

2.97 A Marten's Clause for environmental protection

RECALLING that Recommendation 1.75 *Armed Conflict and the Environment*, which was adopted by the 1st Session of the World Conservation Congress (Montreal, 1996), endorsed the promotion of the 'Draft Convention on the Prohibition of Hostile Military Activities in Internationally Protected Areas';

REAFFIRMING the awareness expressed in the World Charter for Nature [see note (i) below] that mankind is a part of nature and life depends on the uninterrupted functioning of natural systems;

ALSO REAFFIRMING that every form of life is unique, warranting respect regardless of its apparent worth to man;

CONSIDERING the adoption of the 8th preambular paragraph in 'The Hague Convention (IV) Respecting the Laws and Customs of War on Land' (18 October 1907), which is also known as the Marten's Clause [see quotation contained in note (ii) below], and which is reiterated in Article 1(2) of the 'Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts' [see quotation contained in note (iii) below];

RECOGNIZING the fundamental importance of the Marten's Clause in providing a juridical standard governing the conduct of all persons in times of armed conflict in the absence of conventional law; and

REAFFIRMING the need for appropriate measures to protect the environment at the national and international, individual and collective, private and public levels;

The World Conservation Congress at its 2nd Session in Amman, Jordan, 4–11 October 2000:

URGES all United Nations Member States to endorse the following policy:

"Until a more complete international code of environmental protection has been adopted, in cases not covered by international agreements and regulations, the biosphere and all its constituent elements and processes remain under the protection and authority of the principles of international law derived from established custom, from dictates of the public conscience, and from the principles and fundamental values of humanity acting as steward for present and future generations".

Notes:

- (i) The World Charter for Nature was adopted by the United Nations General Assembly on 28 October 1982.
- (ii) *"Until a more complete code of the laws of war has been issued, the High Contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result*

from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience”.

- (iii) *“In cases not covered by the Protocol or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from dictates of public conscience.”* Art. 1(2), Protocol Additional (No. 1) to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, Geneva, 8 June 1977.

This Recommendation was adopted by consensus. State and Agency members United States abstained from the adoption by consensus of this Recommendation.