

**REFERENCE MATERIALS
TO ACCOMPANY IUCN STATEMENT
ON
*ARMED CONFLICT AND THE ENVIRONMENT***

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(Rio de Janeiro, 3-14 June 1992)

Annex I

RIO DECLARATION ON ENVIRONMENT AND DEVELOPMENT

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Principle 24

Warfare is inherently destructive of sustainable development. States shall therefore respect international law providing protection for the environment in times of armed conflict and cooperate in its further development, as necessary.

Principle 25

Peace, development and environmental protection are interdependent and indivisible.

Principle 26

States shall resolve all their environmental disputes peacefully and by appropriate means in accordance with the Charter of the United Nations.

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a/ Report of the United Nations Conference on the Human Environment, Stockholm, 5-16 June 1972 (United Nations publication, Sales No. E.73.II.A.14 and corrigendum), chap. I.

Source: <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>

**United Nations
Office of the High Commissioner for Human Rights**

**PROTOCOL ADDITIONAL TO THE GENEVA CONVENTIONS OF 12 AUGUST
1949, AND RELATING TO THE PROTECTION OF VICTIMS OF
INTERNATIONAL ARMED CONFLICTS (PROTOCOL 1)**

Adopted on 8 June 1977 by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts

entry into force 7 December 1979, in accordance with Article 95

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PART III

**METHODS AND MEANS OF WARFARE COMBATANT AND PRISONER-OF-WAR STATUS
SECTION I.-METHODS AND MEANS OF WARFARE**

Article 35.-Basic rules

1. In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited.
2. It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering.
3. It is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment.

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PART IV

CIVILIAN POPULATION

Article 55.-Protection of the natural environment

1. Care shall be taken in warfare to protect the natural environment against widespread, long-term and severe damage. This protection includes a prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population.
2. Attacks against the natural environment by way of reprisals are prohibited.

Source: <http://www.unhchr.ch/html/menu3/b/93.htm>

United Nations

1976 CONVENTION ON THE PROHIBITION OF MILITARY OR ANY HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES

The Convention on the prohibition of military or any other hostile use of environmental modification techniques (ENMOD Convention) is an instrument of international disarmament law specifically intended to protect the environment in the event of armed conflict. It prohibits hostile use of the environment as a means of warfare.

The provisions of Protocol I of 1977 additional to the Geneva Conventions of 1949 form an essential complement to those of the ENMOD Convention, as they directly prohibit damage to the environment during armed conflict. Other rules and principles of international humanitarian law also confer protection on the environment during armed conflict, though without mentioning it specifically. This is particularly the case with general customary principles regarding the conduct of hostilities, such as the principle of distinction, which limits attacks to military objectives, and that of proportionality, which prohibits the use of means and methods of warfare that cause excessive damage.

The ENMOD Convention was negotiated at the Conference of the Disarmament Commission and was adopted by the General Assembly of the United Nations on 10 December 1976. It was opened for signature in Geneva on 18 May 1977, and entered into force on 5 October 1978.

THE ENMOD CONVENTION: PROHIBITING USE OF THE ENVIRONMENT AS A MEANS OF WARFARE

The ENMOD Convention is specifically intended to prevent use of the environment as a means of warfare, by prohibiting the deliberate manipulation of natural processes that could produce phenomena such as hurricanes, tidal waves or changes in climate.

PROHIBITIONS

States party to the Convention undertake "not to engage in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party" (Article I, para. 1).

The States Parties further undertake not to "assist, encourage or induce" any State, group of States or international organization to engage in such activities (Article I, para. 2).

The environmental modification techniques covered are those intended to change "through the deliberate manipulation of natural processes, the dynamics, composition or structure of the Earth" (Article II).

To be banned by Article I, the use of prohibited techniques must meet all the following criteria:

- be for hostile purposes;
- cause destruction, damage or injury to another State Party;
- have widespread, long-lasting or severe effects.

While not part of the ENMOD Convention, "Understandings" have been drawn up that define the extent, duration and severity criteria (Article I) for application of the Convention.

The definitions are as follows:

widespread: encompassing an area of several hundred square kilometres;
long-lasting: lasting for a period of months, or approximately a season;
severe: involving serious or significant disruption or harm to human life, natural and economic resources or other assets.

As examples, the Understandings also include a non-exhaustive list of phenomena that could result from the use of environmental modification techniques: earthquakes and tsunamis; an upset in the ecological balance of a region; changes in weather patterns (clouds, precipitation, cyclones and tornadic storms); changes in climate patterns; changes in ocean currents; changes in the state of the ozone layer and changes in the state of the ionosphere.

ADDITIONAL PROTOCOL I: BAN ON THE USE OF METHODS AND MEANS OF WARFARE THAT DAMAGE THE ENVIRONMENT

Protocol I of 1977 additional to the Geneva Conventions of 1949 applies to international armed conflict and contains two specific provisions for the protection of the environment. These provisions are clearly complementary to the ENMOD Convention in the event of armed conflict: while the Convention prohibits deliberate modification of the environment as a means of warfare, Additional Protocol I prohibits attacks on the environment as such, regardless of the means used.

Article 35, para. 3 of Additional Protocol I prohibits the use of "methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment".

Using the same language, Article 55 aims to protect the *population*, whose health and survival in the event of armed conflict could be endangered by damage to the environment. The article also prohibits attacks on the natural environment by way of reprisals.

The Rome Statute of 1998 incorporates some of the prohibitions contained in Additional Protocol I. For instance, the future International Criminal Court will have jurisdiction in respect of war crimes that consist in "intentionally launching an attack in the knowledge that such attack will cause incidental [...] widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated" (Article 8, para. 2 [b, iv]).

Source:

<http://www.icrc.org/Web/eng/siteeng0.nsf/iwpList74/195998B28FD631C0C1256B66006021F5>

The International Committee of the Red Cross (ICRC)

FOLLOW-UP TO THE INTERNATIONAL CONFERENCE FOR THE PROTECTION OF WAR VICTIMS (1993)

GUIDELINES FOR MILITARY MANUALS AND INSTRUCTIONS ON THE PROTECTION OF THE ENVIRONMENT IN TIMES OF ARMED CONFLICT

Resolution 1 adopted by the 26th International Conference of the Red Cross and Red Crescent (Geneva, 1995) endorsed the recommendations drawn up by an intergovernmental group of experts charged with translating the Final Declaration of the International Conference for the Protection of War Victims (Geneva, August/September 1993) into proposals for "concrete and effective measures" [1]. These recommendations are addressed primarily to the States party to the Geneva Conventions, including the depositary of those instruments. However, the ICRC, the International Federation of Red Cross and Red Crescent Societies and the National Red Cross and Red Crescent Societies are also urged to contribute to the effort of achieving better implementation of international humanitarian law, the main objective being to prevent violations from occurring.

I. Preliminary remarks

(1) The present Guidelines are drawn from existing international legal obligations and from State practice concerning the protection of the environment against the effects of armed conflict. They have been compiled to promote an active interest in, and concern for, the protection of the environment within the armed forces of all States.

(2) Domestic legislation and other measures taken at the national level are essential means of ensuring that international law protecting the environment in times of armed conflict is indeed put into practice.

(3) To the extent that the Guidelines are the expression of international customary law or of treaty law binding a particular State, they must be included in military manuals and instructions on the laws of war. Where they reflect national policy, it is suggested that they be included in such documents.

II. General principles of international law

(4) In addition to the specific rules set out below, the general principles of international law applicable in armed conflict - such as the principle of distinction and the principle of proportionality - provide protection to the environment. In particular, only military objectives may be attacked and no methods or means of warfare which cause excessive damage shall be employed. Precautions shall be taken in military operations as required by international law.

G.P.I Arts. 35, 48, 52 and 57

(5) International environmental agreements and relevant rules of customary law may continue to be applicable in times of armed conflict to the extent that they are not inconsistent with the applicable law of armed conflict.

Obligations concerning the protection of the environment that are binding on States not party to an armed conflict (e.g. neighbouring States) and that relate to areas beyond the limits of national jurisdiction (e.g. the high seas) are not affected by the existence of the armed conflict to the extent that those obligations are not inconsistent with the applicable law of armed conflict.

(6) Parties to a non-international armed conflict are encouraged to apply the same rules that provide protection to the environment in international armed conflict and, accordingly, States are urged to incorporate such rules in their military manuals and instructions on the laws of war in a way that does not discriminate on the basis of how the conflict is characterized.

(7) In cases not covered by international agreements, the environment remains under the protection and authority of the principles of international law derived from established custom, the principles of humanity and the dictates of public conscience.
H.IV preamble, G.P.I Art. 1.2, G.P.II preamble

III. Specific rules on the protection of the environment

(8) Destruction of the environment not justified by military necessity violates international humanitarian law. Under certain circumstances, such destruction is punishable as a grave breach of international humanitarian law.
H.IV.R Art. 23(g), G.C.IV Arts. 53 and 147, G.P.I Arts. 35.3 and 55

(9) The general prohibition on destroying civilian objects, unless such destruction is justified by military necessity, also protects the environment.
H. IV. R Art. 23(g), G.C.IV Art. 53, G. P. I Art. 52, G. P. I I Art. 14

In particular, States should take all measures required by international law to avoid:

(a) making forests or other kinds of plant cover the object of attack by incendiary weapons except when such natural elements are used to cover, conceal or camouflage combatants or other military objectives, or are themselves military objectives;
CW.P.III

(b) attacks on objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas or drinking water installations, if carried out for the purpose of denying such objects to the civilian population;
G.P.I Art. 54, G.P.II Art. 14

(c) attacks on works or installations containing dangerous forces, namely dams, dykes and nuclear electrical generating stations, even where they are military objectives, if such attack may cause the release of dangerous forces and consequent severe losses among the civilian population and as long as such works or installations are entitled to special protection under Protocol I additional to the Geneva Conventions;
G.P.I Art. 56, G.P.II Art. 15

(d) attacks on historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples.
H.CP, G.P.I Art. 53, G.P.II Art. 16

(10) The indiscriminate laying of landmines is prohibited. The location of all pre-planned minefields must be recorded. Any unrecorded laying of remotely delivered non-selfneutralizing landmines is prohibited. Special rules limit the emplacement and use of naval mines.
G.P.I Arts. 51.4 and 51.5, CW.P.II Art. 3, H.VII

(11) Care shall be taken in warfare to protect and preserve the natural environment. It is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause

widespread, long-term and severe damage to the natural environment and thereby prejudice the health or survival of the population.

G.P.I Arts. 35.3 and 55

(12) The military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State party is prohibited. The term "environmental modification techniques" refers to any technique for changing - through the deliberate manipulation of natural processes - the dynamics, composition or structure of the Earth, including its biota, lithosphere, hydrosphere and atmosphere, or of outer space.

ENMOD Arts. I and II

(13) Attacks against the natural environment by way of reprisals are prohibited for States party to Protocol I additional to the Geneva Conventions.

G.P.I Art. 55.2

(14) States are urged to enter into further agreements providing additional protection to the natural environment in times of armed conflict.

G.P.I Art. 56.6

(15) Works or installations containing dangerous forces, and cultural property shall be clearly marked and identified, in accordance with applicable international rules. Parties to an armed conflict are encouraged to mark and identify also works or installations where hazardous activities are being carried out, as well as sites which are essential to human health or the environment.

e.g. G.P.I Art. 56.7, H.CP. Art. 6

IV. Implementation and dissemination

(16) States shall respect and ensure respect for the obligations under international law applicable in armed conflict, including the rules providing protection for the environment in times of armed conflict.

G.C.IV Art. 1, G.P.I Art. 1.1

(17) States shall disseminate these rules, making them known as widely as possible in their respective countries, and include them in their programmes of military and civil instruction.

H.IV.R Art. 1, G.IV Art. 144, G.P.I Art. 83, G.P.II Art. 19

(18) In the study, development, acquisition or adoption of a new weapon, means or method of warfare, States are under an obligation to determine whether its employment would, in some or all circumstances, be prohibited by applicable rules of international law, including those providing protection to the environment in times of armed conflict.

G.P.I Art. 36

(19) In the event of armed conflict, the parties thereto are encouraged to facilitate and protect the work of impartial organizations contributing to preventing or repairing damage to the environment, pursuant to special agreements between the parties concerned or, as the case may be, the permission granted by one of them. Such work should be performed with due regard to the security interests of the parties concerned.

e.g. G.C.IV Art. 63.2, G.P.I Arts. 61-67

(20) In the event of breaches of rules of international humanitarian law protecting the environment, measures shall be taken to stop any such violation and to prevent further breaches. Military commanders are required to prevent and, where necessary, to suppress and to report to competent

authorities breaches of these rules. In serious cases, offenders shall be brought to justice.
G.C.IV Arts. 146 and 147, G.P.I Arts. 86 and 87

Source:

<http://www.icrc.org/Web/eng/siteeng0.nsf/iwpList277/9ABFD815FB1E7D73C1256B660059F59C>

ADDITIONAL SOURCES OF INTERNATIONAL OBLIGATIONS CONCERNING THE PROTECTION OF THE ENVIRONMENT IN TIMES OF ARMED CONFLICT

GENERAL PRINCIPLES OF LAW AND CUSTOMARY INTERNATIONAL LAW

Main international treaties with rules on the protection of the environment in times of armed conflict:

Hague Convention (IV) respecting the Laws and Customs of War on Land, of 1907 (H.IV), and Regulations Respecting the Laws and Customs of War on Land (H.IV.R)

Hague Convention (VIII) relative to the Laying of Automatic Submarine Contact Mines, of 1907 (H.VIII)

Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 1949 (G.C.IV)

Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, of 1954 (H.CP)

Protocol additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of 1977 (G.P.II)

(United Nations) Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, of 1980 (CW), with:

Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-traps and Other Devices (CW.P.II)

Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (CW.P.III)

Source:

<http://www.icrc.org/Web/eng/siteeng0.nsf/iwplList277/9ABFD815FB1E7D73C1256B660059F59C>