup> heads of state commit to giving “every

assistance to protect children,” minimizing the impact of environmental degradation on children, and addressing a number of environmental problems (such as global warming, hazardous wastes, and inadequate sanitation) in an effort to ensure the health and well-being of children; it also expresses a commitment to prevent the exposure of children to harmful environmental contaminants through international cooperation and national legislation;

- The Programme of Implementation of the World Summit on Sustainable Development<sup>118</sup> (2002) sets out necessary steps to implement the vision of the summit, including delivering basic health service to all while taking into account the linkages between poverty, health, and the environment; addressing the environmental causes of ill health and their impact on development, women, and children; reducing children’s respiratory diseases resulting from air pollution; and working to prevent children’s exposure to lead; and
- The Charter on Transport, Energy, and the Environment<sup>119</sup>, which was adopted by the World Health Organization Regional Office for Europe, lays out strategies and a plan of action “towards achieving transport sustainable for health and the environment;”<sup>120</sup> children are highlighted for their vulnerability to health risks from transport-related problems such as air pollution, traffic noise, and the threat of accidents from playing in the streets.

## **5. Developing New Rules**

Most conventions invest Parties with the power to adopt amendments and/or supplementary agreements (e.g., protocols) to the original convention in order to adapt to new circumstances. Framework conventions, such as the Vienna Convention for the Protection of the Ozone Layer, typically envision that Parties will establish more specific substantive obligations to implement the general provisions of the parent convention. In the event that a new protocol is developed, Parties to the parent convention are not obliged to become parties to such protocols. Some treaties, however, provide that amendments are binding on non-agreeing Parties under some circumstances.

The International Covenant on Civil and Political Rights (ICCPR), which has an optional protocol, contains one example of such a provision.<sup>121</sup> It provides that any Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General determines if at least one third of the Parties favor a conference to consider voting on the proposal. If a majority of the Parties adopt the proposal, it shall be

submitted to the General Assembly of the United Nations for approval. Amendments shall enter into force when approved by the General Assembly and accepted by a two-thirds majority of the Parties. When amendments come into force, they shall be binding on those nations that have accepted them.

## **B. RESOLVING DISPUTES**

Dispute resolution mechanisms are designed to resolve disputes, for example, between nations when one nation believes that another is in non-compliance with its obligations. Such mechanisms also exist with respect to allegations by an individual that a country is violating her or his human rights. The relevant obligations can include environmental or human rights obligations that ultimately impact a country's environmental health conditions for children. Dispute resolution procedures commonly lay out a number of increasingly formal and binding options, beginning with a call for Parties to resolve differences through consultations or negotiations.

### **1. Dispute Mechanisms in Treaties**

Dispute resolution procedures in the relevant environmental, human rights, and labor treaties are described briefly, below. Most of these are non-binding. The International Court of Justice, which is the principal judicial organ of the UN, also hears and resolves disputes when certain criteria have been met (described below).

#### **a. Human Rights and Labor**

Several human rights treaties, including the Convention on the Rights of the Child (CRC) and the International Covenant of Economic, Social and Cultural Rights (ICESCR), do not contain dispute resolution procedures. The International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of Racial

Discrimination (CERD), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) do, although these are not often used.

In addition to the complaints procedures established pursuant to the ICCPR, CERD, and CEDAW, and described in the “Compliance Mechanisms” section, below, these conventions establish a procedure pursuant to which one Party may claim that another is violating the Covenant. The procedures under the ICCPR and CEDAW have never been invoked. One expert suggests that, at least under the ICCPR, the procedure presumably has not been invoked because Parties have been reluctant to jeopardize their political and economic relations with other Parties by initiating complaints.<sup>122</sup>

Under the ICCPR, the dispute resolution procedure may be utilized when both the Party making the complaint and the Party that is the subject of the complaint have made declarations recognizing the competence of the Committee.<sup>123</sup> If a Party believes that another Party is not giving effect to ICCPR provisions, the ICCPR requires first that the matter be brought to the attention of the subject Party. If the Parties are unable to resolve the issue, the Human Rights Committee may attempt to facilitate a solution to the dispute. If a solution is not reached, the Committee may, with the prior consent of the Parties, appoint an ad hoc Conciliation Commission, which also seeks to facilitate agreement on a solution and, in the absence of agreement between Parties, identify possible solutions.<sup>124</sup>

The dispute resolution process under CERD includes most of the basic elements of the process under the ICCPR. The Party accused of violating an obligation must be notified and the matter resolved through negotiation. If the matter is not resolved the monitoring committee can appoint an ad hoc conciliation commission that develops a report with findings and recommendations that the Parties must decide whether to accept.<sup>125</sup> The Convention provides that where Parties do not settle the dispute through negotiation or the procedure provided by the Convention, the dispute might be referred to the International Court of Justice (ICJ) at the request of any of the Parties.<sup>126</sup> The ICJ is described in greater detail below.

CEDAW provides few provisions on dispute settlement. It requires that when Parties are unable to settle a dispute through negotiation, the dispute be submitted to arbitration upon request of one of the Parties. In the event that Parties cannot agree to the organization of arbitration within six months, any one of the Parties may refer the dispute to the ICJ.<sup>127</sup> To date, this mechanism has not been used.

## b. Environment

All of the environmental treaties described in previous sections contain dispute settlement provisions. Although details of these dispute settlement procedures vary, the procedures are similar for most of the conventions. As a first step, most require that Parties to a dispute first seek settlement through negotiation. Some require negotiation “or other acceptable means” as a first step.<sup>128</sup> The Montreal Protocol and the Convention on the Law of the Non-navigational uses of International Watercourses additionally provide that Parties may request mediation by a third Party.

When these initial attempts to resolve disputes fail, most of the conventions (the LRTAP Convention and early protocols to that Convention being the exception) provide that the Parties may agree to one or both of the following means of compulsory dispute settlement: (a) submission of the dispute to the International Court of Justice (ICJ);<sup>129</sup> and/or (b) arbitration in accordance with procedures adopted by the Parties.<sup>130</sup>

If the Parties have not accepted either of the above means of compulsory dispute settlement, the conventions usually require that the dispute shall be submitted, at the request of any of the Parties, to conciliation. The process of conciliation involves the creation of a conciliation commission. The commission makes a recommendation that the Parties must consider in good faith. Conciliation commissions have rarely been used.

## **2. The International Court of Justice**

The International Court of Justice (ICJ) is one forum available to Parties to settle their disputes. The ICJ, the principal judicial organ of the United Nations, has jurisdiction to hear disputes between Parties if (1) the nations are party to a treaty (in force) that contains provisions for binding dispute resolution by the ICJ, (2) the Parties agree to refer the dispute in question to the ICJ, or (3) both Parties to the dispute have previously made a declaration recognizing the compulsory jurisdiction of the Court in certain legal disputes.<sup>131</sup> Only nations have standing to initiate contentious proceedings in the ICJ. The ICJ can give an advisory opinion when a body authorized by the Charter of the United Nations makes such a request.<sup>132</sup>

Most legal experts believe the influence of the ICJ has been limited; the ICJ hears relatively few cases, and many of those cases are dismissed because they do not meet the criteria required to be heard.<sup>133</sup> The reasons for this include limits on the Court's jurisdiction and its absence of enforcement powers.<sup>134</sup> Proceedings in the ICJ also have a number of other disadvantages, including the length of time taken to hear cases (up to two years), the cost of proceedings, and the confrontational nature of proceedings.<sup>135</sup> Nevertheless, the ICJ's decisions are widely read and cited by international lawyers and scholars, particularly as evidence of the content of international law.<sup>136</sup>

### **C. ENCOURAGING AND FACILITATING COMPLIANCE**

In addition to dispute resolution mechanisms, the use of which might result in greater compliance by a government with its obligations, treaties sometimes provide mechanisms by which not only governments but also other interested groups or individuals may seek to motivate a government to comply.

Compliance systems under international law rely primarily on political will and leveraging; very few mechanisms exist to compel a nation to comply against its political will with an obligation it has assumed under international law. Therefore, influencing



political will and public opinion toward support for international obligations can be an effective tool in promoting government compliance with international law.

Political will can be influenced when information and opportunities to participate in oversight processes are made available to governments, civil society, individuals, and other stakeholders. For this reason, compliance systems include measures to enhance transparency, such as reporting requirements and sometimes opportunities for participation by non-government actors.

Additionally, compliance systems often include a “monitoring” or “implementation” committee, which serves one or more functions, including, (1) reviewing reports and issuing comments, advice, recommendations, etc. in response to these reports, (2) responding to complaints or requests for information filed by governments and/or interested individuals or entities, (3) issuing, on its own initiative, an opinion or recommendation, and (4) gathering information. Sometimes, these systems include measures (other than recommendations) to respond to a Party’s failure to comply. Usually these are facilitative measures (as opposed to punitive measures) designed to enhance capacity to comply with obligations. Punitive measures to compel compliance, such as monetary sanctions, are rarely available under human rights agreements but are more often available under environmental agreements.

In addition to the compliance mechanisms provided by each of the human rights conventions, mechanisms such as those provided by the U.N. Commission on Human Rights (an independent commission not linked to any convention), described below, exist to facilitate compliance with human rights norms.

## **1. Human Rights**

Each of the major international and regional human rights conventions referenced in the previous section: (1) requires Parties to report on the legal, policy and procedural measures taken to implement the treaty in their domestic systems, and (2) establishes a

monitoring committee to review compliance.<sup>137</sup> Some establish a “complaint procedure” that allows governments and individuals to bring specific violation issues to the attention of the committee. Finally, two of the regional human rights treaties create a judicial mechanism to hear individual petitions alleging violations of the regional human rights treaties.

Opportunities for civil society’s participation in compliance activities vary among conventions. All of the conventions allow, in varying degrees, for public participation in the reporting process, although not all explicitly recognize this right.<sup>138</sup> Some accept an individual’s written complaint about possible violations of human rights by a government. These complaints must meet certain criteria, including, for example, that local remedies be exhausted prior to filing the complaint.<sup>139</sup>

The individual petition procedure is a judicial or quasi-judicial procedure before a court or a committee. The petition procedure resembles a court procedure in that each party is given the opportunity to present and defend its views and the process unfolds before an independent body. It is not fully a judicial procedure, however. The views issued by the human rights committees are not similar to court decisions; they are not legally binding on States and therefore are not enforceable, although the committees generally do have a “follow-up” power.

Monitoring committees that are established to review and respond to reports, complaints, and NGO comments typically are composed of individual experts nominated by Parties for their known competence in a particular subject and serving in their personal capacity. Although NGOs cannot nominate candidates, they can play a role in lobbying their government to nominate a candidate who supports their issues, such as a candidate with a strong history of working to protect children’s health from environmental threats.

Generally, responses by monitoring committees to reports and complaints include suggestions and recommendations. These recommendations can be very specific in response to complaints. Under the regional court mechanisms, responses can include not

only findings, suggestions and recommendations, but also orders for fair compensation. Because of the high legal quality of these recommendations and concluding observations, these monitoring committees have high prestige. As a result, recourse to these committees can be an important tool to advance children's environmental health.

A brief identification of reporting requirements, monitoring committee composition and functions, public participation mechanisms, and measures that can be taken to facilitate compliance under each convention is provided in Table 3, in Annex A. The ways in which each of the human rights treaties serves to facilitate and encourage compliance is described, below:

a. Convention on the Rights of the Child (CRC)

The compliance mechanism under the CRC is notable for the guidance provided to governments, the extent to which the public is encouraged to participate, and the relatively extensive process in reviewing national reports. It lacks, however, a formal complaint procedure such as those adopted pursuant to other human rights treaties.

Guidelines developed by the Committee on the Rights of the Child, the Committee that oversees implementation of the Convention, are available to assist governments in preparing national reports. Governments are urged to involve all sectors of society in preparation of the reports and are directed to make the reports widely available. Guidelines for preparation by NGOs of "Alternative Reports" are also available.<sup>140</sup>

As part of the process to review a nation's report, a pre-sessional meeting is held to elicit information from interested organizations and individuals, including UNICEF and NGOs, among others, and to develop a list of questions for the government of the nation under review.<sup>141</sup> In response to the reports, the answers to the questions, discussions with governments, and feedback from interested individuals and organizations, the Committee may "make suggestions and general recommendations,"

which may shame countries into compliance.<sup>142</sup> The Committee often recommends that UNICEF provide additional assistance to nations. Additionally, the Committee has stressed the need for changes in government structures and mechanisms to allow consistent consideration for children's rights, encouraging the development of national independent human rights institutions for children.<sup>143</sup> Such mechanisms provide another opportunity for interested individuals and entities to promote national government compliance with obligations under the CRC. Unfortunately, review of the national reports under the CRC is delayed due to the large number of reports the Committee receives.

In addition to the recommendations it issues on its own initiative, which facilitate an understanding of how to comply with Convention obligations, the Committee devotes, periodically, one day of general discussion to a specific article of the Convention or to a child rights theme in order to enhance understanding of the contents and implications of the Convention.<sup>144</sup>

#### b. International Covenant on Economic, Social and Cultural Rights (ICESCR)

Similar to the CRC, the ICESCR has a well-established reporting and review process, but lacks a formal complaint procedure.<sup>145</sup> The committee established to monitor compliance—the Committee on Economic, Social and Cultural Rights (CESCR)—was not established under the convention, but rather by the U.N. Economic and Social Council (ECOSOC). As such, it works more closely with other U.N. agencies to ensure that obligations under the convention are satisfied, and is less constrained by resource limitations in carrying out its functions.

NGOs are provided opportunities to participate in review of country compliance; they are invited to submit information about country compliance and may provide oral presentations at the beginning of committee sessions.<sup>146</sup> Additionally, the Committee may request ad hoc reports from governments in response to the information NGOs provide. NGOs have prepared information documents describing how to make the best use of these opportunities.<sup>147</sup>

The Committee's recommendations include specific legislative and policy suggestions that may ensure that rights are secured. The ECOSOC can submit reports to other U.N. bodies, as well as request reports from these bodies describing their progress in observing the Convention.<sup>148</sup>

Parties to the ICESCR are in the process of discussing the adoption of a formal complaint procedure, which would likely be similar to the procedures adopted by the International Covenant on Civil and Political Rights (ICCPR), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Elimination of Racial Discrimination (CERD).

c. International Covenant on Civil and Political Rights (ICCPR)

Similar to the Convention on the Rights of the Child and the International Covenant of Economic, Social and Cultural Rights, the ICCPR establishes reporting requirements and a monitoring committee.<sup>149</sup> Additionally, a Protocol to the ICCPR establishes a more formal complaints procedure. Under the Protocol complaints procedure, individuals and groups are given a right to complain to the Human Rights Committee monitoring violations of the Convention, and the Committee issues views in response. The Committee is able to request that the Party concerned take specific measures to respond to concerns raised. The procedure is similar to the CEDAW and CERD complaints procedures (Summarized in Box 2, below). The Committee receives approximately 1000 communications each year, leading one commentator to describe it as "the most effective human rights complaints system at the universal level."<sup>150</sup> There is, however, a limitation on the effectiveness of the procedure: the admissibility requirements screen a certain number of petitions, so that many are not heard.

d. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Similar to the ICCPR, CEDAW establishes reporting requirements and a monitoring committee, and a more formal complaint mechanism is established under a protocol (the complaint mechanism is described in Box 2, below). The Committee has adopted guidelines to assist countries in preparation of their reports.<sup>151</sup>

e. Convention on the Elimination of Racial Discrimination (CERD)

CERD similarly establishes reporting requirements, a monitoring committee and a formal complaint procedure. Under the review procedure, the Committee considers the situation in the absence of a report if the Party has not submitted a report for five years or more. The public may utilize the complaints mechanism.<sup>152</sup>

**Box 2.**  
**COMPLAINT MECHANISMS UNDER INTERNATIONAL HUMAN RIGHTS CONVENTIONS**

In addition to reporting requirements and monitoring committees, more formal complaint mechanisms have been established pursuant to several of the human rights treaties, including the ICCPR, the CERD, and CEDAW. These mechanisms establish a body of independent experts for quasi-judicial adjudication of complaints alleging a violation of a treaty right. Although procedures vary among the mechanisms, their design and operation are similar. Typical features of a complaint, otherwise referred to as a “communication” or “petition,” include the following:

- (1) It can be brought only against a State that has ratified the treaty and recognized the competence of the expert committee established to consider complaints;
- (2) It can be brought by anyone claiming that his/her rights under the treaty have been violated, after exhausting local remedies. A claim may be brought on behalf of another person only if either written consent has been obtained or the committee does not require formal authorization (e.g. in situations in which persons are unable to give consent).
- (3) It need not be in any particular form, but should be in writing, signed, include name, nationality, date of birth, identify the Party against which the complaint is directed, describe all the facts on which your claim is based and why you believe they constitute a violation of the treaty in question, and detail the steps you have taken to exhaust remedies in the country.

There are additional requirements for a petition to be admissible:

- a. The Committees are competent to review complaints concerning acts that occurred only after both the entry into force of the convention and after the date

of the ratification of the treaty by the respondent State (although the first requirement is not so pertinent now). However, the Committees have usually considered that they were competent to review complaints concerning acts that occurred before the ratification of the convention by the respondent State if these acts or their effects continued after that date.

- b. The complaint must never concern acts that are the object of a procedure before another international body, or for which another international body has already rendered a decision.

If the complaint contains all of the essential information, it is registered and the case is transmitted to the Party, which is given an opportunity to respond. Before the expert committee considers the merits or substance of the case, it must determine that the claim meets certain admissibility criteria, including, for example, that the alleged violation relates to a right actually protected by the treaty. Whether domestic remedies have been exhausted is often argued bitterly. If a committee decides that your case is admissible, it describes why and considers each case in closed session. If the committee finds that rights under the treaty have been violated, it invites the State party to supply information within three months on the steps it has taken to give effect to its findings. If the committee finds that rights have not been violated, the process is complete.

Source: UN Commission on Human Rights webpage, *Fact Sheet No.7/Rev.1, Complaint Procedures* <<http://www.unhchr.ch/html/menu6/2/fs7.htm>>

#### f. American Convention on Human Rights and the Inter-American Human Rights System

The Inter-American system for the promotion and protection of human rights includes the Inter-American Commission on Human Rights (IACHR), which is an autonomous organ of the Organization of American States (OAS), and the Inter-American Court of Human Rights, which was established pursuant to the American Convention on Human Rights.

The IACHR is mandated to receive and respond to individuals' petitions that allege violations by member nations of the OAS of rights protected in the American Convention on Human Rights and/or the American Declaration of the Rights and Duties of Man. The American Convention is applied to cases brought against nations that are Parties to that instrument. For cases against nations that are not Parties, the Commission applies the OAS American Declaration of the Rights and Duties of Man, which was adopted in 1948.

The IACHR is also mandated to publish reports and studies, organize conferences and meetings, and recommend to member nations measures that would contribute to human rights protection. The IACHR can request nations to adopt specific “precautionary measures” in urgent human rights cases, and submit cases to the Inter-American Court and appear before the Court in the litigation of cases, as well as request advisory opinions from the Inter-American Court regarding questions of interpretation of the American Convention on Human Rights.<sup>153</sup>

The Inter-American Court, established under the American Convention on Human Rights, is a seven-judge court located in San José, Costa Rica, that (a) hears disputes referred to it by the Inter-American Commission on Human Rights and member nations and issues binding decisions that may include sanctions<sup>154</sup> and (b) issues advisory opinions interpreting other human rights treaties adopted within the Inter-American system and determining if domestic laws comply with those treaties.<sup>155</sup>

The Inter-American Court has heard several cases relating to children and children’s health, including the *Villagran Morales* (“Street Children”) case (for more on this case, see Box 5).<sup>156</sup>

#### g. European Convention on Human Rights and the European Human Rights System

The European Convention for the Protection of Human Rights and Fundamental Freedoms forms the legal basis of the European Human Rights system. Entering into force in 1953, it was the first comprehensive human rights treaty in the world and the first to establish an international complaint and courts procedure. The Convention created the European Commission and the Court of Human Rights, which, in 1998, were fused into one body – the “European Court of Human Rights”.

Members of civil society, as well as Parties to the Convention, may submit petitions to the Court alleging violations of their rights. The petitions must meet certain



criteria to be admissible. The Court is stronger than the monitoring committees established under international human rights treaties because it has a wide range of remedies that it can award the victim, including damages for monetary loss and costs. Additionally, although the Court does not specify the measures to be taken by a government in order to conform to the judgment, the judgment is binding, and a Committee of Ministers supervises the execution of the Court's judgment.

Governments whose nationals have presented a petition may submit *amicus curiae*, or "friend of the court" briefs. Other nations, NGOs and individuals can apply to the President of the Court for permission to submit such a brief. The Court may also, at the request of the Committee of Ministers, give an advisory opinion on legal questions arising from the interpretation of the Convention but, unlike the Inter-American system, this procedure has not been used.

Although the right to health and/or a healthy environment is not specifically mentioned in the European Convention, the European Court has relied on other rights to hear environmental health-related claims and issue compensatory damages to the petitioner. In the case of *Lopez Ostra v. Spain*, for example, the court found that the government of Spain had failed to protect the petitioner's right to respect for his private and family life and his home by failing to take necessary measures to address smells, noise and polluting fumes emitted by a sewage treatment plant situated a few meters from the Petitioner's home. The fumes caused the petitioner's daughter to be sick and forced the family to leave their home. Although the industrial plant was privately owned, the Court recognized a positive duty on the nation to protect the individual's rights.<sup>157</sup>

#### h. The African Charter on Human and Peoples' Rights

The African Charter established the African Commission on Human and Peoples' Rights to oversee observance and implementation of the Charter.<sup>158</sup> Unlike the Inter-American and European Human Rights Systems, no court exists to apply the African Charter, although efforts are being made to establish one.<sup>159</sup> A "Communications

Procedure” somewhat similar to those adopted under international human rights treaties exists to address complaints. Reports are required of governments and reviewed by the Commission.

In addition to receiving and reviewing reports and receiving and responding to complaints, the Commission organizes fact-finding missions, supports research, organizes seminars, and supports other activities to promote protection of human rights in Africa.

## **2. Labor**

The Constitution of the International Labour Organisation (ILO) requires that States report on progress on their development of domestic legislation. A Committee of Experts on the Application of Conventions and Recommendations examines the reports and other information, including information from workers, employers and NGOs. More detailed reports can be required in special cases. Over the years, the office has had continual difficulty facing the glut of reports.<sup>160</sup> In response to the reports, the committee may issue a comment drawing attention to the government’s compliance shortcomings or may issue observations, which are reserved for more serious situations.

Additionally, a non-compliance procedure is established under the ILO Convention, pursuant to which ILO member countries may file complaints. Complaints may also be filed by the governing body upon its own initiative or upon receipt of a complaint from a delegate to the ILO general conference. In serious situations, the complaint may lead to in-depth investigations by a commission of inquiry and (theoretically) culminate in a hearing before the International Court of Justice (ICJ). (The ICJ is described in greater detail in the “Dispute Resolution” section.) The complaints procedure is not used very often, and ICJ jurisdiction is almost never used, because it can only be triggered upon consent of the complained-against member.<sup>161</sup> The ILO also has an “ad hoc supervisory mechanism” that is facilitative in nature—if a member nation so requests, the ad hoc mechanism can stay or delay operation of the regular supervisory

system. These mechanisms to encourage and facilitate compliance apply to both ILO Conventions 138 and 182, regarding child labor.

### **3. Environment**

Similar to human rights conventions, environmental conventions usually establish reporting requirements and monitoring committees. Additionally, the non-compliance procedures established in environmental treaties are sometimes more rigorous than the complaint procedures of international human rights treaties. The non-compliance procedures of environmental conventions are, generally, less confrontational than dispute resolution procedures and allow for a wider range of compliance-inducing measures, including not only measures to assist Parties in achieving compliance, but also measures such as withdrawal of membership benefits, trade measures, or other sanctions to enforce the treaty. This flexibility is useful; non-compliance may result from a wide range of reasons—ranging from a government’s lack of capacity to intentional or negligent disregard of its obligations.

Some intergovernmental organizations are working to improve compliance and enforcement of environmental treaties. For example, UNEP has created a Compliance and Enforcement Unit specifically dedicated to ensuring compliance with and enforcement of national, regional, and international environmental policy instruments.<sup>162</sup> The Unit has developed *Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements*, organized workshops, and coordinated expert-led assessments of environmental liability and compensation regimes. Also, similar to compliance with human rights agreements, compliance with international environmental agreements may be “enforced” through mechanisms outside the formal treaty regime. These mechanisms are described below.

#### **a. Stockholm Convention on Persistent Organic Pollutants**

The Stockholm Convention, which entered into force on 17 May 2004, requires Parties to take several measures to promote compliance, including developing implementation plans,<sup>163</sup> submitting reports on measures taken and on progress made toward meeting obligations,<sup>164</sup> evaluating the effectiveness of the Convention,<sup>165</sup> and “as soon as practicable, developing and approving procedures and institutional mechanisms for determining non-compliance with the provisions of this Convention and for the treatment of Parties found to be in non-compliance.”<sup>166</sup>

UNEP has prepared a draft guide to assist Parties in development of implementation plans.<sup>167</sup> Development and implementation of these plans must include consultation with the public and interested organizations.<sup>168</sup>

The first Conference of the Parties in May 2005 will determine how often and in what format Parties will do the following: report on progress; begin developing the non-compliance mechanism; and discuss the need for elaboration of international rules on liability and redress in relation to the production, use and intentional release of POPs.<sup>169</sup>

#### b. Rotterdam PIC Convention on Prior Informed Consent

Similar to the Stockholm Convention, the Rotterdam Convention requires that Parties shall develop and approve procedures and institutional mechanisms for determining non-compliance with the provisions of the Convention and for treatment of Parties found to be in non-compliance.<sup>170</sup> At the first meeting of the Parties in September 2004, the Parties agreed to convene an open-ended *ad hoc* working group on non-compliance immediately prior to the second meeting of the Parties.

#### c. Basel Convention on Hazardous Wastes

Reports under the convention are reviewed by a monitoring committee, which may seek additional information from Parties and any other sources and experts,

including the public. The committee reports its recommendations to the Conference of the Parties.<sup>171</sup>

Under the non-compliance mechanism, submissions may be made to the committee by a Party that believes it is unable to comply, a Party against another Party (if the Parties are unable to resolve the matter through consultations), and the Secretariat. Members of the public are not provided a right to raise compliance issues directly with the committee or Secretariat, although Parties may consider and use information provided by civil society on compliance difficulties. Departing from practices of most other monitoring mechanisms, the Basel mechanism precludes attendance or participation of Parties—other than the Party whose compliance is in question—or the public in meetings dealing with specific submissions, unless the committee and the Party in question agree otherwise.

The Basel Convention employs a “facilitation procedure” to respond to a petition; the committee provides the Party with advice and non-binding recommendations, which include access to technology and funding. If these efforts don’t produce the desired results, the committee may recommend to the Conference of the Parties that it considers additional support or issue a cautionary statement and additional advice.

#### d. Convention on the Law of the Non-navigational Uses of International Watercourses

No formal mechanism exists under this convention to secure compliance with its obligations.<sup>172</sup> Compliance may be enhanced through information exchange, and, more particularly, as a result of the notification requirements; before a watercourse State implements or permits the implementation of planned measures that may have a significant adverse effect on other watercourse States, it shall provide timely notification.

e. International Convention for the Prevention of Pollution from Ships (MARPOL)

Compliance under MARPOL is enhanced by various requirements for surveys and certifications of ships. With the exception of very small vessels, ships engaged on international voyages must carry on board valid international certificates, accepted at foreign ports as “prima facie evidence” of compliance with the requirements of the Convention.<sup>173</sup> If clear grounds exist for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of the certificate, or if the ship does not carry a valid certificate, the authority carrying out the inspection may detain the ship until it is satisfied that the ship can proceed to sea without presenting unreasonable threat of harm to the marine environment

The Convention provides that any violation of the MARPOL 73/78 Convention within the jurisdiction of any Party to the Convention is punishable either under the law of that Party or under the law of the flag nation.<sup>174</sup> No other reporting and compliance procedures exist.

f. United Nations Convention on the Law of the Sea (UNCLOS)

Governments that are Parties to UNCLOS are directed to monitor their activities, analyze the impacts of pollution on the marine environment, and report results “at appropriate intervals.”<sup>175</sup> Additionally, governments are required to enforce their laws and regulations adopted to address each of the sources of marine pollution. When a vessel violates obligations, the government with authority over that vessel is obligated to investigate and, where appropriate, institute proceedings.

Despite these provisions, no formal reporting requirements or compliance mechanisms exist to ensure that governments satisfy these obligations. The Secretariat must report to the Parties, however, and, in preparing these reports, the Secretariat requests information from governments, international organizations, and NGOs. Reporting rates are very low. No formal institution exists to review national

implementation of UNCLOS environmental-related provisions or compliance with UNCLOS obligations. The Tribunal for the Law of the Sea and alternative arbitral proceedings recognized by UNCLOS, by adjudicating cases between State Parties that relate to environmental provisions, provide an opportunity for allegations of non-compliance to be assessed.

#### g. LRTAP and Protocols

The 1979 Convention on Long-Range Transboundary Air Pollution (LRTAP) provides for effective data monitoring by incorporating a pre-existing monitoring program into the convention, but provides for only limited review of Parties' actual performance.<sup>176</sup>

Fortunately, the Oslo Protocol to LRTAP established a more formalized and effective compliance system, which applies to subsequent LRTAP protocols. An implementation committee, composed of individuals representing Parties, reviews compliance with reporting requirements and considers submissions. A submission may be brought before the monitoring committee by another Party, a Party that feels it is unable to comply, or the Secretariat (which may learn of non-compliance through reports). The committee provides its recommendations, which are meant to secure a "constructive solution," to an Executive Body that acts by consensus to decide upon measures to bring about full compliance. The Convention does not provide for public participation in monitoring-related measures, including reporting.

#### h. Montreal Protocol on Ozone Depletion

Reporting under the Montreal Protocol is used not only to review compliance, but also to formulate plans and inform decisions. Annual reports by Parties include data describing production, imports and exports of controlled substances—data that underpins the Montreal Protocol process. Summary reports submitted every other year describe research, information exchange and awareness building. Using the annual data and

summary reports provided by each Party, the Secretariat prepares a larger report to all of the Parties.

Under the non-compliance procedure, the Secretariat may learn of a Party's non-compliance in several ways, including through (1) notification by another Party, (2) information gathered by the Secretariat during preparation of the report on compliance by the potentially non-compliant Party (although NGOs and other interested Parties have no formal role, they may be able to initiate a compliance procedure by informing the Secretariat or a Party and/or advertising, through the media, the non-compliance), or (3) notification by the non-compliant Party of difficulties implementing obligations.<sup>177</sup> The monitoring committee—which is composed of ten individuals representing Parties—makes recommendations, which the Parties consider in deciding upon and calling for steps to bring about full compliance with the Protocol.

#### i. Kyoto Protocol on Climate Change

The Kyoto Protocol to the UN FCCC articulates the most robust and groundbreaking compliance system in international environmental law—including specific emission targets for greenhouse gases, provisions to make those targets legally binding and enforceable, independent institutions for determining and enforcing compliance, and real consequences for nations failing to meet their Kyoto obligations.<sup>178</sup>

At the time of this writing, the mechanisms and procedures that are articulated in the Protocol to determine and address non-compliance exist only on paper, but that will change soon. In order for the Kyoto Protocol to enter into force, at least 55 countries, representing 55% of developed countries' 1990 carbon-dioxide emissions, had to ratify it. The 55% mark was finally reached in November 2004, when Russia deposited a formal instrument of ratification with the Secretary-General of the UN. In February 2004, the Kyoto Protocol entered into force and became binding on the 128 States who are Parties.<sup>179</sup>



By entering into force with its compliance mechanisms intact, the Protocol contains potentially significant opportunities for public participation in compliance proceedings. Inter-governmental and nongovernmental organizations will be entitled to submit technical and factual information to the facilitative and enforcement branch of the Compliance Committee established under the Protocol.

j. Cartagena Protocol on Biosafety

The Biosafety Protocol directs Parties to monitor the implementation of their obligations under the Protocol and report on measures it has taken to implement these obligations.<sup>180</sup> Parties must prepare their reports through a consultative process involving all relevant stakeholders, as appropriate, and submit their reports every four years after the first report has been submitted, two years after entry into force of the Protocol.<sup>181</sup> Additionally, the Parties recently established a 15-member Compliance Committee to respond to non-compliance issues reported by Parties and to submit regular reports and recommendations. Measures that can be taken to address non-compliance include issuing cautions and publishing reports describing non-compliance of a given Party. For persistent offenders, even stronger measures could be agreed upon by consensus in future meetings.

k. North American Agreement on Environmental Cooperation (NAAEC)

The NAAEC is a regional environmental agreement—one of two parallel environmental accords to the North American Free Trade Agreement (NAFTA)—that establishes the Commission for Environmental Cooperation (CEC). The CEC oversees implementation of the NAAEC agreement and monitors the abilities of the United States, Canada, and Mexico to meet agreement obligations. Additionally, the NAAEC establishes a “citizen submissions” process, pursuant to which the public may submit a claim to the CEC when a government appears to be failing to enforce its environmental laws effectively. The Secretariat of the CEC is charged with reviewing the submission.

It may investigate the matter and publish a factual record of its findings, pending approval from the CEC Council, which is composed of the environment ministers from each of the nations.

**Box 3.**  
**OPPORTUNITIES AND CHALLENGES POSED BY TRADE LAW**

Free trade agreements facilitate increased commerce in goods, services, intellectual property,<sup>182</sup> and investment.

Increased commerce and global movement of goods can benefit children's health by increasing the availability of goods that are beneficial to health, such as medicine and environmentally-friendly technologies. It can also worsen public health problems by facilitating the introduction of goods that are harmful, e.g., meat with cancer-causing hormones, or goods that serve as pathways of harmful organisms or diseases, e.g., mad cow disease. Processes associated with moving these goods inevitably impose environmental costs, such as increased air and water pollution. Additionally, implementation of a trade agreement can cause some restructuring of the economy, for example, changes in the types and numbers of jobs that are available. During such economic change that often accompanies the implementation of trade agreements, some sections of the population may benefit from new jobs and increased access to goods and services, while others find themselves unemployed or with decreased incomes. Increases in poverty can lead to dramatic worsening of children's health.

Agreements to increase trade in services, such as healthcare, education, transport, or the provision of water and energy, can change the nature and level of services provided in a country. Depending on how and where these agreements are implemented, access to beneficial services can either increase or decrease. Agreements to increase protection of patent rights for products and processes raise concerns about access of developing countries to affordable medicines and about continued access to traditional knowledge and traditional medicines.

At the same time that free trade creates or compounds environmental and public health problems, international trade and investment rules can limit the regulatory options that governments have to address the harmful side effects of increased trade and other health, safety and environmental problems. Trade rules generally seek to reduce not only tariffs on traded goods and services, but also government regulations that effectively limit or inhibit free trade. Thus, overreaching trade and investment rules can limit governments' ability to address the very problems created by increased global trade. More generally, trade and investment rules can constrain domestic regulatory flexibility to deploy a full range of domestic policy tools related to the environment and services.

Trade agreements should not be analyzed in a vacuum, however. It has become customary to agree to "parallel" environmental protection activities, usually in an environmental cooperation agreement (ECA) that is negotiated at the same time as the trade agreement. Depending on the contents of these agreements and their follow-up implementation, these activities can reduce negative health affects of trade agreements and even improve health in other ways.

Thus, trade introduces a variety of potential impacts to health, both positive and negative, though negative impacts are reduced when strong environmental and health protections are implemented along with new trade agreements.<sup>183</sup>

#### **4. Health**

##### **a. Tobacco Framework Convention**

The Framework Convention on Tobacco Control (FCTC) was adopted in May of 2003, and its compliance mechanisms remain in early stages of development. The World Health Organization (WHO) is currently performing secretariat functions for the FCTC, until the Conference of the Parties designates and establishes a permanent Secretariat.<sup>184</sup>

##### **b. International Health Regulations**

No mechanism exists to enforce compliance with the International Health Regulations.<sup>185</sup> As noted by one authority, “The alleged failure of the International Health Regulations may be due to the failure of WHO member nations to fulfill the duties they accepted. Neither the regulations nor WHO has any power to enforce compliance.”<sup>186</sup>

#### **5. Other Accountability Mechanisms**

##### **a. UN Commission on Human Rights**

The UN Commission on Human Rights, the primary UN body dealing with human rights, implements several mechanisms that support enforcement of human rights norms and apply to all UN member nations irrespective of whether they have ratified human rights or other conventions. These mechanisms include a procedure for responding to consistent patterns of violations of human rights (the “1503 procedure”) established under the Economic and Social Council Resolution 1503 (XLVIII) (1970) and procedures for responding to global and country-specific human rights violations (the “Special Procedures”).<sup>187</sup>

Under the 1503 procedure, the Commission is mandated to respond to complaints alleging consistent patterns of gross violations of human rights and fundamental freedoms within countries (not to respond to individual grievances alone). Any individual or group claiming to be a victim of such human rights violations may submit a complaint, as may any other person or group with knowledge of such violations. The complaint must satisfy certain criteria to be considered by the Commission, which has a variety of options for dealing with the complaint. Because the Commission on Human Rights is at the highest level of the UN Human Rights system, actions taken by the Commission on behalf of a complaint may result in significant pressure upon a nation to change laws, policies, or practices that violate internationally guaranteed human rights.<sup>188</sup>

In addition to the 1503 procedure, the Commission has developed special procedures to monitor developments related to particular human rights problems that are global in scale. The Commission may appoint experts, called rapporteurs, to examine a specific country (country rapporteurs) or a thematic issue (thematic rapporteurs). The rapporteurs conduct studies, identify patterns of violations, and visit States to evaluate the human rights situation. Several have either a direct or indirect relationship to protection of children's health. Among the most important of these "thematic mandates" are the Special Rapporteur on Toxic and Dangerous Products, the Special Rapporteur on the Right to Food, and the Special Rapporteur on Physical and Mental Health. Others include the Special Rapporteur on Harmful Traditional Practices, the Working Group on the Right to Development, the Special Rapporteur on Foreign Debt, and the Special Rapporteur on Violence Against Women. All of these areas can relate significantly to children's health. Although these thematic mandates are not technically complaint mechanisms, information about an issue of concern may be filed with them. The decision to intervene directly with governments on specific allegations of violations of human rights is at the discretion of the experts directed to implement the mandate of the special procedure. The Commission requires that experts implementing the mandates study the issue and make recommendations for action.

In addition to the special procedures to monitor issues that are global in scale, the Commission has developed procedures to monitor activities in particular countries (e.g. U.N. Special Rapporteur on Afghanistan). Finally, a Commission on the Status of Women (CSW) prepares recommendations and reports to the Economic and Social Council on promoting women's rights. Under the Communications Procedure established under the CSW, the CSW can receive confidential and non-confidential communications about discrimination against women. In addition to complaints, compliance might be enhanced through interventions at meetings of the Commission or sub-Commission.<sup>189</sup>

The procedure established under Economic and Social Council Resolution 1235 is also a useful mechanism for NGOs, because unlike the 1503 procedure, it is not confidential. The purpose of the 1235 procedure is to provide public consideration and discussion on a human rights issue in a particular country. The Commission can conduct a study based on the evidence found in the discussion, and can issue a resolution condemning a State and calling it to implement the resolution.

#### b. Alien Tort Claims Act

The Alien Tort Claims Act (ATCA) is a U.S. law that gives foreign nationals the right to file civil suits in U.S. Federal Courts for injuries caused by a violation of "the law of nations or a treaty of the United States."<sup>190</sup> In 1980, a Paraguayan man successfully used the ATCA in a U.S. court to sue the policeman who had tortured his son to death in Paraguay. Recently, efforts have been made to use ATCA to sue transnational corporations for violations of international law in countries outside the United States.<sup>191</sup> If these suits are successful, the ATCA could become a powerful tool to increase corporate accountability when corporate actions significantly threaten children's health.

#### c. Accountability Mechanisms of Multilateral Development Banks

Accountability mechanisms exist to enforce many of the obligations (often reflected in policies and procedures) of "development" banks, such as the World Bank

Group and other regional development banks. A description of these policies and obligations and associated accountability mechanisms is located in the “International Institutions” section, below.

#### **D. PROVIDING FORA FOR DISCUSSION, COORDINATION AND DECISION-MAKING**

Meetings/fora that bring together interested individuals and groups can help ensure that information is exchanged, issues and solutions are identified, discussed and prioritized, decisions are made and coordination is promoted. Additionally, as noted in the compliance section, conferences of the Parties and other treaty-related meetings can serve as a point of diplomatic pressure.

Multilateral conventions typically require that Parties meet regularly in meetings often referred to as Conferences of the Parties, to discuss matters related to implementation of the Convention. Other meetings of the Parties are held to discuss specific provisions of the Convention (such as a provision calling for development of a liability mechanism) and to address other aspects of the Convention (such as technical and scientific issues). Usually, interested individuals and groups are invited to participate in these meetings as observers and sometimes are able to comment on a matter of interest (also known as an “intervention”), but are not able to vote or participate in all discussions and negotiating meetings of the Parties.<sup>192</sup>

In addition to meetings of Parties, meetings related to implementation of a specific convention may be held by intergovernmental or non-governmental organizations or networks to develop and exchange information. For example, the International POPs Elimination Network (IPEN), a global network of public interest non-governmental organizations, holds an annual meeting to discuss issues related to elimination of persistent organic pollutants with a particular focus on implementation of the Stockholm Convention.

Also, many intergovernmental, nongovernmental, and private organizations hold conferences to discuss issues of importance to children's health. The WHO, U.N. Food and Agriculture Organization (FAO), and the Codex Alimentarius Commission, for example, have either jointly or independently supported many international conferences related to food safety and quality. Another example is UNEP's welcoming of NGOs in the process of defining an international strategy for chemicals management, which provisionally has a section on children and chemicals management/safety.<sup>193</sup>

UN organizations often offer NGOs the opportunity to be involved in the work of their Governing Bodies. For example, NGOs have been involved in UNEP's Governing Council/Global Ministerial Environment Forum, which deals with issues pertinent to children's environmental health.<sup>194</sup>

Among the most important fora for discussion of human rights is the meeting of the U.N. Commission on Human Rights, which meets each year for six weeks, during which it adopts resolutions, decisions, and Chairperson's statements. It also meets in special sessions during the year to discuss issues of importance. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, a subsidiary organ of the Commission, meets annually as well and has previously played a major role in addressing children's issues. Interested individuals or groups in meetings of the Commission or Sub-Commission may make interventions only if they have been granted consultative status with the ECOSOC.

Another potentially important forum for dealing with environmental health issues is the Commission on Sustainable Development.<sup>195</sup> The CSD was created in 1992 to monitor implementation of Agenda 21, and in 2002 it was expanded to monitor the World Summit on Sustainability Plan of Implementation and the partnerships launched at that event. Many of the partnerships deal with children's environmental health issues, such as Alliance to End Childhood Lead Poisoning and the Health Environment for Children Alliance (HECA). As a result, the CSD examines issues such as water and sanitation, health education, and poverty eradication. NGOs can play a significant role at

the CSD meetings through their presence as “Major Groups.”<sup>196</sup> “Multi-stakeholder dialogues” allow direct interactions between major groups and governments; major groups prepare discussion papers for CSD meetings; and major groups are able to contribute during official sessions.

## **E. BUILDING CAPACITY**

Many of the multilateral conventions and institutions described previously direct Parties to take measures to increase capacities of Parties to comply with obligations. Capacity-building provisions include those related to financing mechanisms, technology development and exchange, education and training, information development and dissemination, and institutional strengthening and cooperation. As described in the “International Institutions” section, international and regional institutions also significantly contribute to capacity building. A wide range of capacity-building activities can contribute significantly to the protection of children’s health, whether in relation to improving technical expertise for hazardous waste management, or providing new information and resources to existing social programs in order to facilitate compliance with human rights obligations relating to health.

### **1. Human Rights**

Of the human rights treaties described previously, only the ICESCR explicitly addresses capacity building. It requires that Parties work towards achieving the rights recognized in the Covenant, both individually and internationally. Capacity building is to be achieved through assistance and co-operation, especially technical and economic, and through the passage of legislative measures.<sup>197</sup> For example, in recognition of the fundamental right of everyone to be free from hunger, Parties must make full use of technical and scientific knowledge by disseminating knowledge of the principles of nutrition.<sup>198</sup> Parties to the Convention agree that technical assistance and regional and technical meetings are necessary to achieve the rights recognized in the Covenant.<sup>199</sup> The International Covenant on Economic, Social and Cultural Rights (ICESCR) contains



references to information exchange, research and development, public awareness, and technical assistance. However, these items are mentioned only as strategies with no reference to details or financial resources and mechanisms.

## **2. Environment**

### **a. Stockholm Convention on Persistent Organic Pollutants**

The Stockholm Convention clearly delineates a strategy for capacity building by Parties, containing provisions on information exchange, public information, awareness, education, research development and monitoring, technical assistance, and financial resources and mechanisms. The information exchange provision requires that information dissemination is to take place through the Secretariat on the subjects of POPs reduction and alternatives to POPs.<sup>200</sup> The public information, awareness, and education provision requires that nations promote and facilitate awareness on related matters and provide up-to-date information, as their capacities allow.<sup>201</sup> The provision on research requires that Parties encourage or undertake appropriate research at both the national and international level.<sup>202</sup> In addition, Parties must support work and efforts on monitoring POPs and cooperate in developing alternatives to POPs. As the interim funding mechanism of the Convention, the Global Environment Facility has sponsored projects to strengthen the enabling environment so that countries can more effectively implement their commitments as Parties to the Stockholm Convention.<sup>203</sup>

### **b. Rotterdam Convention on Prior Informed Consent**

Capacity building and training is a vital part of the operation of the Rotterdam Convention. The Convention provides that Parties shall cooperate in promoting technical assistance and, more specifically, that Parties with a more advanced program for regulating chemicals should provide technical assistance, including training, to other Parties in developing their infrastructure and capacity to manage chemicals.<sup>204</sup>

The Convention also provides that exporting Parties shall advise and assist Parties to obtain further information and help them to take the decision regarding future import of the chemicals under the Convention.<sup>205</sup> Exporting Parties shall also advise and assist Parties in order to strengthen their capacities and capabilities to manage chemicals safely. Furthermore, the Convention provides that a Party, in providing an interim response regarding import, may request assistance in evaluating the chemical concerned.<sup>206</sup> In addition, the convention contains an article on information exchange.<sup>207</sup>

One of the main functions of the Secretariat of the Convention is to facilitate assistance to Parties, especially developing country Parties and Parties with economies in transition in the implementation of the Convention.

#### c. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal

The Basel Convention obligates Parties to promote capacity building of sound waste-management technologies in several ways. The Parties shall cooperate in the transfer of technology and management systems and help each other in the development of technical capacities, especially those Parties which may need and request technical assistance in this field.<sup>208</sup> Special emphasis is laid on the need for giving assistance to developing countries in the fulfillment of their obligations under the Convention.<sup>209</sup> The cooperative capacity building between the Parties as well as other international organizations should promote the development of environmental sound management of hazardous and other wastes, the adoption of new low-waste technologies, and generally advance public awareness of issues relating to the Basel Convention. The coordination of this exchange of information is entrusted to the Secretariat, which has to collect and pass on information received by the Parties on sources of technical assistance and training.<sup>210</sup>

#### d. Convention on the Law of the Non-Navigational Uses of International Watercourses

Capacity building provisions in this Convention relate primarily to data and information exchange and cooperation. Parties are directed to exchange readily available information, or, where necessary, develop necessary information after reasonable costs have been paid by the requesting State.<sup>211</sup>

e. MARPOL Convention on the Prevention of Pollution from Ships

MARPOL contains broad rules on capacity building, directing the Parties to establish complementary or joint programs of scientific and technical research with the objective of eliminating or replacing noxious substances to reduce marine pollution. Toward this end, Parties are to give due regard to the work of “appropriate international organizations and agencies.”<sup>212</sup> Parties are to cooperate to prevent incidents that may result in pollution from land-based sources, minimize and eliminate the consequences of such incidents, and to exchange information.<sup>213</sup>

f. United Nations Convention on the Law of the Sea (UNCLOS)

The U.N. Convention on the Law of the Sea<sup>214</sup> requires Parties to build capacity on a global and regional level for the protection and preservation of the marine environment and the prevention, reduction and control of marine pollution. Parties must provide technical assistance to developing states in scientific, educational, technical and other programs required for protection of the marine environment.<sup>215</sup> Technical assistance includes the training of scientific and technical personnel; the provision of equipment and facilities for research, monitoring and educational programs; and the provision of necessary assistance. Part XIV of the Convention outlines obligations of Parties to promote the development and transfer of marine technology. Specific measures to promote this development and information-transfer include: the establishment of infrastructure needed for the transfer of such knowledge and technology, the development of human resources in developing states, and the establishment of new research centers or strengthening of existing ones, particularly in developing countries.

The Division for Ocean Affairs and the Law of the Sea (DOALOS) of the Office of Legal Affairs of the United Nations serves as the secretariat of the Convention on the Law of the Sea. The Division assists with capacity-building activities and information, as part of their mandate to provide information, advice and assistance to States with a view to providing a better understanding of the Convention and the related Agreements, their wider acceptance, uniform and consistent application and effective implementation. The Division monitors all developments relating to the Convention, the law of the sea and ocean affairs and reports annually to the General Assembly of the United Nations on those developments.<sup>216</sup>

g. The Convention on Long-range Transboundary Air Pollution (LRTAP)

All eight protocols of LRTAP contain similar provisions for capacity building. Most contain provisions delineating strategies for the exchange of technology and development, and for research development and monitoring.<sup>217</sup> Earlier protocols require Parties to “facilitate exchange” of technology and techniques, while later Protocols require only that Parties “create favorable conditions” for such exchange. All require Parties to “encourage” research, development and monitoring. In addition, several protocols contain provisions on public awareness, requiring Parties to “promote the provision of information to the general public”<sup>218</sup> concerning their respective Protocols.

Though the eight protocols of LRTAP span over ten years and deal with a variety of pollutants, their strategies for capacity building are almost identical. Through a general focus on technology and development and public awareness, there is a recurring emphasis on the development of alternatives to POPs, updating and publicizing emission databases, and publicizing the effects of POPs on human health and the environment.

h. Montreal Protocol on Ozone Depletion

The Montreal Protocol prescribes capacity building by establishing rules on research, development, public awareness and exchange of information<sup>219</sup> through

cooperation consistent with municipal laws and aware of the particular needs of developing countries.<sup>220</sup> The Protocol establishes a more objective approach in financial mechanisms for the transfer of technology and other means to enforce the Convention. It creates a Multilateral Fund,<sup>221</sup> with specific policies decided by the parties<sup>222</sup> and managed by an Executive Committee.<sup>223</sup> There are procedural rules set forth for the administration of the Multilateral Fund, which include the cooperation of International Financial Institutions such as the World Bank or other agencies, depending on the area of expertise required.<sup>224</sup>

#### i. Kyoto Protocol on Climate Change

Capacity building is regulated in articles 10 and 11 of the Kyoto Protocol.<sup>225</sup> Under these provisions, Parties must: exchange information on national programs dealing with the adverse impacts of climate change; promote, facilitate and finance the transfer of environmentally sound technologies, know-how and practices; exchange information on scientific research on climate change and the establishment of observation systems; and develop and implement education and training programs, as well as programs to make information on climate change available to the general public. All of these duties have to be carried out taking into consideration the special needs of less developed countries, especially with regard to funding and transfer of technology.<sup>226</sup>

The strong need for financial support and technology transfer from developed countries to less developed countries is specifically recognized in Art. 4(7) of the UN FCCC, to which Art. 11 (1) of the Kyoto Protocol refers.<sup>227</sup> Art. 11 of the Protocol is also linked to Art. 4 (3), (4) and (5) of the Framework Convention. These provisions oblige developed country Parties to provide for new funding to cover the costs incurred by developing countries in fulfilling their obligations under the Convention, or in adapting to the adverse effects of climate change. Those funds shall also be used for the transfer of environmentally sound technologies and know-how, as well as other capacity building measures, in developing countries. Specific capacity building measures include: the development and implementation of education and training programs, including the

strengthening of national capacity building, in particular human and institutional capacities and the exchange of personnel to train experts in this field, in particular for developing countries, and facilitate at the national level public awareness of, and public access to information on, climate change. If the Kyoto Protocol enters into force, the Secretariat of the UN FCCC will serve as the Secretariat (at least initially) and facilitate activities and information exchange in relation to capacity building.

#### j. Biosafety Protocol

After the Protocol was adopted in 2000, the Global Environment Facility (GEF) adopted the GEF Initial Strategy on Biodiversity.<sup>228</sup> This includes assisting countries to establish operational national biosafety frameworks, enhancing scientific and technical advice, and running a Biosafety Clearing House project to assist countries in participating in the Biosafety Protocol.

### **3. Health**

#### a. Tobacco Convention

The FCTC contains provisions on education, communication, training and public awareness, research, surveillance and exchange of information, reporting and exchange of information, cooperation in the scientific, technical, and legal fields and provision of related expertise, and financial resources. It indicates that education, communication, training and public awareness shall be dealt with at the national level.<sup>229</sup> Research shall be addressed nationally and through competent international and regional intergovernmental organizations and other bodies.<sup>230</sup> Surveillance is to be done through regional, national and global programs, permitting, as appropriate, analysis at the international level.<sup>231</sup> The FCTC highlights the need for cooperation with international and regional intergovernmental organizations, as well as with the WHO.<sup>232</sup> Financial cooperation thru international intergovernmental organizations and financial and development institutions is prescribed for helping developing countries meet their

obligations in the Convention.<sup>233</sup> Parties are also directed to facilitate transfer of technological, legal and scientific expertise.

## **F. PROMOTING COOPERATIVE ACTIVITIES**

Cooperation is central to addressing many of the environmental hazards impacting children's health. First, the nature of most of these hazards – as local activities that produce regional or global impacts – requires cooperative efforts to ensure that they are eliminated. Second, the complexities of many of these issues require a diversity of skills, knowledge, and perspectives that can be achieved only through cooperation—including between international institutions, governments, NGOs and health practitioners. Third, the breadth of potential impacts requires significant financial and personnel resources, which may be more efficiently used and more available as a result of cooperative activities. Finally, cooperation fosters goodwill and a greater willingness to address issues of concern.

The function served by international law in promoting cooperative activities relates to the functions served by international law in enhancing capacity and providing fora for discussions, coordination and decision-making. Cooperation can enhance capacity building, but, clearly, cooperation serves other objectives as well. Likewise, meetings can enhance coordination, but are not the only means to doing so.

Many of the treaties previously described cite cooperation as an important component of a strategy to address environmental concerns. Several detail the types of cooperative activities necessary to achieve goals. For example, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal obliges the Parties to co-operate with each other for the purpose of achieving environmentally sound management of hazardous and other wastes. Cooperative activities include exchange of information and the harmonization of technical standards and practices, monitoring of the effects of management practices on human health and environment, developing and implementing new technologies, transferring technologies

and management systems, building capacities, and promoting awareness.<sup>234</sup> The Basel Convention, like many treaties, envisions a coordinating role for the Secretariat, which is responsible for administering the treaty. One of the primary coordinating roles of the Secretariat is related to information exchange.

Given the multilateral nature of impacts, cooperation is essential between countries, between conventions, and between NGOs and governments. Working with the environment and its effects on children's health also requires a multidisciplinary approach, encompassing ecology, biology, physiology, and sociology. Cooperation can lead to more effective information gathering, increased capacity to respond to environmental health problems, and a stronger global plan to combat these problems.

## **V. GLOBAL, REGIONAL, AND BILATERAL INSTITUTIONS**

As described in previous sections, global, regional and bilateral institutions significantly contribute to development and implementation of international law by assisting in development of substantive rules, facilitating resolution of disputes, providing fora for discussions, providing and encouraging the scientific basis, developing and disseminating information, and building technical capacity. In addition to these roles, international and regional institutions provide direct assistance, funding and advice to governments and communities.

This section will elaborate briefly on the work of some of the institutions whose programs directly address children's environment health-related issues as well as some international funding institutions that both support and adversely impact efforts to advance protection of children's health. The most important global and regional institutions with a programmatic focus on children's environmental health include the World Health Organization (and its regional offices, such as the Pan-American Health Organization, PAHO), the United Nations Children's Fund (UNICEF), the United Nations Environment Programme (UNEP), the United Nations Development Programme (UNDP) and the International Labour Organisation (ILO). Other organizations, such as



the Food and Agriculture Organization (FAO) and the Organization for Economic Co-operation and Development (OECD), among others, address environmental concerns that impact children's health.

The most important institutions with a focus on funding include the Global Environment Facility (GEF), the World Bank Group, and regional development banks, such as the Asian Development Bank. The GEF is actually made up of 3 institutions: the World Bank, UNEP, and UNDP. GEF's primary obligation is to protect the environment. Several of the other funding institutions provide accountability mechanisms that are intended to facilitate enforcement of these obligations.

## **A. GLOBAL AND REGIONAL INSTITUTIONS WITH A PROGRAMMATIC FOCUS ON CHILDREN'S ENVIRONMENTAL HEALTH**

### **1. World Health Organization**

The World Health Organization (WHO), the United Nations specialized agency for health, has as its objective "the attainment by all peoples of the highest possible level of health." Health is defined in WHO's Constitution as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity."<sup>235</sup>

To achieve its objectives, WHO is mandated to perform numerous tasks that range from coordinating international health activities and developing legal norms to advancing technical and scientific expertise, educating the public, and providing direct support to countries and communities. One of the most important child-specific mandates is to promote maternal and child health and welfare and to foster the ability to live harmoniously in a changing total environment.<sup>236</sup>

WHO has been working on children's environmental health since 1999, when it set up a Task Force for the Protection of Children's Environmental Health. The Task Force's activities culminated at the 2002 International Conference on Environmental Threats to the Health of Children: Hazards and Vulnerability, a regional conference for

South-East Asia and the Western Pacific regions. At that conference, the Bangkok Statement was signed by over 300 scientists, doctors, educators, community workers, and representatives from IGOs, NGOs, and governments, pledging to strengthen protection and prevention, promote health care and research, promote empowerment and education, and advocate and take action at all levels.<sup>237</sup> Later that same year, at the World Summit on Sustainable Development, WHO officially inaugurated the Healthy Environments for Children Alliance (HECA).

The Healthy Environments for Children Alliance (HECA)<sup>238</sup> is a world-wide alliance whose mission is to “reduce environmental risks to children’s health that arise from the settings where they live, learn, play, and sometimes work, by providing knowledge, increasing political will, mobilizing resources, and catalyzing intense and urgent action.”<sup>239</sup> HECA is an important follow-up contribution to the World Summit, and a realization of the health and environment components of the Millennium Development Goals. In June of 2003, the Alliance drafted the HECA Framework for Action, which sets out initial activities and expected achievements of the Alliance, and provides a new and targeted blueprint for action for the global community working to protect children’s environmental health.<sup>240</sup>

HECA is only part of WHO’s work on children’s environmental health. Some of the current activities include: working with partners to develop a framework for children’s environmental health indicators through the Multiple Exposures Multiple Effects model<sup>241</sup>; capacity building through pilot training activities, preparing information manuals, and promoting Pediatric Environmental History Taking<sup>242</sup>; developing national profiles that are narrative assessments on the status of children’s environmental health in a country<sup>243</sup>; and initiating collaborative research.<sup>244</sup>

WHO’s regional offices also maintain a focus on children’s health issues. For example, the Pan American Health Organization (PAHO), WHO’s regional office in the Americas, has several programs and activities in the Family Health and Population Area, including the Child and Adolescent Health Unit and projects to address children’s health issues.<sup>245</sup> The European Office of WHO has a Children’s Health and Environment (CHE)

Program to address regional children's health concerns, including asthma and allergies, respiratory health, chronic diseases, among others.<sup>246</sup> In Europe, a Children's Environment and Health Action Plan for Europe (CEHAPE) was recently approved by over 40 ministers of health and the environment in the European Region.<sup>247</sup> CEHAPE sets out four regional priority goals: safe water and adequate sanitation; protection from injuries and adequate physical activity; clean outdoor and indoor air; and chemical-free environments.<sup>248</sup>

WHO has many other activities that relate to children's environmental health. As noted previously, WHO is the primary international authority establishing health-based standards and regulations. In addition to the International Health Regulations (described in Non-binding Substantive Rules section) developed by WHO to protect against the international spread of diseases, WHO worked with FAO to create the Codex Alimentarius Commission. This Commission develops food standards, guidelines and codes of conduct to protect the health of consumers by reducing the risk of food-borne health hazards, ensuring fair trade practices in the food trade, and promoting coordination of all food standards through work undertaken by international governmental and non-governmental organizations.

WHO also leads efforts to study impacts of human activities on health. For example, in late 2003, WHO, UNEP, and the World Meteorological Organization launched a major study on the impact of global climate change on health. The report examines the process of climate change and how it affects the way diseases emerge. It also suggests ways in which governments can monitor and respond to these new threats.

In adopting the Framework Convention on Tobacco Control, WHO exercised for the first time its powers to adopt a treaty under its constitution. Several global health experts believe additional international health-related instruments are necessary to combat the rise in international health-related concerns largely associated with globalization.<sup>249</sup>

WHO has a department dedicated to addressing issues related to the health, growth and development of children from 0-19 years old, the Department of Child and Adolescent Health and Development (CAH).<sup>250</sup> The main objectives of the department are to reduce illness and death among, and improve health and development of, children and adolescents. It does this through raising awareness, promoting research, producing research to develop standards and guidelines, and facilitating local adoption and implementation of these standards and guidelines. Currently, the department is leading efforts to develop a WHO Strategy for Child and Adolescent Health and Development.

## **2. The United Nations Children’s Fund (UNICEF)**

UNICEF is mandated to “advocate for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential.”<sup>251</sup> UNICEF is pursuing this mandate by supporting implementation of the Convention on the Rights of the Child, which recognizes the roles that UNICEF and other U.N. bodies can play in support of the work of the Committee on the Rights of the Child.

In addition to assisting nations in development and implementation of their reports, UNICEF provides much needed technical advice and assistance and information. UNICEF’s Program for Water, Environment and Sanitation, in particular, supports efforts to increase protection of the environment for children’s health. UNICEF is also a HECA member, and in that capacity works towards protecting the environment. Additionally, UNICEF works with other U.N. and humanitarian agencies to provide direct health care to children. It also works with NGOs, such as Childwatch International, with whom it is monitoring implementation of the Convention. The UNICEF Innocenti Research Centre supports UNICEF’s role in research, policy analysis, and networking with other institutions, including universities and research institutions.

## **3. United Nations Environment Programme (UNEP)**

UNEP's mission is to "provide leadership and encourage partnership in caring for the environment by inspiring, informing, and enabling nations and peoples to improve their quality of life without compromising that of future generations."<sup>252</sup> It is the principle environmental body within the U.N. UNEP has been active in children's environmental health issues for some time, working closely with UNICEF and WHO,<sup>253</sup> governmental partners, and NGOs. UNEP is a core member of HECA and is responsible for producing the HECANET newsletter with coverage of children's environmental health news and activities.

UNEP has played a pivotal role in supporting the development and implementation of environmental law and international agreements addressing significant health concerns. For example, UNEP began the process to develop the International Treaty on Persistent Organic Pollutants. It serves as the interim Secretariat for that Convention, and provides administrative and policy support to the Secretariats of several other multilateral environmental agreements, including the Vienna Convention for the Protection of the Ozone Layer, the Montreal Protocol on Substances that Deplete the Ozone Layer, and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. Secretariats assist Parties in implementation by collecting reports on compliance and transmitting these to the Conference of the Parties, facilitating technology transfer, by maintaining information on the development of projects relevant to the convention, and, in certain cases, by enhancing compliance and implementation through a financial mechanism.

Many UNEP activities in capacity building, assessment, and technical and policy advice emphasize the links between human and environmental health and address children's environmental health issues. Children's environmental health is addressed both directly and indirectly, including through work on phasing-out lead in gasoline; defining an international strategy for chemicals management; water and sanitation activities; and work related to the health aspects of the international environmental agreements.

Critical to any multilateral environmental agreement is credible scientific information to underpin the negotiation process. Thus, UNEP has worked to promote and to forge international consensus around such information. As such, it has contributed to the establishment of a number of scientific advisory groups for which UNEP acts as the convener, including the Intergovernmental Panel on Climate Change. UNEP also leads efforts to monitor the environment, supporting the UNEP World Conservation Monitoring Centre, which provides information for policy and action to national governments, scientific advisory bodies of conventions, etc. and the UNEP Programme on Environmental Information, Assessment & Early Warning.

#### **4. United Nations Development Programme (UNDP)**

UNDP's mission is to help countries in their efforts to achieve sustainable human development by assisting them to build their capacity to design and carry out development programs in poverty eradication, employment creation and sustainable livelihoods, empowerment of women, and the protection and regeneration of the environment, giving first priority to poverty eradication.<sup>254</sup> UNDP has offices in over 166 countries.

Examples of programs that directly support protection of the environment to enhance children's health include UNDP's "Maternal and Child Health Project," implemented in Pakistan from 1999 to 2001, which focused on raising awareness about the high maternal and infant mortality rate in Pakistan and identifying solutions to this problem.

#### **5. International Labour Organisation (ILO)**

The International Labour Organisation is the U.N. specialized agency that seeks to promote social justice and internationally recognized human and labor rights. The ILO leads international efforts to ensure that children have safe working environments,

formulating, for example, international labor standards in conventions and other documents. It has an International Program on the Elimination of Child Labor.

## **6. Regional Organizations**

The Commission for Environmental Cooperation (CEC) has developed and is implementing a “Project on Children’s Health and the Environment in North America” under its Pollutants and Health Program.<sup>255</sup>

The Organization of African Unity (OAU) was a regional organization composed of over fifty African States. It established, through the African Charter on the Rights and Welfare of the Child, an African Committee of Experts on the Rights and Welfare of the Child, to promote protection of the child through, among other activities, collecting information, making recommendations to governments, formulating principles and rules aimed at protecting the rights and welfare of children in Africa.

## **B. INTERNATIONAL AND REGIONAL FINANCIAL INSTITUTIONS**

### **1. Global Environment Facility (GEF)**

The Global Environmental Facility (GEF) is an independent financial organization operated under the auspices of UNDP, UNEP and the World Bank. It provides grants to developing countries for projects that benefit the global environment and promote sustainable livelihoods in local communities. GEF projects are managed by the GEF's three implementing agencies.

More specifically, GEF provides funding to assist developing countries in meeting the objectives of international environmental conventions. The GEF serves as the financial mechanism for the Convention on Biological Diversity, the UN Framework Convention on Climate Change, the UN Convention to Combat Desertification and the Stockholm Convention on POPs. As the financial mechanism, the GEF works to obtain

strategic guidance from these conventions and translate this into operational criteria for GEF projects.<sup>256</sup> The GEF also works closely with the Montreal Protocol on Substances that Deplete Ozone Layer and agreements to protect international waters.

Generally, a wide-range of entities may submit project proposals to the GEF for funding, including governments, national institutions, local communities, non-governmental organizations, academic institutions, international organizations and private sector entities, but all proposals made must be consistent with national priorities and have the support of the countries involved.

## **2. International and Regional Development Banks**

Development institutions support development efforts that may both benefit and adversely impact children's health. These institutions include international financial institutions such as the World Bank Group and the International Monetary Fund, as well as the following regional development banks: the Asian Development Bank,<sup>257</sup> the African Development Bank,<sup>258</sup> the Caribbean Development Bank,<sup>259</sup> the Central American Bank for Economic Integration,<sup>260</sup> the European Bank for Reconstruction and Development,<sup>261</sup> the European Investment Bank,<sup>262</sup> the Inter-American Development Bank,<sup>263</sup> and the Islamic Development Bank.<sup>264</sup> Projects supported by these institutions have benefited children's health by increasing access to health care, clean water, electricity, and education, among other things. Projects supported by these institutions that have adversely impacted children's health include dam-building projects that have displaced families and contributed to increased water-borne diseases, land-clearing projects that have facilitated run-off into streams, etc.

The mission statements of these banks generally reflect a focus on "poverty alleviation." The World Bank's mission statement, for example, states, "The World Bank Group's mission is to fight poverty and improve the living standards of people in the developing world. The Bank provides loans, policy advice, technical assistance and knowledge sharing services to low and middle income countries to reduce poverty. The



Bank promotes growth to create jobs and to empower poor people to take advantage of these opportunities.”<sup>265</sup> Similar to the regional development banks, the World Bank has supported many early child development projects.<sup>266</sup> One recently completed World Bank project, for example, helped to improve reproductive and child health among poor people in Kolkata, India by advancing public awareness in the community about basic health issues ranging from family planning to immunization, and improving their access to health services. Despite assistance for children provided by these banks, adverse impacts to children through development projects have also been well documented.

Several human rights agreements, most notably the International Covenant on Economic, Social and Cultural Rights (ICESCR), direct that reports or information from reports shall be provided to specialized agencies of the UN and other development agencies to obtain their support.<sup>267</sup> These institutions are, in turn, sometimes asked to provide information about how their activities satisfy obligations. Significantly, a general recommendation issued by the committee interpreting the ICESCR’s right to health indicates that Parties have an obligation to ensure that their actions as members of international organizations take due account of the right to health. It notes, “Parties which are members of international financial institutions, notably the International Monetary Fund, the World Bank, and regional development banks, should pay greater attention to the protection of the right to health in influencing the lending policies, credit agreements and international measures of these institutions.”<sup>268</sup>

Many of these international and financial institutions have established policies and procedures to help ensure against adverse social and environmental impacts of projects. The World Bank’s Environmental Assessment Policy, for example, requires that an assessment be made of probable impact to health before a project is approved for funding. Additionally, it requires that the project not violate obligations countries have assumed under international treaties and agreements. Some argue that international financial institution environmental impact policies need to more explicitly recognize the special vulnerability of children and support field staff in assessing the impacts of

projects on children's environmental health, mitigating negative impacts and maximizing potential gains.<sup>269</sup>

Some of these institutions have established “accountability mechanisms” that allow, in varying degrees, opportunities for individuals and communities impacted by development projects to seek accountability from these institutions for violations of their institutional policies and procedures (For an example of how some of these accountability mechanisms can be used, see Case Studies, below).

## VI. CASE STUDIES

The following case studies provide some real-life examples of how international law and institutions have been employed in different circumstances. Though each one is about a specific case and issue, they are presented here to demonstrate avenues and approaches of engaging international law and institutions that can be used for a range of situations and goals.

### Box 3.

#### USING THE U.N. COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS TO PROMOTE THE RIGHT TO HOUSING IN THE PHILIPPINES

The U.N. Committee on Economic, Social and Cultural Rights provides one of the most important avenues through which States and civil society organizations can work to protect human rights.<sup>270</sup> The experience of a coalition of Filipino organizations, who employed the Committee to help protect the human right to housing in the Philippines, provides one example of how this mechanism can be used.<sup>271</sup>

In the mid-1980s in the Philippines, tens of thousands of people began to be forcibly evicted from their homes. The Filipino government justified the evictions with *Presidential Decree 772*—a law enacted in 1975 by former Dictator Ferdinand Marcos that criminalized squatting and allowed the government to remove all buildings, housing or shelters that it considered illegal. A coalition of Filipino non-governmental organizations (NGOs), working with the Centre on Housing Rights and Evictions (COHRE), determined that being arbitrarily deprived of one’s home and shelter is a violation of international law, that the United Nations had repeatedly declared forced evictions a violation of human rights, and that arbitrary forced evictions are outlawed in the International Covenant on Economic, Social and Cultural Rights (ICESCR). With this information and the knowledge that the Philippine government had become a party to the ICESCR in 1976, the group decided to try to use the U.N. Committee on Economic, Social and Cultural Rights to pressure their government to uphold its international human rights

obligations.

The U.N. Committee was made aware of the housing rights violations, and the concerns expressed by the Committee about these violations were published in the Manila newspaper. With pressure mounting, the Filipino government appeared before the Committee in May of 1994. The domestic NGOs used this opportunity to actively lobby the Committee. They continued lobbying the Committee and pressuring their government, and in May 1995 the NGOs released an “alternative report” to the official government report on the state of housing issues in the Philippines, and submitted their report to the Committee. This report documented the practice of forced evictions in the Philippines, and the Philippine government's blatant disregard for the human rights of its citizens. The report was compiled following extensive on-site investigations in the Philippines and discussions with various human rights NGOs and government officials.

In June of 1995, the Committee released its Concluding Observations, including the statement that “the Committee urges that consideration be given to the repeal of PD 772...and recommends that all existing legislation relevant to the practice of forced evictions should be reviewed so as to ensure its compatibility with the provisions of the Covenant.”<sup>272</sup> The NGOs returned to the Philippines with these Concluding Observations, and used them to lobby their government and to generate press. As noted by the Centre for Housing Rights and Evictions, such “after the Committee” advocacy at the grassroots level is most often essential to making the U.N. mechanisms have an effect. The Filipino NGOs continued their advocacy work, and in November of 1997, PD 772 was finally repealed.

What can be learned from this example of the Committee contributing to a human rights victory in the Philippines?

**Timeline.** It is important to note the time scale over which the advocacy process occurred. The NGOs held their first meeting in early 1993, and it was not until late 1997 that PD 772 was finally repealed. Working with U.N. Committees is often a long-term process that does not provide immediate redress.

**Coalition.** From the start, the Filipino NGOs worked collaboratively—holding a meeting in which all groups doing work on urban poverty issues were invited to attend, working with international organizations (in this case, mainly the Centre on Housing Rights and Evictions), and running an advocacy campaign that took advantage of support from members of government and press coverage by the media.

**Reporting.** The NGOs made significant efforts to research and produce a report that met the reporting requirements of the Committee. They documented their concerns in a detailed and professional manner, and took strategic advantage of the opportunities for participation provided by the Committee.

**“Post-Committee” Advocacy.** The NGOs did not stop their advocacy efforts once the Concluding Observations were released in their favor. They continued their work, using the Observations as a focal point to generate public awareness and pressure, and ultimately succeeded in getting the government to repeal PD 772 and stop its practice of facilitating or condoning large-scale evictions. (Even after such a victory is secured, it is important that the NGO community continue monitoring to ensure that the government does not return in the future to old practices that violate human rights.)

For more information on this example or how you may be able to use the U.N.

Committee on Economic, Social and Cultural Rights to advance the protection of specific rights in your country, contact: The Centre on Housing Rights and Evictions ([www.cohre.org](http://www.cohre.org)).

#### **Box 4.**

### **HOLDING INTERNATIONAL AND REGIONAL FINANCIAL INSTITUTIONS ACCOUNTABLE FOR IMPACTS TO CHILDREN'S HEALTH:**

*A case study of the Yacyretá Hydroelectric Project and the World Bank Inspection Panel*

Many international financial institutions (IFIs) have established “accountability mechanisms” designed to enable people who have been harmed by projects funded by these institutions to file complaints, seek redress, and hold the institution accountable for the harms. If a financial institution has violated its own environmental, social and/or health standards in relation to a project, these mechanisms ideally allow people who have been harmed by the project to make their voices heard in a strategic way.

The oldest of these mechanisms is the Inspection Panel of the World Bank. Created in 1993, the Inspection Panel is an independent entity that helps the public-sector funding branches of the World Bank come into compliance with their own environmental and social policies, and gives a voice to people who have been harmed by World Bank-funded projects. In 1999 the World Bank created the Compliance Advisor Ombudsman (CAO) to create accountability within the private sector funding branches of the World Bank. Since then, several of the regional development banks have created accountability mechanisms as well. Some of these mechanisms have been used to seek modifications of projects that threatened to negatively impact children's health.

Several World Bank Operational Policies have relevance to protecting children's health. The Environmental Assessment policy explicitly requires the Bank to consider impacts on health. Violations of several other policies, such as those related to Involuntary Resettlement, the Environmental Policy for Dams and Reservoirs, and the operational policy on Natural Habitats, can adversely impact children's health. Violations with respect to the Involuntary Resettlement policy, for example, could include failure to restore lost livelihood for resettled peoples, incomplete compensation for lost assets, or failure to provide health infrastructure that is as good as/better than the pre-displacement standard. Violations of other policies can range from failure to appropriately manage toxic and hazardous materials, to failure to disclose information about probable environmental impacts of a project.

In 1996, a federation of community organizations representing people who were adversely affected by the Yacyretá Hydroelectric Project, a large World Bank-funded dam on the Paraguay-Argentina border, filed a Request with the Inspection Panel. In their Request, they claimed that the rising water level caused by the Yacyretá dam had adversely impacted the health of local families, and that this harm was caused by a violation of the World Bank's policies on the environment and involuntary resettlement. Health problems described included respiratory infections, diarrhea, rashes, skin and intestinal parasites, nutritional disorders and stress-related conditions caused by poor water quality. Over 2,400 families have already been relocated due to construction and rising water levels, and 6,000 more families are expected to be relocated in Paraguay.

The Panel found that Bank policies had been violated and recommended a full investigation of the claim. Although the World Bank initially decided not to proceed with a full investigation, the recommendation did ultimately prompt a site inspection by a senior World Bank official who was “shocked by the conditions on the ground,” and it raised the level of awareness about the issues within the Bank.

In 2002 a second claim was filed, citing environmental degradation and pollution impacting on human health. The Panel completed the second Yacyretá investigation in May of 2004, and found that the Bank was indeed failing to adequately implement several aspects of its environmental and social policies in project activities. The report highlighted a need for improved project supervision, better census and survey data, wider public disclosure of information, and more effective consultations with affected groups. In response, the Bank’s Executive Directors approved an “action plan” created by Bank management to address the concerns raised in the report. The Inspection Panel will review the action plan and implementation measures, and will report to the Board on progress made.

This case serves as an example of how the Inspection Panel, as an accountability mechanism, serves to channel complaints from affected people and amplify their concerns in strategic and institutionalized ways. In the case of Yacyretá, the Panel’s involvement increased attention to the concerns of affected people and put pressure on the Bank to improve the situation on the ground by better upholding their own policies and procedures.

## Box 5

### *VILLAGRAN MORALES ET AL.* & RIGHTS OF CHILDREN UNDER THE AMERICAN CONVENTION

The Inter-American Court of Human Rights first extensively addressed the rights of children in the 1999 case *Villagran Morales et al.* (the “Street Children” case). A number of street children, three of them under 18 years old, were abducted, tortured, and murdered by members of the National Police Force.<sup>273</sup> The Court determined that Guatemala had violated many of the rights of the American Convention, including Article 4, the right to life. The Court described the right to life as a “fundamental human right” that includes the right that one “will not be prevented from having access to the conditions that guarantee a dignified existence. States have the obligation to guarantee the creation of the conditions required in order that violations of this basic right do not occur....”<sup>274</sup>

*Villagran Morales et al.* was referenced in the Court’s 2002 Advisory Opinion on *Juridical Condition and Human Rights of the Child*.<sup>275</sup> Throughout the Advisory Opinion, the Convention on the Rights of the Child is heavily referenced and used to interpret the American Convention. The IACHR builds on the concept from *Villagran Morales et al.* that the right to life includes the positive obligation to provide the necessary conditions for life to develop.<sup>276</sup> The official opinion includes a passage proclaiming that the right to life “encompasses not only prohibitions...but also the obligation to adopt the measures required for children’s existence to develop under decent conditions.”<sup>277</sup>

By recognizing the requirement for decent conditions as a part of the right to life, and by referencing the Convention on the Rights of the Child, the court has linked the right to health to the right to life. Under the Convention on the Rights of the Child, the right to health includes

taking into account the risks of environmental pollution and ensuring access to education about environmental sanitation.<sup>278</sup>

## VII. CONCLUSION

Protecting the health of our children requires protecting the health of our environment. The international instruments and institutions described in this handbook offer opportunities to governments, intergovernmental organizations, civil society, and other interested individuals and organizations to secure such protection. International law and institutions provide blueprints for action and opportunities to build on these blueprints; mechanisms to resolve disputes; mechanisms to secure the compliance of nations with their obligations; fora for discussions and decision-making; approaches to building capacity and providing technological and scientific support; and support for cooperative activities. In so doing, international law and institutions help amplify the voices and needs of our most vulnerable population and offer opportunities to protect their health.

Appendix A

*Tables summarizing contents of each convention*

Table 1. Overview of the specific rights that are related to children’s health and that are guaranteed under each of the major international Human Rights conventions.

<b>Overview of the Health-Related Rights Guaranteed by Each of the Major International Human Rights Conventions</b>					
<b>Human Rights Conventions</b> □	<b>Human Rights Covered Under Convention</b>				
<b>CRC</b>	Right to health and health services (art. 24)	Right to life, survival and development (art. 6)	Right to an adequate standard of living (art. 27)	Right to a healthy workplace environment (art. 32)	Right to education (art. 28 and 29)
<b>ICESCR</b>	Right to health and health services (art. 12)		Right to an adequate standard of living (art. 11)	Right to a healthy workplace environment (art. 10(3))	Right to education (art. 13)
<b>ICCPR</b>		Right to life, (art. 6(1))			Right to education
<b>CEDAW</b>	Right to health and health services (art. 11 and 12)		Right to an adequate standard of living (arts. 11.2(c), 13(a, b), 14.2(h))  Right to enjoy adequate water supply (art. 14.2(h))	Right to a healthy workplace environment (art. 11)	Right to education (art. 10, 14)
<b>CERD</b>	Right to health and health services (art. 5)		Right to an adequate standard of living (art. 5(e)(iii, iv)).  Right to housing (art. 5(e)(3))	Right to a healthy workplace environment (5(e)(1))	Right to education (arts. 5(e)(v), 7)
<b>ILO 182</b>		Right to life, survival and development		Right to a healthy workplace environment	Right to education
<b>ILO 138</b>		Right to life, survival and development		Right to a healthy workplace environment	Right to education (art. 7)

<b>American Convention</b>		Right to life, survival and development (art. 4)			
<b>San Salvador Protocol</b>	Right to health and health services (art. 10)		Right to food (art. 12)  Right to a healthy environment—to “live in a healthy environment and have access to basic public services” (art. 11)	Right to a healthy workplace environment (art. 7)	Right to education (art. 13)
<b>European Convention</b>		Right to life (art. 2)			
<b>African Charter</b>	Right to health and health services (art. 16)	Right to life, survival and development (arts. 4, 20, 22)	Right to a healthy environment—to “a general satisfactory environment favorable to their development” (art. 24)	Right to a healthy workplace environment (art. 15)	Right to education (art. 17)

Table 1.1. An overview of the elements of human rights, labor, environment and health conventions that specifically mention and relate to children.

<b>CONVENTIONS WITH SPECIFIC REFERENCE TO CHILDREN</b>
<b>Convention on the Rights of the Child</b>
<input type="checkbox"/> The entire convention concerns the rights that Parties should guarantee to children.
<b>ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour</b>
<input type="checkbox"/> The entire convention addresses measures and actions that must be taken by Parties in order to eliminate labor conditions that are harmful to the health and development of children.
<b>ILO Convention 138 Concerning the Minimum Age for Admission to Employment</b>
<input type="checkbox"/> The Convention sets out minimum age requirements that Parties must uphold for employment in various sectors.
<b>International Covenant on Economic Social and Cultural Rights</b>
<input type="checkbox"/> Article 10, particularly 10.3, states that special protections should be upheld for all children and young persons, without any discrimination, to promote their health and mental well-being and to protect them from “economic and social exploitation.”
<b>International Covenant on Civil and Political Rights</b>
<input type="checkbox"/> Article 24 states that every child shall have, without any discrimination, the right to such measures



of protection as are required by his status as a minor, on the part of his family, society and the State. Article 24 also says that every child shall have the right to a name and registration after birth, and a nationality.
<b>Convention on the Elimination of All Forms of Discrimination Against Women</b>
<ul style="list-style-type: none"> <li><input type="checkbox"/> Though the content of the convention concerns the rights and well-being of women, there is frequent emphasis that, in issues concerning family, the best interest and well-being of the children are of highest priority.</li> <li><input type="checkbox"/> Article 11.2(c) addresses the need for social support services for children and parents, including child-care.</li> <li><input type="checkbox"/> Article 16.2 seeks to prevent marriage or betrothal of a child, and to require the establishment of a minimum age for marriage.</li> <li><input type="checkbox"/> Article 10(f) calls for reducing the female student drop-out rate and promoting programs for girls who have left school prematurely.</li> </ul>
<b>San Salvador Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of 1988</b>
<ul style="list-style-type: none"> <li><input type="checkbox"/> Article 15.3(b) guarantees adequate nutrition for children at the nursing stage and during school attendance years.</li> <li><input type="checkbox"/> Article 15.3(c) calls for special measures for the protection of adolescents in order to ensure the full development of their physical, intellectual and moral capacities.</li> <li><input type="checkbox"/> Article 16 addresses the rights of children, and states that every child has the right to the protection that his status as a minor requires from his family, society and the State, including the right to education.</li> </ul>
<b>African Charter on Human and Peoples' Rights</b>
Article 18.3 simply states that the protection of the rights of the woman and the child should be ensured "as stipulated in international declarations and conventions."
<b>Stockholm Convention on Persistent Organic Pollutants</b>
<ul style="list-style-type: none"> <li><input type="checkbox"/> Article 10 requires governments to develop awareness programs targeted to children.</li> <li><input type="checkbox"/> Article 7 directs governments to consult, in development of implementation plans, with groups working on children's health.</li> </ul>
<b>Tobacco Convention</b>
<input type="checkbox"/> Article 16 prohibits sale to and by a minor

Table 2. Description of major objectives, measures and obligations of environmental treaties in four categories: chemicals; water pollution, air pollution and food safety.

<b>Overview of Major International Conventions Relating to Environmental Health</b>		
<b>CHEMICALS</b>		
<b><u>Stockholm Convention</u></b>	<b><u>Rotterdam Convention</u></b>	<b><u>Basel Convention</u></b>
<b>Objective:</b> to ban production, trade and use of persistent organic pollutants (POPs).	<b>Objective:</b> to reduce risks posed to human health and the environment by international trade in certain hazardous chemicals.	<b>Objective:</b> to control the transboundary movement of hazardous wastes and hazardous recyclable materials, and to promote environmentally-sound management of these substances.

<p><b>Measures &amp; Obligations:</b></p> <ul style="list-style-type: none"> <li>□ For <i>intentionally introduced POPs</i>, the agreed-upon goal is to eliminate all production, use, and trade. The Convention outlines certain measures that Parties are obligated to take to eliminate these POPs, with exemptions allowed under specific conditions. <ul style="list-style-type: none"> <li>□ Nine (9) chemical substances have been classified as intentionally introduced POPs, plus a tenth—DDT—which can be used only for disease vector control programs, and only if exposure to humans is minimized.</li> </ul> </li> <li>□ For <i>unintentionally introduced POPs</i>, Parties are obligated to minimize use and, where feasible, to seek elimination. Parties are required to develop detailed action plans to evaluate releases, develop strategies to address them, evaluate laws and policies, outline a timeframe for implementation, and promote the use of best available techniques for elimination/minimization of POPs.</li> <li>□ For <i>POPs that are in stockpiles and wastes</i>, which are generally obsolete pesticide and PCBs, Parties are obligated to adopt certain measures to ensure “environmentally sound management” of these chemicals.</li> <li>□ Parties are also obligated to assess existing chemicals to identify substances that may qualify as additional POPs, including candidate chemicals that have been forwarded by other countries. Nominations must come from governments, but there may be opportunity for civil society to influence the list of candidate chemicals from a government.</li> </ul>	<p><b>Measures &amp; Obligations:</b></p> <ul style="list-style-type: none"> <li>□ The Convention obligates Parties to ensure that the export of a chemical covered by the Convention takes place only with the prior informed consent of the importing Party. <ul style="list-style-type: none"> <li>□ Through this requirement for prior informed consent (PIC), the convention seeks to ensure that importing countries have the tools and information they need to identify potential hazards and to exclude chemicals they cannot manage safely.</li> </ul> </li> <li>□ The Rotterdam Convention covers most of the substances qualified as POPs under the Stockholm convention, along with additional pesticides and industrial chemicals that have been banned or severely restricted by Parties for health and environment reasons, and which have been notified by Parties for inclusion in the PIC procedure.</li> </ul>	<p><b>Measures &amp; Obligations:</b></p> <ul style="list-style-type: none"> <li>□ The Convention obligates Parties to classify wastes and recyclable materials as ‘hazardous’ based on agreed-upon criteria. <ul style="list-style-type: none"> <li>□ Parties must take several actions to reduce the negative impact of hazardous materials: <ol style="list-style-type: none"> <li>(1) Track and label;</li> <li>(2) Control export and import t and from specified locations;</li> <li>(3) Manage in an environmentally sound manner;</li> <li>(4) Promote technology development, cooperation, and information exchange; and</li> <li>(5) Report on implementation progress.</li> </ol> </li> </ul> </li> </ul>
--	--	--

<b>WATER POLLUTION</b>		
<b><u>MARPOL</u></b>	<b><u>U.N. Convention on International Watercourses</u></b>	<b><u>UNCLOS</u></b>
<b>Objective:</b> to preserve the marine environment by preventing pollution	<b>Objective:</b> to protect and sustain surface and groundwater resources	<b>Objective:</b> to establish an international legal order to promote

<p>from ships and achieving the complete elimination of international pollution by oil and other harmful substances and the minimization of accidental discharge of such substances.</p>	<p>shared by countries.</p>	<p>peaceful uses of the oceans and seas, equitable and sustainable utilization of marine resources, facilitation of international navigation, and the study, preservation and protection of the marine environment.</p>
<p><b>Measures &amp; Obligations:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> MARPOL is administered by the International Maritime Organization (IMO), and requires the contracting parties to impose a variety of controls on pollution from ships.</li> <li><input type="checkbox"/> Under MARPOL, Parties are obligated to eliminate or reduce the discharge of specified pollutants, and otherwise address the remaining pollutants covered by the Convention.</li> <li><input type="checkbox"/> The Convention has five annexes covering oil, noxious liquids in bulk, harmful substances in packaged form, sewage and garbage.</li> <li><input type="checkbox"/> The Convention itself is a vehicle for enforcement and administration of the detailed provisions in its attached annexes. It was amended by a 1978 Protocol.</li> </ul>	<p><b>Measures &amp; Obligations:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The Convention outlines measures to guide the negotiation of agreements relating to specific watercourses and outlines principles to govern the conduct of riparian States relative to watercourses.</li> <li><input type="checkbox"/> Under the Convention, Parties are directed to utilize an international watercourse in an equitable and reasonable manner, not cause significant harm to other watercourse States, cooperate, regularly exchange information, and notify other watercourse States of planned measures.</li> <li><input type="checkbox"/> States are directed also to prevent, reduce and control pollution, take measures to prevent the introduction of species that may detrimentally impact the ecosystem, take all measures that are necessary to protect and preserve the marine environment, and take all appropriate measures to prevent or mitigate other harmful conditions.</li> </ul>	<p><b>Measures &amp; Obligations:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> UNCLOS outlines a comprehensive regime of laws and rules governing all uses of the oceans and their resources.</li> <li><input type="checkbox"/> Under UNCLOS, Parties assume a general obligation to “protect and conserve the marine environment.”</li> <li><input type="checkbox"/> The Convention stipulates, “States shall take all necessary measures to prevent, reduce and control pollution of the marine environment from any source” using “best practicable means.”</li> <li><input type="checkbox"/> UNCLOS stipulates that measures shall prevent, reduce and control pollution from land-based sources, seabed activities subject to national legislation, activities in the high seas area, dumping, vessels, and atmosphere.</li> </ul>

<b>AIR POLLUTION</b>		
<b><u>LRTAP</u></b>	<b><u>Kyoto Protocol</u></b>	<b><u>Montreal Protocol</u></b>
<p><b>Objective:</b> to reduce and limit air pollution that impacts human health and the environment, particularly air pollution coming from distant, multiple sources where it is not possible to distinguish the contribution of individual sources.</p>	<p><b>Objective:</b> to commit developed nations to limiting and reducing their quantified emissions of greenhouse gases in order to prevent global warming and promote sustainable development.</p>	<p><b>Objective:</b> to phase-out production and consumption of chemicals that reduce atmospheric ozone levels.</p>
<p><b>Measures &amp; Obligations:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The Convention is regional in scope—open to member States of the UN Economic Commission for Europe (UNECE), the European Community, and other states having</li> </ul>	<p><b>Measures &amp; Obligations:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Specific limits and emission targets vary by country, although limits are similar for the European Union, Japan, and the United States.</li> </ul>	<p><b>Measures &amp; Obligations:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Parties are required to ban export and import of the controlled substances, and to reduce their consumption and production of harmful substances according to</li> </ul>

<p>consultative status with the UNECE (including the United States).</p> <ul style="list-style-type: none"> <li>□ As a framework treaty, the Convention does not establish binding commitments, but rather states that countries shall “endeavor to limit and, as far as possible, gradually reduce and prevent air pollution,” using the “best available technology which is economically feasible.”</li> <li>□ The Convention outlines general principles of international cooperation for air pollution abatement and sets up an institutional framework for bringing together research and policy.</li> <li>□ The non-binding general principles of the Convention have been extended by eight protocols—which do identify specific obligations and measures to be taken by Parties to reduce harmful emissions. The specific obligations outlined in the protocols range from banning or phasing out substances to restricting their use and controlling their emissions.</li> <li>□ Several of the protocols allow for modifying the list of substances and actions without requiring a renegotiation of the entire protocol.</li> </ul>	<ul style="list-style-type: none"> <li>□ Measures include: enhancing energy efficiency; protecting and enhancing sinks and reservoirs of greenhouse gases; promoting sustainable agriculture; researching and promoting use of new and renewable forms of energy and other environmentally-sound technologies; reducing market incentives that run counter to objectives of the UNFCCC; encouraging reforms in the relevant sectors that reduce greenhouse gases, including the transport sector; and limiting methane emissions.</li> <li>□ The Kyoto Protocol has yet to enter into force. Entry into force will require ratification by at least one more major developed country—either the United States or Russia.</li> </ul>	<p>specific phase-schedules.</p> <ul style="list-style-type: none"> <li>□ Phase-out schedules are designed to be revised based on periodic scientific and technological assessments, and vary for developing and developed countries.</li> <li>□ The Protocol contains key provisions that limit or ban trade in ozone-depleting chemicals and products that contain them.</li> <li>□ The protocol allows for Parties to seek exemptions from prohibitions and agreements.</li> </ul>
--	---	---

<b>FOOD SAFETY</b>
<b><u>Biosafety Protocol</u></b>
<p><b>Objective:</b> to provide a framework for addressing the environmental impacts of genetically engineered organisms (referred to in the Protocol as “living modified organisms”, or LMOs) that cross international borders.</p>
<p><b>Measures &amp; Obligations:</b></p> <ul style="list-style-type: none"> <li>□ The Protocol requires that those seeking to export a LMO seek consent from the importing country prior to the first shipment of a LMO intended for intentional release into the environment (e.g., seeds for planting, fish for release and microorganisms for bioremediation).</li> <li>□ The Protocol establishes an <u>advance informed agreement (AIA)</u> procedure for ensuring that countries are provided with the information necessary to make informed decisions before agreeing to the import of such organisms into their territory. (The AIA procedure does not apply to LMO commodities that are intended for food, feed or processing (e.g., corn), to LMOs in transit, or to LMOs destined for contained use (e.g., vials for scientific research).)</li> <li>□ Bulk shipments of LMO commodities, such as corn or soybeans that are intended for use as food, feed or for processing, must be accompanied by documentation stating that such shipments “may contain” living modified organisms and are “not intended for intentional introduction into the environment.”</li> </ul>

- Importers are to make decisions on the import based on a scientific risk assessment. The Protocol contains reference to a precautionary approach and reaffirms the precaution language in Principle 15 of the Rio Declaration on Environment and Development.
- The Protocol also establishes a Biosafety Clearing-House to facilitate the exchange of information on living modified organisms and to assist countries in the implementation of the Protocol. Governments are required to provide the Biosafety Clearing-House with information concerning any final decisions on the domestic use of a GEO commodity.

## HEALTH

### Tobacco Convention

**Objective:** protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke.

**Measures & Obligations:**

- The Convention provides a framework for tobacco control measures to be implemented by Parties at the national, regional and international levels in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke.
- As a framework convention, the Tobacco Convention establishes general rules and principles to guide development of protocols that elaborate more specific obligations. General substantive obligations include: developing tobacco control policies that are consistent with provisions of the Tobacco Convention; adopting and implementing effective national legislation on tobacco control; and protecting these tobacco control efforts from commercial and other vested interests of the tobacco industry.
- Additionally, the Convention articulates obligations related to demand for, and supply of, tobacco, including, measures to regulate packaging and labeling, and pricing and taxing.
- Among the most significant of measures to reduce demand is the requirement regulating packaging and labeling, which directs States to ensure that packaging and labeling do not promote a tobacco product by means of false or deceptive advertising.
- Other measures address sales to and by minors and support for economically viable alternatives.

Table 3. Description of components of compliance systems under Human Rights and Labor Conventions

<b>Compliance Mechanism Components in International and Regional Human Rights and Labor Treaties</b>				
<b>Human Rights Conventions</b> <input type="checkbox"/>	<u>Government Reporting Requirements</u>	<u>Monitoring Committee Functions</u>	<u>Public Participation Mechanisms</u>	<u>Measures to Facilitate Compliance</u>
<b>CRC</b>	<input type="checkbox"/> Within two years of ratification <input type="checkbox"/> Every five	<input type="checkbox"/> Review reports, develop and seek additional info <input type="checkbox"/> Issue	<input type="checkbox"/> No provision for public comment on	<input type="checkbox"/> Committee issues suggestions and recommendations

	years thereafter	recommendations relating to interpretation of Convention <input type="checkbox"/> Hold discussions to enhance understandings	reports, but reports accepted and encouraged by Committee	
<b>ICESCR</b>	<input type="checkbox"/> Within two years of ratification <input type="checkbox"/> Every five years thereafter <input type="checkbox"/> Submit to Secretary General of UN, which submits to UN ECOSOC	<input type="checkbox"/> Review reports; <input type="checkbox"/> Submit reports to and request reports from other UN bodies <input type="checkbox"/> Limited in-country inspection by invitation from government	<input type="checkbox"/> Public invited to submit information <input type="checkbox"/> NGO representatives may give oral presentations during report review	<input type="checkbox"/> Committee issues recommendations, including legislative and policy suggestions <input type="checkbox"/> Committee facilitates support from other UN bodies
<b>ICCPR</b>	<input type="checkbox"/> Within one year of ratification <input type="checkbox"/> When requested by Committee	<input type="checkbox"/> Review reports <input type="checkbox"/> Issue comments to which governments can respond - Individual petition procedure	<input type="checkbox"/> Public has right to submit complaint to monitoring committee	<input type="checkbox"/> Committee issues requests and specifies measures that government should take to respond to concerns in complaint
<b>CERD</b>	<input type="checkbox"/> Every two years	<input type="checkbox"/> Respond to complaints filed by individuals <input type="checkbox"/> Review and respond to reports <input type="checkbox"/> Respond to requests from other UN bodies for advice	<input type="checkbox"/> Public has right to submit complaint to committee about Convention violations <input type="checkbox"/> Public may submit comments about report	<input type="checkbox"/> Committee issues recommendations and suggestions, in response to reports and petitions, which are transmitted to UN General Assembly <input type="checkbox"/> Parties come under scrutiny for failure to submit a report after five years or more
<b>CEDAW</b>	<input type="checkbox"/> Within one year of ratification <input type="checkbox"/> Every four years thereafter <input type="checkbox"/> When requested by Committee	<input type="checkbox"/> Review and respond to reports <input type="checkbox"/> Establish bodies to address specific human rights issues <input type="checkbox"/> Respond to complaints	<input type="checkbox"/> Public has right to submit complaint to committee	<input type="checkbox"/> Committee makes suggestions and recommendations in response to report <input type="checkbox"/> Committee requests that governments take specific actions, in response to complaint
<b>ILO Conventions</b>	<input type="checkbox"/> Annually <input type="checkbox"/> Provide to International Labor Office	<input type="checkbox"/> Review and respond to reports <input type="checkbox"/> Respond to complaints, setting up ad hoc committee to examine <input type="checkbox"/> May initiate in-depth investigation, which may culminate in hearing before the International Court of Justice	<input type="checkbox"/> Public, employers, workers have right to comment on reports <input type="checkbox"/> Complaints may be filed by ILO members, the governing body, or delegates to the ILO	<input type="checkbox"/> Committee issues comments and observations with requests for action to governments not complying

			conference	
<b>American Convention</b>	<input type="checkbox"/> Provide copies of reports prepared for specified OAS Councils	<p>Commission:</p> <input type="checkbox"/> Review reports and make recommendations when necessary <input type="checkbox"/> Prepare reports, studies <input type="checkbox"/> Request info from governments <input type="checkbox"/> Respond to inquiries from governments <input type="checkbox"/> Respond to petitions and actions filed under complaints procedure <input type="checkbox"/> Attempt to facilitate friendly settlements	<input type="checkbox"/> Public may submit complaints to Commission, if local remedies exhausted <input type="checkbox"/> No right of public to submit petitions to Court; only governments and Commission may submit petitions <input type="checkbox"/> Public may submit “friend of the court” brief	<p>Commission:</p> <input type="checkbox"/> Issue recommendations when necessary in response to reports <input type="checkbox"/> Draw conclusions and issue recommendations and suggestions in response to petitions under complaints procedure
<b>European Convention</b>		<p>Court</p> <input type="checkbox"/> Decide cases <input type="checkbox"/> Provide advisory opinions in response to request from Committee of Ministers	<input type="checkbox"/> May submit petitions to Court <input type="checkbox"/> May apply to Court to submit “friend of the court” brief or take part in proceedings	<input type="checkbox"/> Court issues binding decisions <input type="checkbox"/> States must determine how to comply <input type="checkbox"/> Court may award “just compensation” <input type="checkbox"/> A Committee of Ministers monitors reforms by governments
<b>African Charter</b>	<input type="checkbox"/> Every two years	<input type="checkbox"/> Review reports <input type="checkbox"/> Respond to complaints <input type="checkbox"/> Seek in-depth inquiry, as necessary <input type="checkbox"/> Adopt principles and rules governing activities <input type="checkbox"/> Organize fact-finding missions <input type="checkbox"/> Support research <input type="checkbox"/> Organize seminars	<input type="checkbox"/> May comment on reports <input type="checkbox"/> May submit complaints <input type="checkbox"/> May participate in public Commission sessions	<input type="checkbox"/> Issue recommendations

## Appendix B

### THE BANGKOK STATEMENT

#### *A pledge to promote the protection of Children's Environmental Health*

We, the undersigned scientists, doctors and public health professionals, educators, environmental health engineers, community workers and representatives from a number of international organizations, from governmental and non-governmental organizations in South East Asian and Western Pacific countries, have come together with colleagues from different parts of the world from 3 to 7 March 2002 in Bangkok, Thailand, to commit ourselves to work jointly towards the promotion and protection of children's health against environmental threats.

Worldwide, it is estimated that more than one-quarter of the global burden of disease (GBD) can be attributed to environmental risk factors. Over 40% of the environmental disease burden falls on children under 5 years of age, yet these constitute only 10% of the world population. The environmental burden of paediatric disease in Asia and the Pacific countries is not well recognized and needs to be quantified and addressed.

#### **WE RECOGNIZE**

- That a growing number of diseases in children have been linked to environmental exposures. These range from the traditional waterborne, foodborne and vector-borne diseases and acute respiratory infections to asthma, cancer, injuries, arsenicosis, fluorosis, certain birth defects and developmental disabilities.
- That environmental exposures are increasing in many countries in the region; that new emerging risks are being identified; and that more and more children are being exposed to unsafe environments where they are conceived and born, where they live, learn, play, work and grow. Unique and permanent adverse health effects can occur when the embryo, fetus, newborn, child and adolescent (*collectively referred to as "children" from here onwards*) are exposed to environmental threats during early periods of special vulnerability.
- That in developing countries the main environmental health problems affecting children are exacerbated by poverty, illiteracy and malnutrition, and include: indoor and outdoor air pollution, lack of access to safe water and sanitation, exposure to hazardous chemicals, accidents and injuries. Furthermore, as countries industrialize, children become exposed to toxicants commonly associated with the developed world, creating an additional environmental burden of disease. This deserves special attention from the industrialized and developing countries alike.
- That environmental hazards arise both from anthropogenic and natural sources (e.g. plant toxins, fluoride, arsenic, radiations), which separately and in combination can cause serious harm to children.
- That restoring and protecting the integrity of the life-sustaining systems of the earth are integral to ensuring children's environmental health now and in the future. Therefore, addressing global changes such as human population growth, land and energy use patterns, habitat destruction, biodiversity loss and climate change must be part of efforts to promote children's environmental health.
- That despite the rising concern of the scientific community and the education and social sectors about environmental threats to children's health and development, progress has been slow and serious challenges still remain.
- That the health, environment and education sectors must take concerted action at all levels (local, national, global), together with other sectors, in serious efforts to enable our countries to assess the nature and magnitude of the problem, identify the main environmental risks to children's health and establish culturally appropriate monitoring, mitigation and prevention strategies.

#### **WE AFFIRM**

- That the principle "*children are not little adults*" requires full recognition and a preventive approach. Children are uniquely vulnerable to the effects of many chemical, biological and physical agents. All children should be protected from injury, poisoning and hazards in the different environments where they are born, live, learn, play, develop and grow to become the adults of tomorrow and citizens in their own right.



- That all children should have the right to safe, clean and supportive environments that ensure their survival, growth, development, healthy life and well-being. The recognition of this right is especially important as the world moves towards the adoption of sustainable development practices.
- That it is the responsibility of community workers, local and national authorities and policy-makers, national and international organizations, and all professionals dealing with health, environment and education issues to ensure that actions are initiated, developed and sustained in all countries to promote the recognition, assessment and mitigation of physical, chemical and biological hazards, and also of social hazards that threaten children's health and quality of life.

#### **WE COMMIT OURSELVES**

To developing active and innovative national and international networks with colleagues, in partnership with governmental, nongovernmental and international organizations for the promotion and protection of children's environmental health, and urge WHO to support our efforts in all areas, especially in the following four:

#### **PROTECTION AND PREVENTION – To strengthen existing programmes and initiate new mechanisms to provide all children with access to clean water and air, adequate sanitation, safe food and appropriate shelter:**

- Reduce or eliminate environmental causes and triggers of respiratory diseases and asthma , including exposure to indoor air pollution from the use of biomass fuels and environmental tobacco smoke.
- Reduce or eliminate exposure to toxic metals such as lead, mercury and arsenic, to fluoride, and to anthropogenic hazards such as toxic wastes, pesticides and persistent organic pollutants.
- Reduce or eliminate exposure to known and suspected anthropogenic carcinogens, neurotoxicants, developmental and reproductive toxicants, immunotoxicants and naturally occurring toxins.
- Reduce the incidence of diarrhoeal disease through increased access to safe water and sanitation and promotion of initiatives to improve food safety.
- Reduce the incidence of accidents, injuries and poisonings, as well as exposure to noise, radiation, microbiological and other factors by improving all environments where children spend time, in particular at home and at school.
- Commit to international efforts to avert or slow global environmental changes, and also take action to lessen the vulnerability of populations to the impact of such changes.

#### **HEALTH CARE AND RESEARCH – To promote the recognition, assessment and study of environmental factors that have an impact on the health and development of children:**

- Establish centres to address issues related to children's environmental health.
- Develop and implement cooperative multidisciplinary research studies in association with centres of excellence, and promote the collection of harmonized data and their dissemination.
- Incorporate children's environmental health into the training for health care providers and other professionals, and promote the use of the environmental history.
- Seek financial and institutional support for research, data collection, education, intervention and prevention programmes.
- Develop risk assessment methods that take account of children as a special risk group.

#### **EMPOWERMENT AND EDUCATION – To promote the education of children and parents about the importance of their physical environment and their participation in decisions that affect their lives, and to inform parents, teachers and caregivers and the community in general on the need and means to provide a safe, healthy and supportive environment to all children:**

- Provide environmental health education through healthy schools and adult education initiatives.
- Incorporate lessons on health and the environment into all school curricula
- Empower children to identify potential risks and solutions.
- Impart environmental health expertise to educators, curriculum designers and school administrators.
- Create and disseminate to families and communities culturally relevant information about the special vulnerability of children to environmental threats and practical steps to protect children.
- Teach families and the community to identify environmental threats to their children, to adopt practices that will reduce risks of exposure and to work with local authorities and the private sector in developing prevention and intervention programmes.

#### **ADVOCACY – To advocate and take action on the protection and promotion of children's environmental health at all levels, including political, administrative and community levels:**

- Use lessons learned to prevent environmental illness in children, for example by promoting legislation for the removal of lead from all gasoline, paints, water pipes and ceramics, and for the provision of smoke-free environments in all public buildings.
- Sensitize decision-makers to the results of research studies and observations of community workers and primary health care providers that need to be accorded high priority to safeguard children's health.
- Promote environmental health policies that protect children.
- Raise the awareness of decision-makers and potential donors about known environmental threats to children's health and work with them and other stakeholders to allocate necessary resources to implement interventions.
- Work with the media to disseminate information on core children's environmental health issues and locally relevant environmental health problems and potential solutions.

***For all those concerned about the environmental health of children, the time to translate knowledge into action is now.***

***Bangkok, 7 March 2002***

---

<sup>1</sup> World Health Organization, *Children's Environmental Health*, available at <http://www.who.int/ceh/en/> (last visited Nov. 1, 2004).

<sup>2</sup> *Id.* At least 2 million deaths are from acute respiratory infections, 60% of which are related to environmental conditions; at least 2 million deaths are from diarrhoeal diseases, 80-90% of these cases are related to environmental conditions; and nearly 1 million deaths are from malaria, 90% of these cases are related to environmental conditions.

<sup>3</sup> See DAVID SATTERTHWAITE ET AL., *THE ENVIRONMENT FOR CHILDREN: UNDERSTANDING AND ACTING ON THE ENVIRONMENTAL HAZARDS THAT THREATEN CHILDREN AND THEIR PARENTS* (1996).

<sup>4</sup> See UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, *EPA'S CHILDREN'S ENVIRONMENTAL HEALTH YEARBOOK 2* (1998).

<sup>5</sup> LYNNE GOLDMAN, UNEP, WHO & FAO, *Childhood Pesticide Poisoning: Information for Advocacy and Action* (2004).

<sup>6</sup> See Bernard Weiss, *Vulnerability of Children and the Developing Brain to Neurotoxic Hazards*, 108 ENVIRONMENTAL HEALTH PERSPECTIVES, Supp. 3, 373 (June 2000).

<sup>7</sup> Lawrie Mott et al., Natural Resources Defense Council, *Our Children at Risk: The 5 Worst Environmental Threats to Their Health* (1997), available at <http://www.nrdc.org/health/kids/ocar/ocarinx.asp>.

<sup>8</sup> See UNICEF, UNEP & WHO, *Children in the New Millennium: Environmental Impact on Health* (2002), available at <http://www.unep.org/ceh/children.pdf> (last visited Nov. 30, 2004).

<sup>9</sup> *Id.* at 32.

<sup>10</sup> Kseniya Lvovsky, World Bank Environment Department, *Environment Strategy Series No. 1: Health and Environment 5* (October 2001).

<sup>11</sup> International POPs Elimination Network, *Protecting Children from Harmful Chemical Exposure* (2003), available at <http://www.aamma.org/English/IPEN-ingles.pdf>.

<sup>12</sup> Lynn Goldman & Nga Tran, World Bank, *Toxics and Poverty: The Impact of Toxic Circumstances on the Poor in Developing Countries 5-7* (2002).

<sup>13</sup> See Statute of the International Court of Justice, June 26, 1945, art. 38(1), 59 Stat. 1055, available at <http://www.icj-cij.org/icjwww/ibasicdocuments/ibasicstext/ibasicstatute.htm> (last visited June 4, 2004). Article 38 identifies these three categories as sources of international law and notes that judicial decisions and teachings of the most highly qualified publicists can serve as evidence of international law.

<sup>14</sup> See, e.g., Convention on the Rights of the Child, Nov. 20, 1989, art. 4, 1577 U.N.T.S. 3, available at <http://www.unicef.org/crc/crc.htm>. Article 4 states that "States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation."

<sup>15</sup> The Asia-Pacific region currently exists as the only region without a human rights mechanism. See Asia Pacific Human Rights Network, *Establishing a Regional Human Rights Mechanism for the Asia-Pacific Region*, available at [http://www.asiapacificforum.net/activities/annual\\_meetings/eighth/ngo\\_regional.doc](http://www.asiapacificforum.net/activities/annual_meetings/eighth/ngo_regional.doc) (last visited May 12, 2004).

---

<sup>16</sup> See Convention on the Rights of the Child, *supra* note 14. The Convention on the Rights of the Child is a comprehensive agreement setting out the human rights of children - civil, political, economic, social, and cultural - that governments must seek to realize. With ratification by 192 countries, it is the most universally accepted human rights treaty. Only 2 countries have not ratified the CRC - the United States and Somalia. Both have signed the Convention. Non-negotiable rights are described (such as the right to survival and to develop to the fullest) and standards are set (in areas such as health care and education) that serve as benchmarks to assess progress in those rights.

<sup>17</sup> See The International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3, available at [http://www.unhchr.ch/html/menu3/b/a\\_ceschr.htm](http://www.unhchr.ch/html/menu3/b/a_ceschr.htm) [hereinafter *ICESCR*]. The ICESCR seeks to identify human rights related to the economic, social, and cultural aspects of life. Some of the main rights are the right to work, the right to an adequate standard of living, the right to education, and equal rights for men and women. It came into force in 1976.

<sup>18</sup> See The International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171, available at <http://www.hrweb.org/legal/cpr.html> [hereinafter *ICCPR*]. Like the ICESCR, the ICCPR came into force in 1976 and is considered part of the “International Bill of Human Rights.” It includes the “classic” human rights such as the right to life; the right to freedom of religion, expression, and peaceful assembly; and the prohibition of torture.

<sup>19</sup> See The Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13, available at <http://www.unhchr.ch/html/menu3/b/e1cedaw.htm> [hereinafter *CEDAW*]. CEDAW was adopted by the UN General Assembly in 1979. Parties are committed to undertake measures to end discrimination against women, such as incorporating the principle of equality of men and women into their legal systems, establish tribunals to ensure effective protection of women against discrimination, and ensure elimination of acts of discrimination against women by persons, organizations, and enterprises. As of October 2004, 179 States are Parties to CEDAW. UN Division for the Advancement of Women, *CEDAW: State Parties*, available at <http://www.un.org/womenwatch/daw/cedaw/states.htm> (last modified Oct. 20, 2004).

<sup>20</sup> See The International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, 660 U.N.T.S. 195, available at <http://www.ohchr.org/english/law/cerd.htm> [hereinafter *CERD*]. CERD entered into force in 1969. Parties are committed to engage in no act of racial discrimination against individuals, groups, or institutions; to not sponsor, defend, or support racial discrimination by persons or organizations; to change national laws and policies that create or perpetuate racial discrimination; and to prohibit racial discrimination by persons, groups, or individuals and protect individuals facing such discrimination.

<sup>21</sup> See ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, June 17, 1999, 38 I.L.M. 1207, available at <http://www.ilo.org/public/english/standards/relm/ilc/ilc87/com-chic.htm> [hereinafter *ILO Convention 182*]. The International Labour Organization (ILO) is the UN agency that sets international minimum standards for basic labor rights and promotes social justice and the development of independent employers’ and workers’ organizations. ILO 182 was adopted by the General Conference of the International Labor Organization in 1999. Parties to ILO 182 are committed to prohibiting and eliminating the “worst forms of child labour,” which is defined as slavery and slave-like practices; child prostitution and pornography; using children for illicit activities; and work which is harmful to a child’s health, safety, or morals. ILO 182 applies to children under 18. As of November 2004, 150 States have ratified ILO 182. ILO, *International Programme on the Elimination of Child Labour (IPEC)*, available at <http://www.ilo.org/public/english/standards/ipecc/index.htm> (last visited Nov. 22, 2004).

<sup>22</sup> See ILO Convention 138 Concerning the Minimum Age for Admission to Employment, June 26, 1973, 38 I.L.M. 1207, available at [http://www.child-abuse.com/childhouse/childrens\\_rights/dci\\_ilo4.html](http://www.child-abuse.com/childhouse/childrens_rights/dci_ilo4.html). ILO 138 sets minimum ages under which employment or work for children should be prohibited; the ages vary depending on the type of work. It was adopted in 1973 and is ratified by 134 States.

<sup>23</sup> See American Convention on Human Rights, Nov. 22, 1969, 1144 U.N.T.S. 123, available at <http://www.oas.org/juridico/english/Treaties/b-32.htm>. Parties are obliged to respect certain civil and political rights and adopt such measures as may be necessary to give effect to them. For economic, social, and cultural standards, States are committed only to work towards “progressive development” of them. The American Convention is a regional agreement that entered into force in 1978; 25 States are Parties to it.

---

OAS, *Office of Inter-American Laws and Programs: B-32 American Convention on Human Rights*, at <http://www.oas.org/juridico/english/Sigs/b-32.html> (last visited Nov. 22, 2004).

<sup>24</sup> See Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of 1988, Nov. 17, 1988, 28 I.L.M. 156, available at <http://www.oas.org/juridico/english/Treaties/a-52.html> [hereinafter *San Salvador Protocol*]. The San Salvador Protocol entered into force in 1999. Of the 34 States in the American area, 13 States have ratified or acceded to it. OAS, *Office of Inter-American Laws and Programs: A-52 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Cultural, and Social Rights*, available at <http://www.oas.org/juridico/english/Sigs/a-52.html> (last visited Nov. 22, 2004). It sets forth economic, social, and cultural rights, such as the right to work, right to social security, right to health, and right to education.

<sup>25</sup> See Convention for Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 222, available at <http://www.hri.org/docs/ECHR50.html> [hereinafter *The European Convention*]. The European Convention entered into force in 1953 and commits Parties to secure fundamental political and civil rights for everyone within those jurisdictions. It also establishes the European Court of Human Rights.

<sup>26</sup> See The African Charter on Human and Peoples' Rights, June 27, 1981, 21 I.L.M. 58, available at <http://www.hrcr.org/docs/Banjul/afhr4.html> [hereinafter *African Charter*]. The African Charter entered into force in 1986. It contains civil and political as well as economic, social and cultural rights of individuals and peoples. Furthermore, it includes a section on the *duties* of individuals in their communities.

<sup>27</sup> San Salvador Protocol, *supra* note 24, art. 11; African Charter, *supra* note 26, art. 24.

<sup>28</sup> See e.g., U.N. CESCR, *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, 22<sup>nd</sup> Sess., Agenda Item 3, U.N. Doc. E/C.12/2000/4 (2000), available at [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.2000.4.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En?OpenDocument) [hereinafter *General Comment No. 14*].

<sup>29</sup> Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, Maastricht, January 22-26, 1997, para. 6, available at <http://www1.umn.edu/humanrts/instree/Maastrichtguidelines.html>. See also, General Comment No. 14, *supra* note 28 (explaining that the ICESCR requires Parties to achieve “progressively the full realization of the rights.”). Some commentators oppose using a rights-based approach to protecting human health and the environment, arguing that such an approach would weaken more widely recognized civil and political rights. Others respond that promoting human rights to protect human health and the environment need not in any way weaken other human rights and that, in fact, failing to promote human rights in this context would undercut the need to observe human rights in all contexts. In any event, as indicated in the text, human rights are increasingly being recognized as relevant to protecting human health and the environment.

<sup>30</sup> See THE RIGHT OF THE CHILD TO A CLEAN ENVIRONMENT (Agata Fijalkowski & Malgosia Fitzmaurice eds., 2000).

<sup>31</sup> Convention on the Rights of the Child, *supra* note 14, art. 24.2(c). See generally, General Comment No. 14, *supra* note 28.

<sup>32</sup> San Salvador Protocol, *supra* note 24, art. 10.

<sup>33</sup> African Charter, *supra* note 26, art. 16.

<sup>34</sup> *Id.*

<sup>35</sup> Committee on the Rights of the Child, *General Comment No. 5: Measures of Implementation for the Convention on the Rights of the Child*, U.N. Doc. CRC/GC/2003/5 (2003).

<sup>36</sup> Convention on the Rights of the Child, *supra* note 14, art. 6; International Covenant on Civil and Political Rights, *supra* note 18, art. 6(1); European Convention, *supra* note 25, art. 2; American Convention on Human Rights, *supra* note 23, art. 11.

<sup>37</sup> Villagran Morales et al. v. Guatemala, Inter-Am. Ct. H.R., para. 144 (Nov. 19, 1999), available at [http://www.corteidh.or.cr/seriecpdf\\_ing/seriec\\_63\\_ing.pdf](http://www.corteidh.or.cr/seriecpdf_ing/seriec_63_ing.pdf).

<sup>38</sup> UNICEF, *Survival and Development*, available at <http://www.unicef.org/crc/bg006.htm> (last visited June 4, 2004).

<sup>39</sup> World Conference on Human Rights, *Fact Sheet No.10 (Rev.1): The Rights of the Child*, June 25, 1993, A/CONF. 157/24 (Part 1), chap. 111, available at <http://www.unhcr.ch/html/menu6/2/fs10.htm>. This interpretation is explicitly included in Article 27.1 of the Convention on the Rights of the Child: “States

---

Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.” Convention on the Rights of the Child, *supra* note 14.

<sup>40</sup> Convention on the Rights of the Child, *supra* note 14, art. 27; CERD, *supra* note 20, art. 5(e)(iii, iv); CEDAW, *supra* note 19, arts. 11.2(c), 13(a,b), 14.2(h). Additionally, the Inter-American Court of Human Rights, citing the Convention on the Rights of the Child, determined that the right to an adequate standard of living (among other rights) is within the “scope of measures” of protection provided by the “right of the child” under the American Convention. Inter-American Court of Human Rights, Advisory Opinion OC-17/2002, *Juridical Conditions and Human Rights of the Child* (Aug. 28, 2002), available at [http://www.corteidh.or.cr/serieapdf\\_ing/seriea\\_17\\_ing.pdf](http://www.corteidh.or.cr/serieapdf_ing/seriea_17_ing.pdf).

<sup>41</sup> Commission on Human Rights, *Resolution 2000/10: The Right to Food*, 52nd mtg, Apr. 17, 2000, available at [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.RES.2000.10.En?Opendocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.RES.2000.10.En?Opendocument) (last visited June 4, 2004).

<sup>42</sup> U.N. CESCR, *General Comment No. 15: The Right to Water*, 29th Sess., U.N. Doc. E/C.12/2002/11 (2002), available at [http://www.hshr.org/UN\\_General\\_Comments\\_ICESCR.html](http://www.hshr.org/UN_General_Comments_ICESCR.html). The right to water is also described in the Convention on the Rights of the Child, *supra* note 14, art. 24.2:

“States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

...

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents...”

<sup>43</sup> While some national governments, civil society groups, and international institutions such as the United Nations are actively pushing for increased recognition of the human right to water, several governments and institutions are arguing against the existence of this right.

<sup>44</sup> U.N. CESCR, *General Comment No. 4: The Right to Adequate Housing*, 6<sup>th</sup> Sess., U.N. Doc. E/1992/23 (1991), available at [http://www.hshr.org/General%20Comment%20Files/ICESCR\\_GC4.htm](http://www.hshr.org/General%20Comment%20Files/ICESCR_GC4.htm).

<sup>45</sup> General Comment No. 14, *supra* note 28.

<sup>46</sup> ILO Convention 182, *supra* note 21; ILO Convention 138, *supra* note 22.

<sup>47</sup> Convention on the Rights of the Child, *supra* note 14, arts. 24 and 28; ICESCR, *supra* note 17, art. 13; CERD, *supra* note 20, arts. 5 and 7; U.N. CESCR, *General Comment No. 13: The Right to Education*, 21<sup>st</sup> Sess., U.N. Doc. E/C.12/1999/10 (1999), available at [http://www.hshr.org/General%20Comment%20Files/ICESCR\\_GC13.htm](http://www.hshr.org/General%20Comment%20Files/ICESCR_GC13.htm) [hereinafter *General Comment No. 13*]; Committee on the Rights of the Child, *General Comment on the Aims of Education Article 29(1)*, 26<sup>th</sup> Sess., U.N. Doc. CRC/GC/2001/1 (2001), available at <http://www1.umn.edu/humanrts/crc/child1ng.htm> (last visited Nov. 30, 2004).

<sup>48</sup> General Comment No. 13, *supra* note 47, para. 1.

<sup>49</sup> Convention on the Rights of the Child, *supra* note 14, art. 24.

<sup>50</sup> Older children have the capacity to play a role in making decisions that impact their health. For younger children, health-related knowledge can promote adoption of behavior that is favorable to their health. The Convention on the Rights of the Child establishes that one of the purposes of education shall be to develop respect for the natural environment, which also helps them be advocates for their surrounding environment. Convention on the Rights of the Child, *supra* note 14, art. 29.1(e).

<sup>51</sup> See Stockholm Convention on Persistent Organic Pollutants, May 23, 2001, 40 I.L.M. 532, available at <http://www.pops.int/> [hereinafter *Stockholm Convention*].

<sup>52</sup> See Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, Sept. 10, 1998, U.N. Doc. UNEP/CHEMICALS/98/17, available at <http://www.pic.int/en/ViewPage.asp?id=104> [hereinafter *Rotterdam PIC Convention*].

<sup>53</sup> See Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Mar. 22, 1989, 28 I.L.M. 657, available at <http://www.basel.int/> [hereinafter *Basel Convention*].

---

<sup>54</sup> Convention on the Law of the Non-navigational Uses of International Watercourses, May 21, 1997, 36 I.L.M. 700, available at <http://www.un.org/law/ilc/texts/nonnav.htm#abstract> [hereinafter *Convention on International Watercourses*].

<sup>55</sup> See International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, Feb. 17, 1978, 17 I.L.M. 546, available at [http://www.imo.org/Conventions/contents.asp?doc\\_id=678&topic\\_id=258#2](http://www.imo.org/Conventions/contents.asp?doc_id=678&topic_id=258#2) [hereinafter *MARPOL*].

<sup>56</sup> See UN Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 397, available at [http://www.un.org/Depts/los/convention\\_agreements/convention\\_overview\\_convention.htm](http://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm) [hereinafter *UNCLOS*].

<sup>57</sup> See Convention on Long-Range Transboundary Air Pollution, Nov. 13, 1979, 1303 U.N.T.S. 217, available at [http://www.unep.org/env/lrtap/lrtap\\_h1.htm](http://www.unep.org/env/lrtap/lrtap_h1.htm) [hereinafter *LRTAP*].

<sup>58</sup> See The Montreal Protocol on Substances that Deplete the Ozone Layer, Sept. 16, 1987, 1522 U.N.T.S. 3, available at <http://www.unep.org/ozone/pdfs/Montreal-Protocol2000.pdf> [hereinafter *Montreal Protocol*].

<sup>59</sup> See Kyoto Protocol to the United Nations Framework Convention on Climate Change, Dec. 11, 1997, 37 I.L.M. 22, available at <http://unfccc.int/resource/docs/convkp/kpeng.pdf> [hereinafter *Kyoto Protocol*].

<sup>60</sup> See Cartagena Protocol on Biosafety, Jan. 29, 2000, 39 I.L.M. 1027, available at <http://www.biodiv.org/biosafety/background.asp> [hereinafter *Biosafety Protocol*].

<sup>61</sup> Children's Environmental Health Network, *An Introduction to Children's Environmental Health*, available at <http://www.cehn.org/cehn/WhatisPEH.html> (last visited, March 24, 2004).

<sup>62</sup> *Id.*

<sup>63</sup> IPEN, *Protecting Children from Harmful Chemical Exposure*, *supra* note 11.

<sup>64</sup> Stockholm Convention, *supra* note 51. POPs are swept around the world by winds and ocean currents and have been found in Antarctic penguins and Arctic polar bears. Nine of the POPs are pesticides - DDT, aldrin, chlordane, dieldrin, endrin, heptachlor, hexachlorobenzene, mirex and toxaphene. They also comprise industrial chemicals such as PCBs (polychlorinated biphenyls) and industrial waste products dioxins and furans.

<sup>65</sup> See Stockholm Convention, *Calendar of Events*, available at [http://www.chem.unep.ch/pops/newlayout/calendar\\_of\\_events.htm](http://www.chem.unep.ch/pops/newlayout/calendar_of_events.htm) (last visited November 1, 2004).

<sup>66</sup> Rotterdam PIC Convention, *supra* note 52.

<sup>67</sup> *Id.*

<sup>68</sup> See Basel Convention, *supra* note 53.

<sup>69</sup> Johns Hopkins School of Public Health, *Population Reports*, Volume XXVI, Number 1 (September, 1998), available at [http://www.inforhealth.org/pr/m14/m14chap5\\_1.shtml](http://www.inforhealth.org/pr/m14/m14chap5_1.shtml) (last visited June 3, 2004).

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> BROWN WEISS ET AL., *INTERNATIONAL ENVIRONMENTAL LAW AND POLICY* (1998).

<sup>73</sup> See UN Millennium Development Goals, available at <http://www.un.org/millenniumgoals/> (last visited Nov. 2, 2004).

<sup>74</sup> UN, *Plan of Implementation of the World Summit on Sustainable Development*, available at [http://www.un.org/esa/sustdev/documents/WSSD\\_POI\\_PD/English/WSSD\\_PlanImpl.pdf](http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/WSSD_PlanImpl.pdf) (last visited November 2, 2004).

<sup>75</sup> UNEP, *Global Environmental Outlook 3: Health*, available at <http://www.unep.org/GEO/geo3/english/503.htm> (last visited March 11, 2004).

<sup>76</sup> *Id.*

<sup>77</sup> M. Bellesiles et al, *Cord Blood Lymphocyte Functions in Newborns from a Remote Maritime Population Exposed to Organochlorines and Methylmercury*, 65 JOURNAL OF TOXICOLOGY AND ENVIRONMENTAL HEALTH Part A 165-182 (2002) (discussing environmental health impacts on prenatal development). Abstract available at <http://www.seaweb.org/background/abstracts/marinepol/2002/02toxic.1.html> (last visited March 11, 2004).

<sup>78</sup> *Review of Obligations of Signatory States under Global Environmental Conventions with regard to Regional Co-Operation*, First Meeting of the Regional Task Force on Legal Matters for the UNEP/GEF Project, Aug. 25, 2003, UNEP/GEF/SCS/RTF-L.1/13, available at <http://www.unepscs.org/Documents/RTF-L1/RTF-L.1-13%20Review%20of%20Conventions-3-uk.pdf>.

- 
- <sup>79</sup> The GPA is a source of conceptual and practical guidance, rather than a Convention. UNEP leads the coordination effort and the GPA Coordination Office. See GPA, *GPA Clearing-House Mechanism*, available at <http://www.gpa.unep.org/> (last updated October 3, 2004).
- <sup>80</sup> See UNEP Regional Seas, *Regional Seas Conventions*, available at <http://www.unep.ch/seas/main/hconv.html> (last visited November 2, 2004).
- <sup>81</sup> Convention on International Watercourses, *supra* note 54.
- <sup>82</sup> MARPOL, *supra* note 55.
- <sup>83</sup> UNCLOS, *supra* note 56.
- <sup>84</sup> *Id.* arts. 207-212.
- <sup>85</sup> See World Health Organization, *Air Pollution*, available at <http://www.who.int/inf-fs/en/fact187.html> (last visited March 11, 2004).
- <sup>86</sup> See Michael T. Kleinman, *The Health Effects of Air Pollution on Children*, available at [http://www.aqmd.gov/forstudents/health\\_effects\\_on\\_children.html](http://www.aqmd.gov/forstudents/health_effects_on_children.html) (last visited Dec. 1, 2004).
- <sup>87</sup> See Convention on Long-Range Transboundary Air Pollution, *Protocols to the Convention*, available at [http://www.unece.org/env/lrtap/status/lrtap\\_s.htm](http://www.unece.org/env/lrtap/status/lrtap_s.htm) (last modified Jan. 21, 2004). Protocols: Protocol to Abate Acidification, Eutrophication and Ground Level Ozone, Nov. 30, 1999, art. 11(2), available at [http://www.unece.org/env/lrtap/status/lrtap\\_s.htm](http://www.unece.org/env/lrtap/status/lrtap_s.htm) (last visited March 18, 2004) [hereinafter *Gothenburg Protocol*]; Protocol on Persistent Organic Pollutants (POPs), June 24, 1998, art. 12(2), 37 I.L.M. 505 [hereinafter *POPs Protocol*]; Protocol on Heavy Metals, June 24, 1998, art. 11(2), available at <http://www.unece.org/env/lrtap/full%20text/1998.Heavy.Metals.e.pdf> [hereinafter *Heavy Metals Protocol*]; Protocol on Further Reduction of Sulphur Emissions, June 14, 1994, art. 9(2), 33 I.L.M. 1542 [hereinafter *1994 Sulphur Protocol*]; Protocol concerning the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes, Nov. 18, 1991, 31 I.L.M. 568 [hereinafter *Volatile Organics Protocol*]; Protocol concerning the Control of Emissions of Nitrogen Oxides or their Transboundary Fluxes, Oct. 31, 1988, 28 I.L.M. 212 [hereinafter *Nitrogen Oxides Protocol*]; Protocol on Long-Term Financing of the Co-operative Programme for Monitoring and Evaluation of the Long-Range Transmission of Air Pollutants in Europe (EMEP), Sept. 28, 1984, 24 I.L.M. 484 [hereinafter *EMEP Protocol*]; Protocol on the Reduction of Sulphur Emissions or Their Transboundary Fluxes by at least 30 Percent, July 8, 1985, 27 I.L.M. 698 [hereinafter *1985 Sulphur Protocol*].
- <sup>88</sup> See The Montreal Protocol, *supra* note 58. Ninety-six (96) chemicals are presently controlled by the Montreal Protocol, including: Halo-carbons, notably chlorofluorocarbons (CFCs) and Halons.
- <sup>89</sup> For example, the United States and other Parties have sought “critical use” exemptions for use of methyl bromide to deal with invasive plant pests.
- <sup>90</sup> See World Health Organization, *Protecting Children from Ultraviolet Radiation* (July 2001), available at <http://www.who.int/mediacentre/factsheets/fs261/en/>. Estimates suggest that up to 80 per cent of a person's lifetime exposure to UV is received before the age of 18.
- <sup>91</sup> See Kyoto Protocol, *supra* note 59.
- <sup>92</sup> See Biosafety Protocol, *supra* note 60.
- <sup>93</sup> See Framework Convention on Tobacco Control, May 23, 2003, 56th Ass., 4th plen. mtg., Annex, Agenda Item 13, art. 3, WHO Doc. WHA56.1 (2003), available at [http://fctc.org/about\\_FCTC/treaty\\_text.shtml](http://fctc.org/about_FCTC/treaty_text.shtml) [hereinafter *Tobacco Convention*].
- <sup>94</sup> Ambassador Amorim of Brazil (chairman of the Intergovernmental Negotiating Body), Speech at the Meeting of the Interested Parties of WHO (2002), *quoted in* Geneva Foundation for Medical Education and Research, *World Health Organization: The Mandate of a Specialized Agency of the United Nations* (Aug. 13, 2003), available at [http://www.gfmer.ch/TMCAM/WHO\\_Minelli/P1-4.htm](http://www.gfmer.ch/TMCAM/WHO_Minelli/P1-4.htm).
- <sup>95</sup> Constitution of the World Health Organization, July 22, 1946, arts. 21 and 22, 14 U.N.T.S. 185, available at [http://policy.who.int/cgi-bin/om\\_isapi.dll?infobase=Basicdoc&softpage=Browse\\_Frame\\_Pg42](http://policy.who.int/cgi-bin/om_isapi.dll?infobase=Basicdoc&softpage=Browse_Frame_Pg42).
- <sup>96</sup> Tobacco Convention, *supra* note 93.
- <sup>97</sup> Gro Harlem Brundtland, *Health Impact*, available at [http://www.who.int/tobacco/health\\_impact/en/](http://www.who.int/tobacco/health_impact/en/) (last visited Jan. 21, 2004). Dr Gro Harlem Brundtland is the Director-General Emeritus of the World Health Organization.

- 
- <sup>98</sup> 1997 Declaration of the Environment Leaders of the Eight on Children's Environmental Health (May 6, 1997), *available at* <http://yosemite.epa.gov/ochp/ochpweb.nsf/content/declar.htm> (last modified May 12, 2003).
- <sup>99</sup> Tobacco Convention, *supra* note 93, art. 5.
- <sup>100</sup> *Id.* arts. 8, 9, 10, 12, 13, & 14.
- <sup>101</sup> *See* International Health Regulations, July 25, 1969, *modified in* 1973 and 1981, *available at* <http://www.who.int/csr/ihr/en/>. Referring to regulations, Article 22 affirms that they "shall come into force for all members after due notice has been given of their adoption by the WHO except for such members as may notify the Director-General of rejection or reservations within the period stated in the notice." The WHO may adopt regulations by majority vote.
- <sup>102</sup> *See* David P. Fidler, *Globalization, International Law, and Emerging Infectious Diseases*, 2 EMERGING INFECTIOUS DISEASES 77 (April-June 1996), *available at* <http://www.cdc.gov/ncidod/EID/vol2no2/fidler.htm#ref23> (last visited March 11, 2004).
- <sup>103</sup> *Id.*
- <sup>104</sup> This obligation was adopted in 1972 as "Stockholm Principle 21" by the UN Conference on the Human Environment, was subsequently endorsed by the UN General Assembly, and has been reaffirmed in Principle 2 of the Rio Declaration of 1992 and in Article 3 of the Convention on Biological Diversity.
- <sup>105</sup> Rio Declaration on Environment and Development, June 14, 1992, 31 I.L.M. 874, *available at* <http://www.unep.org/Documents/Default.asp?DocumentID=78&ArticleID=1163>. The Rio Declaration was a product of the 1992 'Earth Summit' United Nations Conference on Environment and Development.
- <sup>106</sup> Biosafety Protocol, *supra* note 60, preamble & art. 1.
- <sup>107</sup> Food Quality Protection Act (FQPA). Public Law 104-170; 7 U.S.C. §§ 136 et. seq.
- <sup>108</sup> IPEN, *Protecting Children from Harmful Chemical Exposure*, *supra* note 11.
- <sup>109</sup> *See* ENVIRONMENTAL CHANGE AND INTERNATIONAL LAW: NEW CHALLENGES AND DIMENSIONS (Edith Brown Weiss ed., 1992); *See also*, UNESCO, *Declaration on the Responsibilities of the Present Generation Towards Future Generations*. Nov. 12, 1997, UNESCO General Conference, 29th Sess.
- <sup>110</sup> Environment impact assessment (EIA), for instance, was first established in the domestic law of the United States under the 1972 National Environment Protection Act
- <sup>111</sup> *See* Rio Declaration, *supra* note 106.
- <sup>112</sup> Copenhagen Declaration on Social Development, March 12, 1995, *available at* <http://www.visionoffice.com/socdev/wssdco-0.htm> (last updated April 23, 1999).
- <sup>113</sup> The Habitat Agenda Goals and Principles, Commitments, and the Plan of Action, June 14, 1996, *available at* [http://www.unhabitat.org/declarations/habitat\\_agenda.asp](http://www.unhabitat.org/declarations/habitat_agenda.asp).
- <sup>114</sup> Programme of Action of the United Nations International Conference on Population and Development, September 12, 1994, *available at* <http://www.iisd.ca/Cairo/program/p00000.html> (last visited Dec. 1, 2004).
- <sup>115</sup> Declaration of the Environment Leaders of the Eight on Children's Environmental Health, *supra* note 98.
- <sup>116</sup> G8 Environment Ministers Communiqué, April 9, 2000, *available at* <http://www.g8.utoronto.ca/environment/2000otsu/communique.html> (last visited Dec. 1, 2004).
- <sup>117</sup> A World Fit for Children (Declaration and Plan of Action of the UN General Assembly Special Session on Children), May 10, 2002, *available at* [http://www.unicef.org/specialsession/docs\\_new/documents/A-RES-S27-2E.pdf](http://www.unicef.org/specialsession/docs_new/documents/A-RES-S27-2E.pdf).
- <sup>118</sup> Plan of Implementation of WSSD, *supra* note 74.
- <sup>119</sup> Charter on Transport, Environment, and Health, June 16, 1999, *available at* [http://www.euro.who.int/document/peh-ehp/charter\\_transporte.pdf](http://www.euro.who.int/document/peh-ehp/charter_transporte.pdf).
- <sup>120</sup> *Id.* at 4.
- <sup>121</sup> ICCPR, *supra* note 18.
- <sup>122</sup> GLENN WISER, COMPLIANCE SYSTEMS UNDER MULTILATERAL AGREEMENTS (1999), *available at* <http://www.ciel.org/Publications/SurveyPaper1.pdf> (last visited March 24, 2004).
- <sup>123</sup> ICCPR, *supra* note 18, art. 41(1).
- <sup>124</sup> *Id.* art. 42(1).
- <sup>125</sup> *Id.* art. 16.
- <sup>126</sup> *Id.* art. 22.
- <sup>127</sup> CEDAW, *supra* note 19, art. 29(1).



---

<sup>128</sup> The LRTAP Convention and the first four protocols to the Convention require only that Parties should seek settlement of the dispute by negotiation or any other means acceptable.

<sup>129</sup> The Tobacco Convention is an exception. It allows parties to agree to compulsory dispute settlement, but the means of dispute resolution are limited to arbitration.

<sup>130</sup> 1994 Sulphur Protocol, *supra* note 87; 1998 Heavy Metals Protocol, *supra* note 87; POPs Protocol, *supra* note 87; Gothenburg Protocol, *supra* note 87.

<sup>131</sup> Statute of the International Court of Justice, *supra* note 13, arts. 36(1) and 36(2). The legal dispute can relate to: a) the interpretation of a treaty; b) any question of international law; c) the existence of any fact which, if established, would constitute a breach of an international obligation; d) the nature or extent of the reparation to be made for the breach of an international obligation.

<sup>132</sup> *Id.* art. 65.

<sup>133</sup> BARRY E. CARTER & PHILLIP R. TRIMBLE, INTERNATIONAL LAW 300 (2<sup>nd</sup> ed., 1995).

<sup>134</sup> *Id.*

<sup>135</sup> *Id.* at 333 & 492.

<sup>136</sup> *Id.* at 303.

<sup>137</sup> Human Strategies for Human Rights, *International Human Rights – Basic Reference Guide for NGOs*, available at <http://www.hshr.org/hshr%20basic%20reference%20guide.htm> (last visited, Dec. 1, 2004).

<sup>138</sup> *Id.* Even in the absence of an official invitation to submit comments, however, comments may be submitted to the appropriate treaty monitoring body.

<sup>139</sup> *Id.*

<sup>140</sup> The NGO Group, a coalition of organizations supporting implementation of the Convention on the Rights of the Child, has developed a description of how to prepare “Alternative Reports.” The NGO Group for the Convention of the Rights of the Child, *A Guide for Non-Governmental Organizations Reporting to the Committee on the Rights of the Child* (1998), available at <http://www.crin.org/docs/resources/publications/NGOCRC/NGOCRC-Guide-en.pdf>.

<sup>141</sup> See, e.g., UNICEF, *Convention on the Rights of the Child: Who Monitors Implementation of the Convention?*, available at <http://www.unicef.org/crc/monitoring.htm> (last visited March 11, 2004).

<sup>142</sup> The reports of State Parties and the Committee’s recommendations are located on the website of the Office of the United Nations High Commissioner for Human Rights, available at <http://www.unhchr.ch> (last visited March 11, 2004).

<sup>143</sup> Committee on the Rights of the Child, *General Comment No. 2: The Role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child*, 32<sup>nd</sup> Sess., U.N. Doc. CRC/GC/2002/2 (2002), available at <http://www.umn.edu/humanrts/crc/comment2.htm> (last visited March 11, 2004). See also, United Nations Children’s Fund, *Independent Institutions Protecting Children’s Rights*, INNOCENTI DIGEST, No. 8 (June 2001), available at <http://www.unicef-icdc.org/publications/pdf/digest8e.pdf>.

<sup>144</sup> Convention on the Rights of the Child, *Provisional Rules of Procedure*, Nov. 14, 1991, Rule 75, CRC/C/4, available at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.4.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CRC.C.4.En?OpenDocument).

<sup>145</sup> ICESCR, *supra* note 17, arts. 16 & 17.

<sup>146</sup> U.N. ESCOR, *General Comment No. 3 (1990)*, Supp. No.3, at 100, para. 386, U.N. Doc. E/1991/23 (1991). The Committee’s authority to involve NGOs stems from the terms by which it was created in the Charter of the United Nations art. 71. See also, U.N. CESCR, *Rules of Procedure*, Sept. 1, 1993, rule 69.3, U.N. Doc. E/C/12/1990/4/Rev. I. (1993), available at <http://www.umn.edu/humanrts/esc/esc-rulesofprocedure.htm> (last visited March 16, 2004).

<sup>147</sup> Center on Housing Rights and Evictions, *Using the UN Committee on Economic, Social and Cultural Rights*, available at <http://www.cohre.org/unframe.htm> (last visited March 24, 2004).

<sup>148</sup> ICESCR, *supra* note 17, arts. 16 & 18.

<sup>149</sup> *Id.* art. 40.

<sup>150</sup> WISER, *supra* note 122, at 20, quoting Manfred Nowak, *The Covenant on Civil and Political Rights*, in AN INTRODUCTION TO THE INTERNATIONAL PROTECTION OF HUMAN RIGHTS 79, 94 (Raija Hanski et al., eds. 1997).

<sup>151</sup> See *Compilation on the Form and Content of Reports to be Submitted by State Parties to the International Human Rights Treaties*, May 5, 2003, U.N. Doc. HRI/GEN/2/Rev.1/Add.2, available at <http://ods-dds-ny.un.org/doc/UNDOC/GEN/G03/417/51/PDF/G0341751.pdf?OpenElement> (last visited Jan. 28, 2004).

- 
- <sup>152</sup> CERD, *supra* note 20.
- <sup>153</sup> The IACHR's mandate is found in the OAS Charter and the American Convention on Human Rights. See Women's Human Rights Net, *Human Rights Systems: The Inter-American Human Rights System*, available at <http://www.whrnet.org/docs/humanrightssystem.html> (last visited Jan. 22, 2004).
- <sup>154</sup> American Convention on Human Rights, *supra* note 23, art. 61.
- <sup>155</sup> *Id.* art. 64.
- <sup>156</sup> *Villagran Morales et al*, *supra* note 37.
- <sup>157</sup> *Lopez Ostra v. Spain*, Euro. Ct. H.R. (Dec. 9, 1994), available at [http://www.law.washington.edu/courses/kuszler/H540\\_Sp05/Documents/Lopez\\_Ostra\\_v\\_Spain.pdf](http://www.law.washington.edu/courses/kuszler/H540_Sp05/Documents/Lopez_Ostra_v_Spain.pdf)
- <sup>158</sup> African Charter, *supra* note 26.
- <sup>159</sup> See International Working Group for Indigenous Affairs, *The African Commission on Human and People's Rights (ACHPR), 34<sup>th</sup> Ordinary Session*, available at <http://www.iwgia.org/sw249.asp> (last visited Dec. 1, 2004).
- <sup>160</sup> WISER, *supra* note 122, at 5.
- <sup>161</sup> *Id.* at 19.
- <sup>162</sup> For more information on UNEP's program, see UNEP, *Compliance and Enforcement*, at [http://www.unep.org/DPDL/Law/Compliance\\_enforcement/index.asp](http://www.unep.org/DPDL/Law/Compliance_enforcement/index.asp) (last viewed November 9, 2004).
- <sup>163</sup> Stockholm Convention, *supra* note 51.
- <sup>164</sup> *Id.* art. 15.
- <sup>165</sup> *Id.* art. 16.
- <sup>166</sup> *Id.* art. 17.
- <sup>167</sup> UNEP & World Bank, *Guidance for Developing a National Implementation Plan for the Stockholm Convention (Draft)*, available at <http://www.pops.int/documents/guidance/NIPsFinal/NIPguidePHD.pdf> (last visited March 16, 2004). Donors have pledged to contribute hundreds of millions of dollars in new funding over the next several years through the Global Environment Facility (GEF), which has already mobilized resources to support POPs projects in more than 100 countries.
- <sup>168</sup> Stockholm Convention, *supra* note 51.
- <sup>169</sup> The Intergovernmental Negotiating Committee will develop recommendations for consideration by the first Conference of the Parties. Regarding liability issues, the Conference of Parties will discuss the report prepared at the Stockholm Convention workshop on liability and redress, Vienna, 19 – 21 September 2002.
- <sup>170</sup> Rotterdam PIC Convention, *supra* note 52.
- <sup>171</sup> Report of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Conference of the Parties to the Basel Convention, 6th Meeting, U.N. Doc.UNEP/CHW.6/40 (2003), available at <http://www.basel.int/meetings/cop/cop6/engligh/report40e.pdf> (last visited March 16, 2004).
- <sup>172</sup> Convention on International Watercourses, *supra* note 54.
- <sup>173</sup> See International Maritime Organization, *Enforcement*, available at [http://www.imo.org/Conventions/contents.asp?doc\\_id=678&topic\\_id=258](http://www.imo.org/Conventions/contents.asp?doc_id=678&topic_id=258) (last visited Jan. 30, 2004)
- <sup>174</sup> MARPOL, *supra* note 55.
- <sup>175</sup> UNCLOS, *supra* note 56.
- <sup>176</sup> See WISER, *supra* note 122, at 5.
- <sup>177</sup> For more information on the non-compliance procedure, see UNEP Ozone Secretariat, *About the Montreal Protocol*, available at <http://www.unep.org/ozone/issues.shtml> (last modified Apr. 11, 1997).
- <sup>178</sup> Glenn Wiser, *Kyoto Protocol Packs Powerful Compliance Punch*, 25 INTERNATIONAL ENVIRONMENTAL REPORTER 86 (2002).
- <sup>179</sup> UNFCCC, *Kyoto Protocol to Enter into Force 16 February 2005* (Nov. 18, 2004), available at [http://unfccc.int/files/press/news\\_room/press\\_releases\\_and\\_advisories/application/pdf/press041118\\_eng.pdf](http://unfccc.int/files/press/news_room/press_releases_and_advisories/application/pdf/press041118_eng.pdf).
- <sup>180</sup> Biosafety Protocol, *supra* note 60, art. 33.
- <sup>181</sup> See Report of the First Meeting of the Conference of the Parties Serving as the Meeting of the Parties to the Protocol on Biosafety, April 14, 2004, UNEP/CBD/BS/COP-MOP/1/15, available at <http://www.biodiv.org/doc/meetings/bs/mop-01/official/mop-01-15-en.pdf>.
- <sup>182</sup> Technically, there is no commerce in intellectual property, only the regulation of the trade-related aspects of intellectual property.

- 
- <sup>183</sup> For more on the trade, environment, and health link, *see* UNEP's Economic and Trade Programme, available at <http://www.unep.ch/etu/etp/index.htm> (last viewed Nov. 9, 2004).
- <sup>184</sup> Tobacco Convention, *supra* note 93, arts. 24 & 25.
- <sup>185</sup> International Sanitary Regulations were adopted by the World Health Assembly in 1952, revised in 1969 as the International Health Regulations, and are currently under revision by the WHO. For more information, *see* World Health Organization, *International Health Regulations*, available at <http://www.who.int/csr/ihr/en/> (last visited Nov. 8, 2004).
- <sup>186</sup> *See* Fidler, *supra* note 102.
- <sup>187</sup> For more information on how NGOs can use these procedures, *see* Child Rights Advocacy Project, *Introduction*, available at <http://www.oneworld.org/scf/mcr/introduction.htm> (last visited March 16, 2004).
- <sup>188</sup> For more details on the 1503 procedure, *see* UN Office of the High Commissioner for Human Rights, *The 1503 Procedure of the Commission on Human Rights*, available at <http://www.unhcr.ch/html/menu6/2/fs7.htm#1503> (last visited Jan. 22, 2004).
- <sup>189</sup> For additional details on how to intervene at the Commission or sub-Commission, *see* Child Rights Advocacy Project, *Interventions at the Commission or Sub-Commission*, available at <http://www.oneworld.org/scf/mcr/othermechanisms2.htm#interventions> (last visited March 18, 2004).
- <sup>190</sup> Alien Tort Claims Act (ATCA), 28 U.S.C. § 1350 (1992).
- <sup>191</sup> *See, e.g.*, John Doe I. vs. Unocal Corp., 2002 WL 31063976 (9<sup>th</sup> Cir. (Cal.) Sept. 18, 2002). Most recently, the 9<sup>th</sup> Circuit decided to hear the case en banc and not use the 2002 opinion as precedent. For background on the *Unocal* case, *see* EarthRights International, *Doe v. Unocal*, available at <http://www.earthrights.org/unocal/index.shtml> (last updated Oct. 15, 2004).
- <sup>192</sup> *See, for example*, Basel Convention, *supra* note 53, art. 7, 15, and Rules of Procedure; Stockholm Convention, *supra* note 51, art. 19; U.N. Framework Convention on Climate Change, May 9, 1992, arts. 4 & 7, 31 I.L.M. 849; Montreal Protocol, composite text including 1999 amendments, art. 11, *supra* note 58; Rotterdam PIC Convention, *supra* note 52, art. 18. The Secretariats of these Conventions may also seek out interactions with NGOs, industry, and other civil representatives in between meetings of the Parties, seeking out expertise and looking for cooperation. For example, the Basel Convention's Secretariat has published a Note proposing a work program for cooperation with environmental NGOs and industry. *See* Basel Convention Secretariat, *Partnership with Environmental Non-Governmental Organizations and with the Industry and Business Sectors*. Sept. 22, 2003. UNEP/CHW/OEWG/2/10, available at <http://www.basel.int/meetings/oewg/oewg2/10e.pdf>.
- <sup>193</sup> *See* UNEP, *Chemicals Strategic Approach to International Chemicals Management*, available at <http://www.chem.unep.ch/saicm/> (last viewed Nov. 9, 2004).
- <sup>194</sup> *See* UNEP, *Governing Council/Global Ministerial Environment Forum*, available at <http://www.unep.org/Documents/multilingual/Default.asp?DocumentID=43&ArticleID=28&l=en> (last visited Nov. 30, 2004).
- <sup>195</sup> For more information on the CSD, *see* CSD, *CSD-13*, available at <http://www.un.org/esa/sustdev/csd/csd13/csd13.htm> (last viewed November 9, 2004).
- <sup>196</sup> "Major Groups" are identified as Youth, Indigenous Peoples, Women, Farmers, Local Authorities, Trade Unions, Science and Technology, and Business and Industry.
- <sup>197</sup> ICESCR, *supra* note 17, art. 2.
- <sup>198</sup> *Id.* art. 11.2 (a).
- <sup>199</sup> *Id.* art. 23.
- <sup>200</sup> Stockholm Convention, *supra* note 51, art. 9.
- <sup>201</sup> *Id.* art. 10.
- <sup>202</sup> *Id.* art. 11.
- <sup>203</sup> *See* Division of Global Environmental Facility Coordination, *Themes: Persistent Organic Pollutants Focal Area*, available at [http://www.unep.org/gef/content/activity\\_pops.htm](http://www.unep.org/gef/content/activity_pops.htm) (last viewed November 8, 2004).
- <sup>204</sup> Rotterdam PIC Convention, *supra* note 52, art. 16.
- <sup>205</sup> *Id.* art. 11.
- <sup>206</sup> *Id.* art. 10.
- <sup>207</sup> The Rotterdam Convention, *Capacity Building*, available at [http://www.pic.int/en/viewpage.asp?Id\\_Cat=73&mTitre=CAPACITY+BUILDING](http://www.pic.int/en/viewpage.asp?Id_Cat=73&mTitre=CAPACITY+BUILDING) (last visited Jan. 30, 2004).

---

<sup>208</sup> Basel Convention, *supra* note 53, art. 10.2(d).  
<sup>209</sup> *Id.* art 10.3.  
<sup>210</sup> *Id.* art. 16.  
<sup>211</sup> Convention on International Watercourses, *supra* note 54.  
<sup>212</sup> MARPOL, *supra* note 55, art. 10.  
<sup>213</sup> *Id.* art. 13.  
<sup>214</sup> UNCLOS, *supra* note 56.  
<sup>215</sup> *Id.* art. 202.  
<sup>216</sup> *Id.*  
<sup>217</sup> In particular, Gothenburg Protocol, POPs Protocol, Heavy Metals Protocol, 1994 Sulphur Protocol, and 1988 Nitrogen Oxides Protocol, *supra* note 87.  
<sup>218</sup> Gothenburg Protocol, *supra* note 87, art 5 (1); POPs Protocol, *supra* note 87, art. 6(1).  
<sup>219</sup> See The Montreal Protocol, composite text including 1999 amendments, *supra* note 58, art. 9.  
<sup>220</sup> *Id.* art. 9 (1).  
<sup>221</sup> *Id.* art. 9 (2).  
<sup>222</sup> *Id.* art. 9 (4).  
<sup>223</sup> *Id.* art. 9 (5).  
<sup>224</sup> *Id.* art. 9 (5)-(10).  
<sup>225</sup> Kyoto Protocol, *supra* note 59.  
<sup>226</sup> *Id.* art. 11(1) and art. 4(9).  
<sup>227</sup> UN Framework Convention on Climate Change, *supra* note 192.  
<sup>228</sup> See UNEP-GEF, *Biosafety Projects*, available at <http://www.unep.ch/biosafety/index.htm> (last visited Nov. 10, 2004).  
<sup>229</sup> Tobacco Convention, *supra* note 93, art. 12.  
<sup>230</sup> *Id.* art. 20 (1).  
<sup>231</sup> *Id.* art. 20 (2).  
<sup>232</sup> *Id.* art. 20 (3).  
<sup>233</sup> *Id.* art. 20 (5).  
<sup>234</sup> Basel Convention, *supra* note 53, art. 10.  
<sup>235</sup> The World Health Organization, *About WHO*, available at <http://www.who.int/about/en/> (last visited Jan. 30, 2004). WHO is governed by 192 Member States through the World Health Assembly.  
<sup>236</sup> *Id.*  
<sup>237</sup> Bangkok Statement: A Pledge to Promote the Protection of Children's Environmental Health, March 7, 2002, available at <http://www.who.int/docstore/peh/ceh/Bangkok/BKKstatementbook.pdf>. It is attached as Appendix B to this publication.  
<sup>238</sup> HECA is comprised of national governments, organizations and agencies of the United Nations system, intergovernmental organizations, nongovernmental organizations, academia and institutions, and the private sector. The Secretariat of HECA is within the WHO.  
<sup>239</sup> See WHO, *Healthy Environments for Children Alliance*, available at <http://www.who.int/heca/en/> (last visited July 11, 2004).  
<sup>240</sup> See WHO, *HECA Framework for Action*, available at <http://www.who.int/heca/infomaterials/charter/en/> (last visited July 11, 2004).  
<sup>241</sup> See WHO, *CEH: Children's Environmental Health Indicators*, available at <http://www.who.int/ceh/indicators/en/> (last visited Nov. 15, 2004).  
<sup>242</sup> See WHO, *CEH: Capacity Building*, available at <http://www.who.int/ceh/capacity/en/> (last visited Nov. 15, 2004).  
<sup>243</sup> See WHO, *CEH: National Profiles*, available at <http://www.who.int/ceh/profiles/en/> (last visited Nov. 11, 2004).  
<sup>244</sup> See WHO, *CEH: Research*, available at <http://www.who.int/ceh/research/en/> (last visited Nov. 11, 2004).  
<sup>245</sup> See Pan-American Health Organization, *Child Health*, available at <http://www.paho.org/English/AD/DPC/CD/child.htm> (last visited November 8, 2004). PAHO also has a regional strategy called the Project on Child's Health and the Environment in Latin American and the Caribbean (CHELAC).

- 
- <sup>246</sup> See WHO Regional Office for Europe, *Children's Health and Environment*, available at <http://www.euro.who.int/childhealthenv> (last visited Nov. 15, 2004).
- <sup>247</sup> See WHO Regional Office for Europe, *Budapest Conference*, available at [http://www.euro.who.int/eprise/main/WHO/Progs/CHE/Policy/20030217\\_1](http://www.euro.who.int/eprise/main/WHO/Progs/CHE/Policy/20030217_1) (last visited Nov. 15, 2004).
- <sup>248</sup> See Children's Environment and Health Action Plan for Europe, June 25, 2004, EUR/O4/5046267/7, available at <http://www.euro.who.int/document/e83338.pdf>.
- <sup>249</sup> See Fidler, *Globalization, International Law, and Emerging Infectious Diseases*, *supra* note 102.
- <sup>250</sup> See WHO, *Child and Adolescent Health and Development*, at <http://www.who.int/child-adolescent-health/> (last visited May 20, 2004).
- <sup>251</sup> UNICEF, *UNICEF Mission Statement*, available at <http://www.unicef.org/crc/bg016.htm> (last visited Jan. 30, 2004).
- <sup>252</sup> United Nations Environment Programme, *About UNEP: The Organization*, available at <http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=43> (last visited Jan. 30, 2004).
- <sup>253</sup> Among the fruits of this partnership is the publication *Children in the New Millennium: Environmental Impact on Health*, *supra* note 8.
- <sup>254</sup> United Nations Development Programme, *Who We Are and What We Do*, available at <http://www.undp.org/> (last visited Dec. 1, 2004).
- <sup>255</sup> Another effort in the Americas was the Health and Environment Ministers of the Americas (HEMA), through the Organization of American States (OAS). HEMA held a ministerial meeting in 2002 and several task force meetings in 2003.
- <sup>256</sup> GEF, *Conventions*, available at <http://www.gefweb.org/participants/Conventions/conventions.html> (last visited Jan. 30, 2004).
- <sup>257</sup> Headquartered in Manila, Philippines.
- <sup>258</sup> Headquartered in Abidjan, Cote d'Ivoire.
- <sup>259</sup> Headquartered in Wildey, St. Michael, Barbados.
- <sup>260</sup> It has five offices: in Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica.
- <sup>261</sup> Headquartered in London, UK.
- <sup>262</sup> Headquartered in Luxembourg
- <sup>263</sup> Headquartered in Washington, DC, United States.
- <sup>264</sup> Headquartered in Jeddah, Kingdom of Saudi Arabia.
- <sup>265</sup> The World Bank Group, *About Us*, available at <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/0,,pagePK:43912~piPK:36602~theSitePK:29708,00.html> (last visited Jan. 30, 2004).
- <sup>266</sup> The World Bank Group, *Early Childhood Development: World Bank Databases on Lending*, available at [http://www.worldbank.org/children/lending\\_dir.html](http://www.worldbank.org/children/lending_dir.html) (last visited Jan. 30, 2004).
- <sup>267</sup> The ICESCR, *supra* note 17, includes provisions that seek to ensure that all U.N. bodies, including the World Bank and IMF, are aware of Party needs and are observing the provisions of the Covenant. (See also, the International Institutions section of this document for description of the significance of role played by these agencies.) Article 16 indicates that relevant portions of state reports shall be provided to the agencies. Article 18 indicates that the ECOSOC may make arrangements with the specialized agencies to have the agencies report their progress in observing the provisions. Pursuant to Article 19, ECOSOC may transmit the reports of the States and the agencies to the Commission on Human Rights "for study and general recommendation or... for information." Finally, Article 22 "establishes a mechanism by which the ECOSOC may bring to the attention of the UN bodies any matters arising out of reports, "which may assist such bodies in deciding... on the advisability of international measures likely to contribute to the effective progressive implementation of the ... Covenant." These recommendations could be general policy recommendations or more narrowly focused recommendations relating to a specific situation.
- <sup>268</sup> U.N. CESCR, *General Comment No. 14*, *supra* note 28. Similarly, states that parties have an obligation to ensure that their actions as members of international organizations take due account of the right to health.
- <sup>269</sup> See Global Forum for Action, *Joint Declaration from Children's Environmental Health II: A Global Forum for Action*, available at <http://www.cich.ca/Declaration.htm> (last visited Jan. 30, 2004).
- <sup>270</sup> The Committee is comprised of 18 independent human rights experts who monitor State party compliance with the International Covenant on Economic, Social and Cultural Rights. The Committee is

---

the only institution which has been given the legal authority by State parties to the Covenant to issue authoritative decisions and pronouncements concerning how the Covenant is or is not implemented by State parties. This is why the Committee is so important in the overall effort to secure economic, social and cultural rights.

<sup>271</sup> This example is provided by the Centre on Housing Rights and Evictions, *Know the Committee*, available at [http://www.cohre.org/un\\_body2.htm](http://www.cohre.org/un_body2.htm) (last visited Dec. 1, 2004).

<sup>272</sup> For the full text of the Concluding Observations, see <http://sim.law.uu.nl/SIM/CaseLaw/uncom.nsf/0/4914cf936e9a4985c125663c00343b7d?OpenDocument> (last modified Nov. 26, 2004).

<sup>273</sup> See *Villagran Morales et al*, *supra* note 37.

<sup>274</sup> *Id.* at para. 144.

<sup>275</sup> Inter-American Court of Human Rights, Advisory Opinion OC-17/2002, *supra* note 40.

<sup>276</sup> *Id.* at 64.

<sup>277</sup> *Id.* at 79.

<sup>278</sup> Convention on the Rights of the Child, *supra* note 14, art. 24.



**Center for International  
Environmental Law**  
1367 Connecticut Avenue, NW  
Washington, DC 20036  
202.785.8700  
[www.ciel.org](http://www.ciel.org)



**Physicians for Social Responsibility**  
1875 Connecticut Avenue, NW  
Suite 1012  
Washington, DC 20009  
202.667.4260, ext: 224  
[www.psr.org](http://www.psr.org)