

## Обращение ста юристов по поводу Всемирного пакта об охране окружающей среды

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10 мая 2018 года Генеральная Ассамблея ООН значительным большинством голосов приняла резолюцию, открывающую путь к переговорам о принятии Всемирного пакта об охране окружающей среды. Этот международный договор объединит в едином тексте основные правовые принципы, которые определяют деятельность государств в защиту экологии. На протяжении более тридцати лет международное юридическое сообщество призывает государства принять подобный документ. Эксперты по правовым вопросам принимали участие во множестве инициатив. В их число входил доклад Брундтланд 1987 года, проект Международного пакта по окружающей среде и развитию 1995 года от МСОП, а также проект, разработанный в 2017 году. В группу экспертов, работавших над последним, входило около сотни юристов из 40 стран Южного и Северного полушария, представляющих все правовые традиции.

Принятие Целей в области устойчивого развития и Парижского соглашения по климату в 2015 году дало новый толчок усилиям по защите и сохранению окружающей среды на глобальном уровне. Эти документы ознаменовали собой значительный прогресс. Однако экологический ущерб не только продолжает наноситься, но и находится на беспрецедентно высоком уровне. 2017 и 2018 годы были отмечены рекордными температурами. Биологическое разнообразие продолжает стремительно сокращаться. Необходимо предпринимать новые шаги. Помимо вопросов климата, назрела необходимость в разработке более всеобъемлющего документа, который определил бы руководящие принципы глобального экологического управления.

С созданием Всемирного пакта об охране окружающей среды международное сообщество впервые получит договор общего характера, охватывающий все аспекты охраны окружающей среды. Краеугольный камень международного экологического права, пакт будет представлять собой *umbrella text* (всеобъемлющий документ), позволяющий установить связь между различными существующими отраслевыми соглашениями (по климату, биоразнообразию, отходам, загрязнению и т. д.). Не предполагается, что пакт заменит эти документы. Напротив, он направлен на то, чтобы дополнить их и упростить их реализацию. В нем могут быть восполнены пробелы, допущенные в этих документах, или, при отсутствии противоречий, он может применяться в дополнение к этим документам, чтобы повысить их эффективность и силу действия.

Новый договор будет отражать принципы охраны окружающей среды, закрепленные в конституциях большинства стран мира и в некоторых важных, но не имеющих юридической силы международных документах, таких как Всемирная хартия природы 1982 года или Декларация Рио-де-Жанейро по окружающей среде и развитию 1992 года. Пакт принесет пользу всем участникам экологического управления, систематически объединив в качестве базового минимума международные, конституционные и законодательные положения, существующие в различных государствах. Законодательные органы любого государства обнаружат в документе ориентиры для принятия законов, направленных на улучшение охраны окружающей среды. Верховные суды смогут использовать документ в рамках диалога между судьями с целью закрепления основ международного экологического права. Частные лица и НПО отметят укрепление своих прав в области охраны окружающей среды. Предприятия также смогут извлечь пользу из гармонизации правил на международном уровне, что будет способствовать укреплению правовой безопасности и развитию справедливых условий конкуренции.

Сегодня, в контексте семидесятилетия принятия Всеобщей декларации прав человека 1948 года и пятидесятилетия двух международных пактов 1966 года (один — о гражданских и политических правах, а второй — об экономических, социальных и культурных правах), настало время начать новый этап в истории международного права. Вот почему мы призываем поддержать принятие третьего пакта, посвященного новому поколению основополагающих принципов: правам и обязанностям, связанным с охраной окружающей среды.

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