



UNEP THE FIRST 40 YEARS

A NARRATIVE

BY STANLEY JOHNSON





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In addition to UNEP's staff, the author is immensely grateful to members of UNEP's Governing Council, both individually and collectively. In a very real sense, UNEP's Governing Council has been one of the principal actors, if not the principal actor, in this unfolding drama. In an ideal world, the UN would still have retained the verbatim reports of its meetings which would have made it possible for the historian to identify the part played

by different countries, and indeed different individual personalities, in some of the key decisions. Those reports are no longer available. Nor is it easy to locate, after a lapse of time, the actual texts of speeches delivered by country representatives in the Governing Council and elsewhere.

But the reality is not in doubt. Though UNEP — as this account will make clear — has benefitted immensely from the inspired leadership of successive Executive Directors, as well as a loyal and hard-working staff, the contribution of the Governing Council has without doubt been the single most important factor in assuring the Organization's viability and success.

It seems likely, following the decisions taken at the United Nations "Rio+20" Conference on Sustainable Development in June 2012, that the United Nations General Assembly will soon decide to open the membership of UNEP's Governing Council to all the members of the United Nations.

If that does indeed happen, it can be seen as a well-earned tribute to the dedicated and often inspired work of the Governing Council as currently constituted over the last 40 years, work which has been chronicled, in part at least, however imperfectly, in the pages of this book.

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1

THE BIRTH OF UNEP THE UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT

Stockholm, June 1972

For many of those who were lucky enough to be there, the first United Nations Conference on the Human Environment, held in Stockholm, Sweden, from 5-16 June 1972 was truly memorable. Stockholm in high summer is a magical place, one of the most beautiful cities in the world. It was a wonderfully appropriate setting for what would turn out to be a transforming event not just for the United Nations and its system of agencies, but for the world as a whole.

On the Saturday before its opening, Maurice Strong, the Conference's Secretary-General, led a bicycle parade along the canals and waterways of Stockholm's historic centre. The bicycles themselves had been provided by the Swedish hosts. Some 200 altogether, they were fitted with two gears and painted white and blue.

In his book *Where on Earth are We Going?*¹ Strong recalls that a young man with long hair broke through the crowd and pushed an old, beat-up bicycle at him, yelling loudly: "If you really believe in what you are saying, you should get off your new bicycle and take this old recycled one! You don't believe in recycling!"

Strong turned and shouted back: "Young man. Not only do I believe in recycling. I am personally made entirely of recycled materials!" This Delphic remark was apparently sufficient to give his challenger pause and the bicycle parade continued on its way.

The bicycles weren't just a public relations gimmick. The Conference organizers hoped the delegates would use them to move between the different venues of the meeting. Given that there were many more potential customers than there were bicycles, delegates were expected

to leave their vehicle for the next user once their journey was completed. At one of the early sessions of the Conference, the President of the Conference, Sweden's Agriculture Minister, Ingemund Bengtsson, had to appeal to delegates not to retain the bicycles for their own exclusive use by taking them back to their own hotel rooms! The warning was a salutary one. Delegates could be seen shame-facedly wheeling the bicycles out of their hotel lobbies the next morning. Forty years on, bicycle-sharing schemes — for example in Paris and London — are at the cutting-edge of initiatives designed to address the problems of urban transportation, not to speak of global warming!

The opening ceremony of the Conference took place on the following Monday, June 5, 1972, in the Royal Opera House. From the back of the stage the blue sexless homunculus that was to serve as the official emblem of the Conference — and later of UNEP itself — dominated the theatre. The orchestra was in the pit. Delegates, guests, press and observers packed the floor and the balconies. The heat, made worse by the TV lights that were intended to bring the events of the next few minutes to an expectant world, rose stiflingly.²

The only empty seats were those diplomatically left vacant in case of a last-minute appearance by the Soviet Union and the Warsaw Pact countries. (The Soviet bloc was boycotting the Conference because the German Democratic Republic had not been invited). Much attention was focussed on the Chinese delegation, since this was the first major international conference the People's Republic of China had attended since the PRC had taken over the Chinese seat in the United Nations.

Minutes after 11 a.m. the King of Sweden, Gustaf VI Adolf, and the Crown Prince (Carl Gustaf, now King Carl XVI Gustaf) entered their box. The orchestra struck up with a note of determined optimism. It was not too late to seek a newer world.

The Secretary-General of the United Nations, Kurt Waldheim, opened the proceedings. "No crisis ever before", he told the audience, "has underlined to such an extent the interdependence of nations. The environment forces us to make the greatest leap ever into world-wide solidarity.

"One issue after another — development, population, the seas and oceans, outer-space, even the monetary issue — reveal to us in close succession the interdependence on our planet... but none of them has had greater effects than the crisis of the environment."

Olaf Palme, Prime Minister of Sweden, then gave an address of welcome. If some of the journalists present hoped he would openly criticize the United States for its continued military actions in Vietnam (Palme had made such interventions in the past) they must have been disappointed. The Prime Minister stuck to his script.

Then it was time for the highlight of the proceedings. Ms. Birgit Nilsson, the celebrated Swedish dramatic soprano, delighted her audience with songs by Sibelius, Grieg and Ture Rangström. Her last superb offering was the peace aria from Verdi's *La Forza del Destino*.

The force of destiny! Given the setting, given the singer, given the occasion, many of those present found themselves profoundly stirred.

Strong's bicycle ride that morning around Stockholm's city centre had been brief: just 15 minutes. His journey to Stockholm had been an altogether much longer affair.

Strong was born in Oak Lake, a small town in rural Manitoba, in April 1929, just before the Great Depression. "The Depression" he has written "was one of the great shaping forces of my life, a calamity visited not just on my family but on my community and my country and on many millions of people around the globe."

He left school at the age of 14 and, with a doctored birth-certificate enlisted in the merchant marine, signing on with a ship under contract to the US Army to transport troops to Alaska. "I loved the life and took every chance I could to marvel at the marine life, at the mountains and the rugged forested islands as we made our way up the Inside Passage to Alaska."³

He got to know the Inuit people. "The Inuit took me into their tents and igloos. I was the only white person there, and though I didn't understand all I heard, I knew enough to get the sense of it."

In spite of, or perhaps because of, his Arctic isolation, Strong developed a passion for international affairs. “All the time my obsession with the United Nations remained undiminished. I devoured every bit of news about it.”

Strong’s ‘obsession’ with the United Nations was partially gratified when, still sporting his doctored birth-certificate, he obtained a job in the UN pass office, as a junior clerk issuing building passes. It is one of the amusing quirks of his story that the man who has held the rank of UN Under-Secretary-General half-a-dozen times over a more than 60-year career started life literally on the ground floor of the UN building at its East River site in New York.

Strong had a successful innings as a business man, before being picked by Canada’s Prime Minister Lester Pearson to run the Canada’s External Aid Office (its name was soon changed to the Canadian International Development Agency — CIDA).

His work as head of CIDA broadened Strong’s international contacts. Though the Canadian aid programme had at the beginning concentrated on Canada’s contributions to the United Nations and its system of agencies, after 1968, with the establishment of CIDA, its overwhelming mandate was to help developing countries.

The organisation of the Stockholm Conference got off to a slow start and needed an injection of energy. Strong has described how he felt when he was invited by UN Secretary-General U. Thant to become its secretary-general. “Colleagues in Ottawa warned me against accepting. In their view the preparations were a mess and the conference was already beyond redemption.

“There was no way it could succeed. If this was intended to warn me off, it had the opposite effect. I regarded their pessimism as a challenge, and their warnings simply gave me another incentive to take the job and try to turn it around. Not that I really needed the incentive; this was an offer I was incapable of resisting. After all, it was a unique intersection of my three major interests — development, the environment and the United Nations.”

If Strong’s journey to Stockholm that summer of 1972 had been a long and remarkable one from a personal point of view, it was no less so in political terms. The idea of a United Nations Conference on the Human Environment had been first proposed officially by Sweden’s Ambassador to the United Nations, Sverker Åström, in the spring of 1968. In December 1968, when the General Assembly was debating the proposal, Ambassador Åström explained:

“Man depends for his survival on an infinitely complex system of relationship and balance between innumerable living organisms, all existing in or on the extremely thin crust of earth or just above it ... It seems, therefore, that a broad consideration of the environmental problems and of possible approaches to their solution is of equal interest to all peoples on earth. The United Nations provides a unique forum for such consideration. There are many issues on which members of the United Nations are divided. On the issue now before the General Assembly we are hopefully all united.”

Lars-Göran Engfeldt was a desk officer at the Swedish UN mission in 1968 and was responsible for the first General Assembly Resolution on the new environmental item that Sweden had proposed. In his comprehensive study, “From Stockholm to Johannesburg and beyond”, published in 2009 by the Swedish Ministry for Foreign Affairs, he indicates that Ambassador Åström based his work on five principal considerations he had identified.⁴

- **Timing:** the time was clearly ripe for a serious substantive discussion at the global level about environmental problems and Sweden, and Åström himself, could play a potentially important role in the prevailing situation in the UN.
- **Topic:** the environment could be a constructive issue for the UN to focus on in the tense atmosphere of the Cold War.
- **Awareness:** the striking lack of awareness among politicians and administrators about the global significance of the environmental situation was a key problem.

- **Institutional limitations:** the post-World War II international system, strongly anchored in the overriding principle of national sovereignty, had not been equipped to respond to the demands of the rapidly changing world and would, in all probability, not change in the foreseeable future. If anything were to be accomplished in the international field, it had to be done within the existing context.
- **UN structure:** within the fragmented structure of the UN system, specialized agencies represented what he described as “carefully defined functional areas in a way that corresponds approximately to the administrative divisions within most member nations. Without strong new initiatives from their respective principals they cannot be expected to achieve the effective interdisciplinary coordination of environmental endeavours that is now needed and the governments themselves have a long way to go before they accomplish such coordination within their own administrations”.

Against this background, the following conclusions were reached, as to the need, goals and organization of the Conference:

- **Global scope:** The global character of the environmental problems as well as the need for increasing public interest in the issue made it natural to consider convening a UN conference;
- **Broad involvement:** The strong need to increase awareness about the full economic, social and political effects of these problems required bringing together actors from different sectors and disciplines. Through greater insight, it would be easier to gain acceptance for the necessary measures at national and international level;
- **Action orientation:** The Conference needed to focus on certain concrete problem areas in order to gain an overview of those problems that could only, or best, be solved through international cooperation. It would also be useful to define an international division of work for taking the appropriate regulatory measures. An action-oriented perspective was thus clearly present from the beginning;

- **Inter-agency coordination:** The need for inter-agency coordination was crucial. The only way to mobilize enough political support and strength for this to happen was to ensure that a comprehensive discussion could take place at the central UN level. A negative approach towards the specialized agencies would have been counterproductive. Instead, it needed to be made clear that the activities of the agencies would continue as before and the best possible cooperation would be sought with them;
- **Cause-effect focus:** The Conference needed to focus both on the deleterious impact of man’s activities on nature and on the effects on man himself. In the first category, pollution of various kinds and chemical contamination were to be highlighted while the second looked at issues such as negative consequences of rapid urbanization;
- **Current institutions:** No new international institutions were to be proposed. At the time, this was the internal consensus view. The absence of a proposal in this area was later used to deflect fears of specialized agencies about the ramifications of the Swedish initiative.

Apart from the institutional constraint represented by the sectoral structure of the UN system and the perceived self-interest of the specialized agencies, Åström foresaw resistance from certain international financial interests and from the developing countries. He anticipated that the former might feel that environmental regulation would obstruct free economic development and the latter could suspect that Sweden’s and other industrialized countries’ interests in the environment was a way to divert attention from the problems of the developing countries. From his platform in the UN, he believed he could focus particularly on the second issue, by raising awareness and understanding that environmental problems required universal solutions.

The Swedish proposal to hold the first world conference at government level on the subject of the environment did not, of course, come from nowhere.

On the contrary, as a highly-respected Swedish diplomat and a personal friend of the then Swedish Prime Minister, Tage Erlander, (succeeded by Palme in 1969), Åström secured the full support of the Swedish government. The tide was in any case running in his favour. Back home in Sweden, there was rising concern over pollution. Since the early 1960s large-scale fish death was reported in Swedish lakes and rivers. The Swedish Environmental Protection Agency was created in July 1967, the first in the world. In 1968, Svante Odén, a Swedish soil scientist and chemist, claimed that sulphur emissions from the United Kingdom and Central Europe were contributing to the acidity of Scandinavia's lakes and streams. Because of this acidification, fish and other organisms died and the health and productivity of forests' soils and trees was also being damaged.

Even if the direct link between the long-range transport of air-pollutants and damage to the environment had not been fully established by the time of Åström's speech,⁵ it is clear that Sweden's sponsorship of the Stockholm Conference was at least in part motivated by enlightened self-interest. In other advanced industrialized countries there was, throughout the decade of the 1960s, a rising crescendo of interest in environmental issues.

In 1962, Rachel Carson, an American writer, scientist and ecologist, had published *Silent Spring* with tremendous impact. The content of the book was even more striking than the title, as its author documented the damage to health and the environment that could be caused by the irresponsible use of certain pesticides. In 1967, the world's first super tanker wreck, Torrey Canyon, fouled the shores of South West England and killed thousands of sea-birds. In 1968, Paul Ehrlich argued that the surging world human population was on a collision course with its life-support system. Later in the decade some notable disasters added to the level of public anxiety in the United States.

In 1969, for example, industrial debris and oil in the Cuyahoga River in Ohio caught fire, sparking widespread alarm; and there was a massive oil-spill in Santa Barbara, California. Jacques Cousteau's TV films about threats to marine life from ocean pollution stirred widespread

concern far beyond the borders of his native France. In Japan, the Chisso Corporation was at last forced into court, as the consequences of its long-term mercury contamination of the waters in Minimata Bay became apparent.

At the beginning of the 1960s, President Kennedy had pledged that the United States would land a man on the moon before the decade was out. As the United States Apollo programme progressed, photographs of the Earth as seen from outer space appeared in the press and on television. Those first images of Spaceship Earth, a small fragile planet, hurtling to possible destruction, symbolized as nothing else could the growing sense that there was '*Only One Earth*' and we were busy making a frightful mess of it. New, vigorous non-governmental organizations like Greenpeace and Friends of the Earth appeared and began to campaign.

On 1 January 1970, President Nixon signed into law the National Environmental Policy Act (NEPA), creating the President's Council on Environmental Quality. A few days later, the US Environmental Protection Agency was established by Executive Order. On April 22 that year, the first "Earth Day", 20 million Americans took to the streets, parks, and auditoriums to demonstrate for a healthy, sustainable environment in massive coast-to-coast rallies. Thousands of colleges and universities organized protests against the deterioration of the environment. Groups that had been fighting against oil spills, polluting factories and power plants, raw sewage, toxic dumps, pesticides, freeways, the loss of wilderness, and the extinction of wildlife suddenly realized they shared common values.

The Club of Rome's Report: *The Limits to Growth*, published in 1972 and based on the work of an international team of researchers at the Massachusetts Institute of Technology had a world-wide impact, equivalent to Rachel Carson's earlier work, even if some of the assumptions and projections were later contested.⁶

The history of the environmental movement can actually be traced back not just to the late 1960s and early 1970s but for decades, even centuries, before that. In the early 14th Century, a man was executed for burning coal in London and making excessive smoke.

The first laws on water quality in Britain were passed in 1388. In 1534, under Henry VIII, an Act was passed by Parliament 'to avoid destruction of wild-fowl'.

The country's first modern antipollution law, the Alkali Works Act of 1863, was the basis of one of the most important measures in use today. More recently in the United Kingdom there had been a whole raft of environmental measures. The Town and Country Planning Act of 1947, which introduced a great volume of new legislative and administrative machinery, was probably the single most important piece of environmental legislation the country had ever seen. The passage of the Clean Air Acts of 1956 and 1962 was spurred by the great London smog of 1952-53, when some 3,000 to 4,000 deaths were attributed to air pollution.

In other advanced industrial countries, a similar story of rising concern with environmental issues could be told. In the United States, for example, President Franklin Delano Roosevelt deployed the best efforts of the Departments of Agriculture and the Interior to fight against the wasteful use of resources and mitigate the effects of the Dust Bowl. Delving still deeper into the past, President Theodore Roosevelt, though he despatched an enormous quantity of 'big game' on his African safaris, is generally considered to be a great conservationist. Amongst other things, he signed into law five National Parks.

What was true of Great Britain and the United States was true of most of the other rich nations, the so called 'OECD'⁷ group of countries. One way or another, most of them had to deal with environmental problems, especially pollution, long before the wave of environmental concern reached a peak in the late 60s and early 70s.

The United Nations General Assembly approved the Swedish proposal for a world environment conference in the course of its 1968 session. It was convinced there was a "need for intensified action at the national, regional and international level in order to limit and, where possible, eliminate the impairment of the human environment and in order to protect and improve the natural surroundings in the interest of man." It expressed a desire to encourage further work in this field

and to give it a "common outlook and direction." Most importantly, the General Assembly believed that it was "desirable to provide a framework for comprehensive consideration within the United Nations of the problems of the human environment in order to focus the attention of Governments and public opinion on the importance and urgency of this question and also to identify those aspects of it that can only or best be solved through international cooperation and agreement."⁸

The challenge Strong faced when he was appointed Secretary-General of the Conference in early 1970 was not so much how to bring the advanced industrialised countries on board. Somehow he had to persuade the developing countries not only to participate in the preparations for the conference, but to do so in a constructive spirit. In other words they had to believe that environmental issues were of concern not only to the rich polluting world, but also to the nations of the developing world. It was going to be a hard sell, because it soon became clear that in many parts of the developing world, the idea of this first world conference on the environment was viewed with suspicion if not hostility.

Their problem was too few factories, not too many. They were deeply worried that rich countries were going to use the environment as an excuse for cutting back on development aid, or for diverting that assistance into new non-priority environmental channels. They also feared that the rich countries would use the environment as an excuse for erecting new forms of non-tariff barriers against their products.

In the run-up to Stockholm, Strong spent months and months trying to persuade developing countries that environment was their "thing". In May 1971, with not much more than a year to go before the conference, he told a meeting in Rensselaerville, New York:

"In my recent travels in the developing countries I have found that while the word 'environment' has not yet acquired the magic it has in the more industrialized countries, the issues it embraces are of real and growing concern to them: polluted water supplies, degradation of agricultural lands, depletion of wildlife and fisheries, and, perhaps most urgent, the problems of cities which are growing at rates unprecedented

in human history. Some of these cities face the prospect of water contamination and health hazards which will make them unfit for human habitation in the next decade or so.

“Indeed the ‘eco-catastrophes’ of which we hear so much are much more likely to occur in the developing world than in the wealthier countries which have the resources to deal with these problems.”⁹

One important breakthrough came in July 1971. In the long conference room of a motel in the village of Founex, up from Lake Geneva, a two-week meeting of experts was held to consider the development/environment relationship and to produce a viable synthesis.¹⁰

The meeting was chaired by Sri Lanka’s Gamani Corea (who a few years later would become the Secretary-General of the United Nations Conference on Trade and Development (UNCTAD)), with Mahbub ul Haq, the World Bank’s director of policy planning as rapporteur.

Strong has described the Founex meeting as ‘the most important single event in the run-up to Stockholm’. He has paid special tribute to Corea and ul Haq for bringing all the strands together in the report of the meeting. “I regard this report as a milestone in the history of the environmental movement, an absolutely seminal document”.¹¹

The Founex report argued that while the degradation of the environment in industrialized countries derived from production and consumption patterns, the environmental problems in the rest of the world were largely a result of underdevelopment and poverty. It called for the integration of development and environmental strategies and urged the rich nations in their own interests to provide more money and help to enable the poorer nations to achieve the goal. “If the concern for the human environment reinforces the commitment to development, it must also reinforce the commitment to international aid,” the report said.

The report served as the basis for four regional seminars which would take place later in the year in Asia, Africa, Latin America and the Middle East. The book *‘Only One Earth’*, co-authored by Barbara

Ward (also present at the Founex meeting) and René Dubos which Strong commissioned as a ‘conceptual framework for participants’ in the Conference, also helped to mould the climate of opinion.¹² All these efforts paid off. Altogether 113 states attended the Conference, the vast majority being from the developing countries. In the event, the Soviet Bloc never did appear officially in Stockholm, though during the conference Strong met almost every day with the Soviet ambassador to Stockholm to brief him on the proceedings.

Once the opening ceremony of the first United Nations Conference on the Human Environment was concluded, the main action shifted from the Royal Opera House to the People’s Hall, the conference building of the Swedish Trade Unions. Strong, who had not yet had a chance to address the Conference as Secretary-General, now did so.

“We have made a global decision of immeasurable importance to which this meeting testifies: we have determined that we must control and harness the forces, which we have ourselves created. We know that if these forces can be effectively controlled they will provide everything that life on this planet desires and requires; but if they are permitted to dominate us, they will have an insatiable and unforgiving appetite.

“Our purpose here is to reconcile man’s legitimate, immediate ambitions with the rights of others, with respect for all life supporting systems, and with the rights of generations yet unborn. Our purpose is the enrichment of mankind in every sense of that phrase. We wish to advance — not recklessly, ignorantly, selfishly and perilously, as we have done in the past — but with greater understanding, wisdom and vision. We are anxious and rightly so, to eliminate poverty, hunger, disease, racial prejudice and the glaring economic inequalities between human beings.”

The Conference then proceeded to adopt its agenda which provided not only for the adoption of a Declaration on the Human Environment, but also for substantive debate and associated recommendations for action in six areas:

- planning and management of human settlements for environmental quality;

- environmental aspects of natural resources management;
- identification and control of pollutants of broad international significance;
- educational, informational, social and cultural aspects of environmental issues;
- development and environment;
- international organizational implications of action proposals.

A huge amount of work had gone into the preparations for the conference. A Preparatory Committee consisting of 27 member states of the United Nations had prepared the draft Declaration as well as an Action Plan consisting of more than 100 recommendations. Three Intergovernmental Working Groups had prepared detailed proposals for the monitoring of the world environment, for a data-base on potentially toxic chemicals and for the protection of the seas from the dumping of wastes.

The Declaration and the associated Principles were largely addressed to the States rather than international bodies.

For example, **Principle 7** says: “States shall take all possible steps to avoid pollution of the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.”

Principle 17 says: “Appropriate national institutions must be entrusted with the task of planning, managing or controlling the environmental resources of States with a view to enhancing environmental quality.”

Principle 21, famously, says: “States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.”

By way of contrast to the Declaration and its associated Principles, the Recommendations for Action which constitute the Stockholm Action Plan are largely aimed at international bodies, particularly those belonging to the United Nations and its system of agencies, including the World Bank.¹³

It is important to point out that, at the beginning of the 1970s, the environment was by no means a ‘*tabula rasa*’ as far as the UN and its system of agencies was concerned.

The United Nations itself, of course, had given increasing attention to global issues in housing, building and environmental planning since 1946 through its Department of Economic and Social Affairs (DESA). Its Centre for Housing, Building and Planning collected evaluated and disseminated information on problems and trends in human settlements. It had been involved in the transport sector since the establishment in 1946 of the Transport and Communications Commission, whose functions had in 1959 been decentralized to the regional economic commissions and specialized agencies. The Population Commission and Population Division had enabled the UN to play a leading role in the study of demographic issues and that capability had been further strengthened through the setting up in 1969 of the United Nations Population Fund (UNFPA).

The United Nations played a central role in the promotion of actions to advance the status of women, establishing in 1946 the 15-member Commission on the Status of Women. In 1949, the Social Commission of the Economic and Social Council stressed the need to promote and finance social as well as economic development. In 1969, the General Assembly adopted the Declaration on Social Progress and Development as a common basis for national and international policies.

The United Nations Development Programme (UNDP) had been established in 1965 when the General Assembly decided to merge two United Nations Organizations — the Expanded Programme of Technical Assistance, set up in 1949, and the Special Fund, which had been set up in 1958 to provide pre-investment assistance to large development projects. By the time of the Stockholm Conference UNDP was playing

an important role in helping fund the work of the Specialized Agencies including their environment-related programmes and projects.

The United Nations Specialized Agencies were in fact, at the time of the Stockholm Conference, some of the key players in the environmental field.¹⁴ UNESCO, for example, had been active since 1948. In that year, in partnership with the Government of France and the Swiss League for the Protection of Nature, it had convened the conference which created IUPN, International Union for Protection of Nature, later IUCN. In 1949 it convened the United Nations Scientific Conference on the Conservation and Utilization of Natural Resources, held at the temporary UN Headquarters at Lake Success. A second Lake Success conference on the Protection of Nature followed in the same year, convened jointly by UNESCO and IUPN.

In 1968 a UNESCO Conference on the Rational Use and Conservation of the Resources of the Biosphere (generally known as ‘the Biosphere Conference’) reviewed the achievements of the ICSU-led International Biological Programme and proposed a continuing Man and Biosphere programme (MAB), launched in 1970.¹⁵ The World Meteorological Organization (WMO) was involved in weather and climate analysis, including the interpretation of meteorological effects on man’s activities, such as transport, agriculture, industry, living conditions. The United Nations Food and Agriculture Organization (FAO) had a Committee on Pesticides in Agriculture and had held in December 1970 a technical conference on marine pollution and its effects on living resources and fishing.

The International Maritime Consultative Organization (then known as IMCO, now known as IMO) was involved in negotiating international agreements on measures to prevent pollution by ships and other equipment operating in the marine environment. The International Labour Office (ILO) aimed to study and control pollution in the working environment. The World Health Organization (WHO) studied the health and welfare aspects of air and water pollution. The International Atomic Energy Agency (IAEA) played a central role in the control of radioactive contamination of the environment.

The United Nations Conference on Trade and Development (UNCTAD) had been established in 1964 to analyse the practices and effects of international trade. In 1967 the United Nations Industrial Development Organisation was established to promote and accelerate the industrialisation of developing countries and to coordinate the industrial development activities of the United Nations system.¹⁶

The World Bank, itself a Specialized Agency of the United Nations, though with a rather special statute and status, was increasingly active in the field of environment. As Robert McNamara, the World Bank Group’s President, would later point out in his speech to the Stockholm conference: “Our experience is that environmental protection can be built into development projects as competently and successfully as any other requisite element.” The Bank, Mr. McNamara said, didn’t limit its operations simply to the environment side of development projects. “It finances many projects that are specifically directed at environmental goals — urban water supply and sewerage treatment, for example, as well as soil erosion control, and water resources management.”¹⁷

Bodies within the UN system were also active at the regional level. The Economic Commission for Europe (ECE) studied air pollution, control, and drew up standards for motor-vehicle construction.

An examination of the 109 Recommendations in the Action Plan adopted at Stockholm reveals that the overwhelming majority are directed at the organisations mentioned above.

Bodies outside the UN system also played their part and were the target of specific recommendations in the Stockholm Action Plan. OECD was active in numerous fields, including water and air pollution, chemicals and waste management and had created an Environment Committee in 1970. The International Council of Scientific Unions (ICSU) had, in 1959, begun to plan an International Biological programme which, in its operational phases between 1964 and 1974, studied the biological basis of productivity and human welfare.

In 1969, ICSU established a Special Committee on Problems of the Environment (SCOPE) with a view to identifying and indicating the

research effort necessary for solving environmental problems of an international nature. The International Union for the Conservation of Nature and Natural Resources (IUCN), was concerned with the conservation of rare and endangered species and natural habitats and had been charged by the UN General Assembly in 1962 with the preparation of a World List of National Parks. The North Atlantic Treaty Organization (NATO) had set up a Committee on the Challenges of Modern Society (CCMS) and had commissioned pilot projects on the physical and social environment with a view to stimulating national or international action in the appropriate body. The Council of Europe was heavily involved in the preparation of draft conventions on water pollution and the conservation of natural resources and had launched a substantial programme of work following the European Conservation Conference held in Strasbourg in February 1970.

The key question was: how to mobilize all these resources in a coherent and effective way?

In his opening speech to the Conference, Strong had set out his own view of some of the priorities for action:

"The proposed Action Plan is designed to further the principles of the Declaration. It consists of two main components: a series of specific recommendations for action at the international level and a framework into which all recommendations can be fitted into their functional categories. The three principal categories are:

- the global environmental assessment or earth watch programme;
- activities which together comprise an environmental management programme;
- supportive measures for it.

"The Action Plan cannot, of course be a comprehensive approach to all problems of the human environment. It does offer, however, a blueprint for a continuing environmental work programme in the international community and a first indication of priorities."

Strong went on to say:

"The overall global goal of the United Nations environmental programme must be to arrest the deterioration and begin the enhancement of the human environment. Subsidiary global goals, such as the provision of decent water supplies for all inhabitants of the earth, will help us to realize that overall objective. The sooner we can assign target dates the better it will be. This, of course, will involve the elaboration of national and international priorities.

"For the time being, we do not yet have a clear and agreed set of criteria for identifying priorities; this itself might well be a priority concern for the next dimension of our work. But to stimulate thought I am prepared to suggest on my own initiative three top priority areas for environmental action. Each is so important that it is not necessary to rank them in any particular order.

"Clean Water Supply: Water is the key to life. But the water available to most of the world's people brings with it death and distress, both from the ancient plagues of water-borne disease and from the poisonous new residues of progress which are accumulating in mounting quantities in water throughout the world. Almost every single national report submitted to the conference secretariat placed high priority on clean water.

"An adequate response to this problem would involve a massive mobilization of resources to provide water supply and purification systems, sewage and waste disposal and treatment facilities and research directed to developing less expensive technologies of water treatment and waste disposal in tropical areas.

"Ocean Pollution: This is another inescapable top priority, for the oceans cover some 70% of the surface of Planet earth. They are the ultimate sink not only for wastes dumped directly into the seas, but for what is washed out from rivers and bays and estuaries and what is deposited through the atmosphere — beginning, as they do, beyond all national jurisdictions. The oceans present a compelling and urgent case for global environmental action.

“The case for regional cooperation is equally compelling, for a large number of effectively enclosed seas, such as the Mediterranean, the Baltic and the Caspian, are deteriorating at a frightening rate.

“Urban Settlement: The cancerous growth of cities, the desperate shortage of housing, the expanding slums and squatter settlements which are so incompatible with our concept of the dignity of man, and the threatened breakdown of urban institutions, are almost universal phenomena that make urbanization one of the gravest problems of the human environment. There is an important potential role for international assistance and cooperation; but this is primarily an area for national action, including the application of national population policies.

“There are of course, many other candidates for even a first list of top priorities. But these three — fresh water supplies, ocean pollution and urban settlements — belong, in my view, at the top of the list.”

At the conclusion of the Conference, two weeks later, Strong once again took to the podium to review the outcomes of the meeting. He began with a comment on the Conference’s Declaration on the Human Environment (adopted after an all-night negotiating session at 5 a.m. on the morning of the last day).

“What many sceptics thought would only be a rhetorical statement has become a highly significant document reflecting a community of interest among nations regardless of politics, ideologies or economic status. Despite the difficulties and the differences that emerged, the very fact that delegates laboured as they have testified to the importance their Governments attach to the Declaration and, to the very basic principle of our environment — that of every nation’s responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction.”

“The Stockholm Declaration on the Human Environment, taken together with the Rio Declaration on Environment and Development agreed in June 1992, now has pride of place among the ever-growing corpus of international law relating to the environment.”

Strong went on to summarize the main substantive measures agreed in the Action Plan.

- We have approved a wide-ranging Action Plan which, with its Earthwatch Programme of global assessment and monitoring, its Environmental Management Activities, and its Supporting Measures, constitutes a turning point in man’s endeavours to preserve and protect this Planetary heritage;
- We have approved both the establishment of continuing environmental machinery within the United Nations and the provision of necessary financing — including a \$100 million Environment Fund to give it life it must have if our actions here are to have any lasting meaning;
- We have approved the substance of an Ocean Dumping Convention that will be finalized before November and opened for signature this year.

Strong had his own check-list of the major outcomes of the Stockholm Conference. He was careful to point out the examples he chose were not all-inclusive. They merely illustrated the rich variety and scope of the actions that were taken in Stockholm. And, of course, they did not include the many vital proposals that were referred to governments for their consideration and attention as appropriate.

“As part of the Action Plan” said Strong “we have set into motion machinery that will:

- drastically curtail emission into the atmosphere of chlorinated hydrocarbons and heavy metals;
- provide information about possible harmful effects of various activities before these activities are initiated;
- accelerate research to better assess the risk of climate modification and open up consultations among those concerned;

- assist the developing countries to cope with the urban crisis and its related priority needs such as housing and water supply and waste disposal;
- intensify the preparation of conventions on conservation for the protection of the world's natural and cultural heritage;
- stress the priority of education and information to enable people to weigh the decision which shape their future and to create a wider sense of responsibility;
- initiate steps to protect and manage common resources, considered of unique value to the world community
initiate a global programme to ensure genetic resources for future generations;
- create an International Referral Service that will enable nations to exchange environmental information and knowledge;
- incorporate environmental considerations into the review of the development strategies embodied in the Second Development Decade;
- pursue regional co-operation for purposes of financial and technical assistance;
- prevent environmental considerations from becoming pretexts to limit trade or impose barriers against developing country exports;
- emphasize opportunities that environmental concerns open up for developing countries, including the possible relocation of industries to countries whose natural systems have been less burdened;
- study the financing of additional costs to developing countries arising from environmental considerations.

As noted above, Strong that afternoon spoke of the Conference's approval both of the establishment of continuing environmental

machinery within the United Nations, as well as the provision of necessary financing — including a \$100 million Environment Fund.

He was thus officially acknowledging the Conference's approval of arrangements to provide for support and better management and coordination of United Nations environment programmes in the broadest sense. More specifically, he was also saluting, very much as a proud father, the birth of the United Nations Environment Programme.

Because the evolution of UNEP has been — and continues to be — crucially influenced by the agreements in respect of finance and structure reached at Stockholm in June 1972, it is perhaps worth looking in more detail at the circumstances surrounding the arrival of this particular infant onto the world stage. At its third session in September 1971, the Preparatory Committee then endorsed a set of 'general criteria' proposed by Strong in respect of possible new institutional arrangements.

The Conference's agenda, as agreed on the first day, included as its last substantive item: "international organizational implications of action proposals."

The question of the appropriate international institutional arrangements for the environment had been hotly debated not merely in the course of the Conference itself, but throughout the period preceding the Conference. It wasn't just the academic world which engaged with such passion in the debate.

On 1 January 2002, for example, the British Government released some official papers under the 'thirty-year rule'.

The next day the *New Scientist* published an article under the following banner headline:

"Plot to undermine global pollution controls revealed"

"A secret group of developed nations conspired to limit the effectiveness of the UN's first conference on the environment, held in Stockholm in 1972. The existence of this cabal, known as the Brussels

group, is revealed in 30-year-old British government records that were kept secret until this week.

“The Stockholm conference was set up in response to rising concern about damage to the environment. It ended with a ringing declaration of the need to protect the natural world, and the UN Environment Programme was set up as a result.

“But the ambitious aims of the conference organisers, who included Maurice Strong, the first director-general of UNEP, were held in check by the activities of the Brussels group, which included Britain, the US, Germany, Italy, Belgium, the Netherlands and France.

“The group was “an unofficial policy-making body to concert the views of the principal governments concerned”, according to a note of one of the group’s first meetings written by a civil servant in the British Foreign and Commonwealth Office. “It will have to remain informal and confidential.” This meeting took place in July 1971, nearly a year before the Stockholm conference opened.

“Many of the arguments the group employed would sound familiar to today’s anti-globalisation protesters. The group was concerned that environmental regulations would restrict trade and also wanted to stop UNEP having a large budget to spend as it saw fit. Foreign Office papers say the group “made real progress on this difficult problem”, though without specifying how this was done.

“The group seemed unconcerned about what its stance would mean for poorer countries. Its chief aim in the diplomatic jockeying during the run-up to Stockholm was for developed countries to get what they wanted” and perhaps be less worried about making it a success for developing countries”.

“This unalloyed self-interest won it few friends, and the notes record that Strong had already been grumbling about the group’s activities. ‘We may get some criticism from the Swedes and others [and] we must be careful when expanding the group not to include awkward bedfellows,’ the note adds.

A more concrete idea of the group’s aims can be gleaned from a note laying out Britain’s position prior to a secret meeting in Geneva in December 1971, one of a number of such meetings in the run-up to Stockholm.

Written by an official in what was then the Department of the Environment, it says that Britain wanted to restrict the scope of the Stockholm conference and reduce the number of proposals for action. In an indirect reference to what would later become UNEP, the paper says a “new and expensive international organisation must be avoided, but a small effective central coordinating mechanism ... would not be welcome but is probably inevitable”.

“Not welcome, but probably inevitable.” This could certainly not be seen as a ringing endorsement for the creation of a new global body to deal with the world’s environment.

A somewhat similar perspective on the negotiations which led to the setting-up of UNEP was provided in 2003 by Sir Martin Holdgate, a senior official in Britain’s newly-established Department of the Environment (DOE) at the time of the Stockholm Conference. Holdgate directed the Central Unit on Environmental Pollution in DOE and, with Ronald Arculus¹⁸ of the Foreign and Commonwealth Office, headed most of the UK delegations to the Stockholm Preparatory Committee. In a memoir called *Penguins and Mandarins* he penned his own recollections of the birth of UNEP.

“There was quite a (lot of) bickering over what kind of animal UNEP should be. The rich countries - who were dominant at Stockholm, and who were already criticizing the cost of the UN - were clear that there should be NO NEW UN AGENCY. The existing Agencies wholeheartedly agreed. Their refrain was ‘anything that needs doing, we are already doing or can do better than anyone else’. The UK and USA pressed for “a small coordinating Secretariat of no more than 50 people” who would service a Governing Council of 32 States, drawn from all continents that would decide the priorities for UN work on the environment. The actual work would be done by the existing Agencies, especially the World Health Organization, the Food and Agriculture Organization, the

World Meteorological Organization, and the various Regional Economic Commissions among which ECE, the Economic Commission for Europe, had already created an intergovernmental group of Senior Advisers on Environmental Problems (this was to be the spur to the regional Convention on Long-Range Trans-Boundary Air Pollution which finally got to grips with acid rain). And a voluntary Environment Fund was to be created, with a target value of US\$100 million a year, to pay for the additional work the Agencies could not otherwise do.”¹⁹

A distinct lack of enthusiasm for the creation of a new body was not confined to the “Brussels Group” if such a Group indeed existed. Even the Swedes, the sponsors of the original proposal that the UN should hold its first world environment conference, were luke-warm. Back in December 1968, in his speech to the General Assembly, Sweden’s Ambassador to the United Nations had stated that “no new institutional arrangements would result from the conference.” This position was largely maintained in Sweden’s national report to the United Nations on the human environment.

In a 70-page document setting out national and international priorities the only possible reference to a ‘new’ institution is to be found, in the section dealing with pollution, in the statement that the “UN shall establish an ‘information’ centre’ with the immediate task of coordinating current monitoring of the contamination of air, water, soil and living organisms and with the further task of evaluating these results for the purpose of assessing the harmful consequences of global pollution.”²⁰

If some European countries were less than keen on new institutional arrangements, on the other side of the Atlantic, a more enthusiastic attitude seemed to be taking shape.

John McDonald, a Foreign Service officer serving in the State Department’s Bureau of International Affairs, has recalled the background:

“The Swedish Ambassador’s statement to the General Assembly calling for a two-week conference on just one subject, the environment,

revolutionized the situation. I proposed to Senator Muskie early in 1970 that we should host the Conference in the United States somewhere, perhaps San Francisco, but that same day we heard that the Swedish Government wanted it to be held in Stockholm. A State Department colleague of mine, Christian Herter, co-chaired the first-ever session on the environment among interested departments across the US government. 100 people showed up from 43 agencies. I went around the table. I got 43 definitions of the ‘environment’. But anyway there was a broad US government commitment to do something constructive both before and at Stockholm.”²¹

McDonald, who would later go on to have several ambassadorial postings was in a very real sense — to use Dean Acheson’s words — ‘present at the creation’ of UNEP.

“There was an Interagency Task Force preparing for Stockholm. We also set up an NGO advisory committee,” he said. “Over the next few months, following the third PrepCom, I drafted four resolutions. The first dealt with the functions of the Governing Council. The second dealt with the Secretariat. The third made provision for an Environment Fund and the fourth dealt with the question of coordination among the different agencies to ensure there would be no duplication or overlap with UNEP.

“As to the funding, at the time the US was giving \$100 million a year to UNDP and UNICEF on a voluntary basis. Why couldn’t we do the same for the United Nations in the field of environment? The State Department actually approved the proposal to give the UN \$100 million a year for the environment, but when that proposal arrived at the Bureau of the Budget, they cut back the US contribution. We ended up pledging \$40 million over the next five years.”²²

McDonald pointed out that the US paid, under the voluntary system of contributions, a greater proportion of the total than would have been the case under the system of “assessed” contributions where Congress had set a cap.

At the Stockholm Conference itself, McDonald was secretary to a US delegation consisting of 36 people.

“We set up a fifty nation negotiating committee to deal with this question of institutions. We worked for two weeks, and they agreed on 95% of what I proposed. We wanted the cost of running the secretariat to be covered by the Fund as well as the other programme expenditures. But other countries wanted the cost of running the secretariat to be covered by the regular budget of the United Nations and that was the way it turned out in the Conference’s final resolution.”

“Don’t let anyone ever tell you” Ambassador McDonald concluded, “that the Americans wanted a weak secretariat. That’s a myth.”

“President Nixon,” McDonald said: “was personally very interested in the Conference. The US delegation was moving ahead nicely when suddenly, from out of nowhere, one of the other delegations proposed language dealing with nuclear non-proliferation. We had no instructions on the issue; but including the proposed language seemed reasonably harmless.

“However, no one on the delegation or at the State Department in Washington wanted to approve the text. It was decided that it had to be cleared by the president himself, and we were running out of time. I was instructed to get presidential clearance. There was no time for a telegram, so I had to telephone the White House. The operator in Stockholm called the White House and asked for the chief of staff. Colonel Alexander Haig, who later became the secretary of state in President Reagan’s cabinet, answered the phone. I explained to him the issue and asked if it was possible to get the president to focus on this and get an answer.

He asked what my recommendation was. I told him and he said, “Just a minute.” He came back five minutes later and said, “The president says OK with your position.” That was pretty impressive. And we got consensus.”²³

In the discussions about institutional arrangements, the mantra of the day — then as now — was that ‘form should follow function’. In other words, decisions about new institutional structures should not be taken unless there is broad agreement on the need for action in any particular field.

This was certainly the logic behind the criteria which Strong presented to the Preparatory Committee at its third session.²⁴

In practice, logic is sometimes disregarded. Discussions of institutional arrangements always seem to hold a peculiar fascination for those involved in them. There is certainly an element of pure self-interest here. “New institutions” usually means new jobs. “New international institutions” often means new tax-free jobs. Leaving such mercenary considerations aside, it can be argued that it is sometimes easier for people to take decisions about institutions, particularly those which involve a relatively minor commitment of resources, than to agree on substantive measures which may have huge financial and other implications for their respective nations. That said, a strong case can be made that the institutional arrangements agreed in Stockholm were an appropriate and proportionate response to the priorities for action identified and agreed by the Conference.

The Report of the Conference²⁵ issued soon after the conclusion of the meeting summarized (somewhat blandly) the debates held during the two-week session on “institutional arrangements.”

“The proposal for the establishment of an intergovernmental body on the human environment was generally welcomed. Some speakers considered that it should be a body of the General Assembly, while others argued that it should be a commission of the Economic and Social Council. Some speakers were in favour of a body composed of 27 members; others considered that number too small. Emphasis was placed by many speakers on the need for effective regional cooperation, since many environmental problems were capable of solution only by regional collaborative action. Several speakers pointed to the danger of duplication inherent in the creation of too many organizations. Representatives of the specialized agencies drew attention to their existing programmes.”

As finally adopted by the Conference the Resolution on Institutional and Financial Arrangements followed the quadripartite structure — Governing Council, Secretariat, Environment Fund, and Environment Coordinating Board — favoured by the US delegation and others.

It is worth noting that the mandate of the Governing Council as approved in Stockholm is to provide general policy guidance for the direction and coordination of environmental programmes *within the United Nations system* (author's emphasis). It is clear that, in addition to reviewing and approving the utilization of resources of the Environment Fund, the tasks of the Governing Council would include the review of the global environmental situation, early warning of emerging environmental problems, the promotion of scientific knowledge and information and the review of the impact of environmental policies and measures on developing countries.

As far as the secretariat is concerned, the Resolution specifies that the Secretariat will, under the guidance of the Governing Council, co-ordinate environmental programmes within the United Nations system, keeping their implementation under review and assessing their effectiveness. The Secretariat is tasked with securing the cooperation of the scientific community, making proposals for medium and long-range planning for United Nations programmes in the environmental field and administering the resources of the Environment Fund.

The Fund itself is to be used for financing such programmes of general interest as regional and global monitoring, assessment and data-collecting systems; the Fund should be directed to the need for effective co-ordination in the implementation of international environmental programmes of the organisations of the United Nations system and other international organisations."

As to the Fund's actual or potential resources at the time the Resolution was adopted, the situation was as follows: apart from the United States with its offer of \$40 million over the next five years, \$10 million was pledged to the Environment Fund by Japan, \$5 million from Sweden, \$2.5 million from Australia and \$1.5 million from the Netherlands.

Though the United Kingdom and West Germany promised "substantial contributions", neither they nor any other state by the end of the conference had specified how much more would be forthcoming to make up the remaining third of the minimum amount supposedly to be committed under the \$100 million target.

Strong had himself conceded that the \$100 million target was excessively modest in the light of the priorities which had emerged from the conference; but he considered it better than nothing. "I don't really think we should look a gift horse in the mouth" he said.²⁶

The Resolution specified that: "In order to enable the Governing Council to fulfill its policy guidance for the direction and co-ordination of environmental activities, the Environment Fund shall finance wholly or partly the costs of the new environmental initiatives undertaken within the United Nations system — which will include the initiatives envisaged in the Action Plan for the Human Environment, with particular attention to integrated projects, and such other environmental activities as may be decided upon by the Governing Council — and that the Governing Council shall review these initiatives with a view to taking appropriate decisions as to their continued financing."

The Resolution recommended that an Environmental Coordinating Board, chaired by the Executive Director of the environment secretariat, meet periodically for the purpose of ensuring co-operation and co-ordination among all bodies concerned in the implementation of environmental programmes and that it report annually to the Governing Council.

Even though the principal features and 'modus operandi' of the new body had been agreed at Stockholm, there was no such agreement as regards its location. The report of the Conference records: "The proposal for a small permanent secretariat unit for the new intergovernmental body was generally supported. In the debate some speakers mentioned United Nations locations in New York and Geneva; speakers from Austria, India, Kenya, Malta, Mexico, Spain and the United Kingdom invited such a secretariat to establish itself in their countries."

Nor was any decision taken at Stockholm as to who would be the head — or Executive Director — of the new body. It would be for the General Assembly, at its 27th session towards the end of the year (1972) not only to give its approval to the resolution on institutional and financial questions which the Conference had adopted, but also to decide on the location and the leadership of the new body.

In addition to the Declaration, the Action Plan and the Resolution on Institutional and Financial Arrangements, the Conference called on the General Assembly to designate June 5 as “World Environment Day”. It also recommended that the General Assembly should convene a second United Nations Conference on the Human Environment and that the “new environmental machinery referred to in the recommendations of the first United Nations Conference on the Human Environment be entrusted with the preparations of the second.”

In the event, as we shall see, the second environmental conference was postponed to a quite distant date and when it took place 20 years later — in Rio de Janeiro in June 1992 — it differed from the Stockholm event in several important respects.

Apart from the official delegates from 113 countries, observers from over 400 inter-governmental and non-governmental organizations attended, as well as more than 1,500 representatives of the press, radio and television. The Swedish hosts had with great imagination facilitated the holding of a parallel NGO event, the Environment Forum, at a venue known as the Hog Farm.

Though there was no formal interaction between the official and the non-official conference, the influence of the NGO community was strongly felt. As they packed their bags to leave many delegates would remember the late-night march through the streets of the city behind the huge inflatable whale, as demonstrators called for the Conference to recommend a moratorium on commercial whaling (which it did, though it would take another 10 years for the moratorium to come into force).

They might also remember the Forum’s historic clash between Paul Ehrlich, author of *The Population Bomb*, and his great rival, Barry Commoner, author of *The Closing Circle*, which ended with Ehrlich being physically prevented from speaking, as Commoner’s supporters took over the podium.

Above all, they might remember Prime Minister Indira Gandhi’s moving speech to the Plenary: “*Are not poverty and need the greatest polluters?*”²⁷

“On the one hand the rich look askance at our continuing poverty — on the other they warn us against their own methods. We do not wish to impoverish the environment any further and yet we cannot for a moment forget the grim poverty of large numbers of people. Are not poverty and need the greatest polluters?”

“For example unless we are in a position to provide employment and purchasing power for the tribal people and those who live in or around our jungles, we cannot prevent them from combing the forest for food and livelihood; from poaching and from despoiling the vegetation. When they themselves feel deprived, how can we urge the preservation of animals?”

“How can we speak to those who live in villages and in slums about keeping the oceans, the rivers and the air clean when their own lives are contaminated at the source? The environment cannot be improved in conditions of poverty. Nor can poverty be eradicated without the use of science and technology.”

For most, if not all of those present in Stockholm in June 1972, the Conference was an enriching and defining experience. They felt that something important was happening and that they were a part of it. Many of the recommendations of the Stockholm Action plan would be followed up over the coming years.

Apart from the moratorium on commercial whaling, Stockholm gave a vital impetus to a number of other international agreements, such as the World Heritage Convention, the London Dumping Convention (dealing with the dumping of waste at sea), the Convention on International Trade in Endangered Species of Fauna and Flora (CITES) and the Convention on Migratory Species (CMS). Other initiatives flowed from, or were strengthened by, the Stockholm Conference.

The Stockholm Action Plan for the Human Environment was structured on three levels: Environmental Assessment, Environmental Management and Supporting Measures. In the official report of the Conference²⁸ the 109 recommendations adopted by the Conference are grouped in accordance with those three levels.

In each case the principal actors are specified: governments, international agencies, scientific and research establishments, non-governmental organisations. UNEP itself is not specifically targeted in the Action Plan, because UNEP as such at this point did

not yet exist. The steps agreed in Stockholm as regards the setting-up of UNEP were certainly another important outcome of the Stockholm Conference. Only time would tell just how important that decision would prove to be.



Top Left to Right:
Indian Prime Minister
Indira Gandhi makes
landmark speech to
Stockholm conference;
Volunteers prepare
publicity material;
Bicycle protesters lobby
conference to save
environment; Maurice
Strong; Delegates view
key resolutions.



2

FINDING A HOME

The 27th General Assembly of the United Nations in the autumn of 1972 was a relatively calm affair. The ‘sabbatical’ from the bombing of North Vietnam during the Paris peace talks, culminating in President Richard Nixon’s National Security Advisor, Henry Kissinger’s ‘peace is at hand’ statement on October 26, 1972, had created a certain respite from the usual tension. As ever the situation in the Middle East, terrorism, decolonization and racism featured on the General Assembly’s agenda, but perhaps the most constructive and useful action the General Assembly took was to approve the Stockholm recommendations in regard to the environment. A diplomatic battle over the location of UNEP also marked it down as one of the liveliest.

The Stockholm Conference had agreed on a Declaration with an associated set of Principles. It had agreed on an Action Plan of 109 recommendations: the world’s first tentative blueprint for planetary environmental management. Its scope was enormous, calling for global cooperation to monitor the biosphere, safeguard ecosystems, curb marine pollution, improve housing in poor countries, collect genetic

samples, protect whales and other endangered species, study energy needs and sources, aid population planning, conserve soils and forests and fisheries, promote environmental education and training and information exchange, and adapt trade and aid policies so as to share equitably the burdens of environmental protection.

It is hard to overestimate the importance of UNGA Resolution 2994 (XXVII) which accepted the Stockholm recommendations. *See Annex 1 for full text of Resolution 2994 (XXVII)*

Of course, the hard work had been done in Sweden. However, agreements reached there could always have come unstitched in the General Assembly. It is worth noting, for example, that the Stockholm Conference adopted the Declaration by acclamation, subject to observations and reservations made by a number of Governments.²⁹ Even though some of them were substantive, none of the observations, reservations or comments appears to have been raised again in the General Assembly when the results of the Stockholm Conference were up for approval. In the event, the text of UNGA Resolution 2994 (XXVII): “Draws the attention of Governments and the Governing Council of

the United Nations Environment Programme to the Declaration of the United Nations Conference on the Human Environment and refers the Action Plan for the Human Environment to the Governing Council for appropriate action.”

The General Assembly also had to give its formal agreement to the Stockholm Conference’s decisions as far as the institutional arrangements for handling the environment issue were concerned. Stockholm had agreed on the design of a new piece of international machinery or rather a collection of pieces which together would make up the United Nations Environment Programme, or UNEP. In most important respects Stockholm had adhered closely to Strong’s original vision of a “brain not a bureaucracy.” The new unit would oversee, or at least attempt to coordinate, all future environmental activities in the UN system, beginning with the Stockholm Action Plan.

A 54-nation Governing Council would set policy under broad guidelines from the Assembly. A small Environment Secretariat under an Executive Director would be the executive arm. A modest Environment Fund, administered by the secretariat, would finance new activities and — along with an inter-agency board which the Executive Director would chair — provide priceless coordinating leverage over the invaluable but self-willed specialized agencies. For a compromise accepted by 113 governments, it was a remarkably good proposal. And it hadn’t come about by accident. In the run-up to the Stockholm Conference, a huge amount of intellectual energy had been spent analysing and debating the appropriate form that any new institution should take.³⁰

But still the design agreed in Stockholm needed the approval of the General Assembly.

On the afternoon of November 3, 1972, the committee, having disposed of some lesser environmental business, got around to its one really great task: agreeing the “Institutional and financial arrangements for international environmental cooperation.” This resolution, when adopted by the General Assembly, would officially create the new United Nations environment unit.

Before it could be adopted there was one afternoon’s hard debate and, as a result, one small and purely political change: the Governing Council grew from 54 to 58 to accommodate two more Asian and two more African members. Thus amended, the motion came to the vote. On the big “tote board” at the back of the room, a mass of green lights flashed on: a few yellow; none red. Chairman Bruce Rankin of Canada announced the result: 115 for, none against, 9 abstentions. (The Soviet bloc, minus Romania, had stood aside, keeping its options open with the standard alibi: “We were not at Stockholm.”)

So Committee 2’s major task was done in the sense that it had decided upon the new international institutional machinery for the environment, though not the location. That Committee decision would go forward to the General Assembly to be adopted at its 2112th Plenary meeting on 15 December 1972 with 115 votes for, 0 against and 10 abstentions. Taken together with Resolution 2994, approving the Declaration and Action Plan, that General Assembly decision [*Res 2997 (XXVII)*] was probably the chief accomplishment of the 1972 General Assembly. One reporter commented: “The decision might one day prove a historic and fortunate turn in the affairs not only of the much-harried United Nations, but of the much-plundered planet.”³¹

Because Resolution 2997 is of such fundamental importance to the story of UNEP, the full text is attached as Annex 2.

This resolution creates all the instruments associated today with UNEP — the Governing Council, the Environment Secretariat, the Environment Fund and a Co-ordination Board. So far, so good. But what Stockholm had not decided was where the new institution would be located.

Indeed through nearly four months of intricate bargaining over the design of this machine, there had been little effort to agree on where to install it. The detailed resolution adopted at Stockholm purposely said nothing on the matter; the exhausted delegates had left it to the General Assembly to decide among a dozen proffered sites: Geneva, Kampala, London, Madrid, Mexico City, Monaco, Nairobi, Nicosia, New Delhi, New York, Valetta and Vienna.

Kenya's proposal, presented on October 24 in the Second Committee of the General Assembly, that the new unit should be located in Nairobi, came out of left field.³² Strong, years later, would comment: "It's one thing to have a conference, quite another to ensure a proper follow-up. Conferences, when they work, can often be exhausting as well as rewarding. Significant decisions can be made — as indeed they were in Stockholm. But it's what happens afterwards that is important. Otherwise talk is just talk, resolutions just good intentions. The Stockholm Conference recognized this. One of the recommendations was to set up a new UN body that would monitor progress on the environment and ensure that the conference's hard-won conclusions were actually implemented. This notion, as well as the conference itself, was widely debated at the next UN General Assembly, in the fall of 1972. There, to everyone's surprise, Kenya's delegation, led by its able and respected ambassador, Joseph Odero-Jowi, strongly supported by Foreign Minister Njoroge Mungai,³³ offered Nairobi as the headquarters of the new organization."³⁴

Odero-Jowi was a 43-year old Calcutta-trained economist who had chaired one of the main committees at Stockholm: a rising star at the UN, a colourful speaker and an able tactician. He brought his speech to a climax with a defiant bid for Nairobi. Not one agency in the UN system, he pointed out, had its headquarters in the "Third World." This was unjust and must be rectified, he insisted and called on New York, Geneva, London and Vienna to withdraw.³⁵

Njoroge Mungai, the then Kenyan Foreign Minister, explains how the country first lobbied other African states within the Group of 77 to obtain a general agreement the entity should go to Africa. Once that was achieved, he could then focus on persuading the non-African countries in the non-aligned grouping.

He explained in an interview: "India had some interest, but it was decided we should try Africa, the first person I went to see was the Indian foreign minister because Kenya and India used to work together... I suspected Brazil would also be interested, so in South America the first person I talked to was the foreign minister of Brazil to express my interest to them. I did everything we could..."

"The first thing to do was work with African countries, to inform them and support why it is important to come to Africa. They also didn't know much about it at the time. And not only them, there were very few people who were really conscious about this environment thing: maybe Sweden and Germany, maybe the US, but many others were not and of course except for expressing interest nobody knew what it was going to turn out to be.

"We said we are members of the UN, all of us, and all UN headquarters are in USA or Western Europe. None in Asia, none in South America, none in Africa, none in Eastern Europe, so we now would like to have a HQ in these countries. Of course I say these countries meaning Africa, Kenya and the others, but it would have been difficult to say that (to non-African states) as they were also left out. Then you tell them where UNESCO is, FAO is, marine HQ is, UNIDO is, everything is all Western Europe and of course America."

As far as the United Kingdom was concerned, it could hardly be argued that a major diplomatic campaign was being waged to bring the new United Nations environment unit to London. The UK had played a positive role in Stockholm and Peter Walker, Britain's Secretary of State for the Environment, had earned some applause for a speech which had addressed the problems of the inner cities as well as the despoliation of the countryside. The British and the French had also gone to considerable lengths to ward off attacks on their supersonic Concorde aircraft in respect of possible damage the high-level flights might be causing to the upper atmosphere. But the British were not going to die in the last ditch in order to maintain their bid for UNEP. Much the same could be said of France, which was officially responsible for Monaco's foreign policy and, therefore, her bid to be the seat of the new unit.

Vienna was a different story. Former US Ambassador John McDonald, who had been the Secretary of the US delegation in Stockholm and who had subsequently returned to work with the US mission to the United Nations in New York picks up the tale:³⁶

"Two days before the end of the conference everybody knew that a new UN agency, called UNEP, would be created, but it had not yet

been decided where the new secretariat should be located. By the end of the conference 13 nations — six from the West and seven from the developing world — stepped forward and said they would like the secretariat to be located in their capital. No one could resolve that issue in the time remaining. It was therefore referred to the UN General Assembly to resolve in September 1972 when the whole plan of action generated by the environment conference would be up for approval. It became quite an issue in New York. I was convinced that the U.S. position would prevail: New York, with Geneva as a fallback. I thought all of Europe would agree on Geneva, a very practical place where lots of other UN agencies were located. I failed totally on this issue.

“The Austrian government had decided that it wanted to make Vienna the third UN city. They were in the process of building an enormous building near the Danube, at great cost, but they had nobody to put in the building. They wanted UNEP in Vienna and sent their foreign minister to New York for several weeks to convince the world that the secretariat should be located in Austria. He failed miserably and just divided the West: half went with the Austrians and the other half went with the US position. That wasn’t going to work.

“I watched what was happening with the seven contenders from the Third World. Their big pitch was: ‘We’ve never had a UN agency secretariat in the South. Now it’s time, because we’re concerned about the environment as much as you are. We want the UNEP offices somewhere in the Third World.’ They finally narrowed the choice down to two nations, India and Kenya.... It was quite a sight to see the ambassadors of the two countries arguing with each other as they walked down the hall. The Indian ambassador was approximately five feet, one inch tall and weighed about one hundred pounds. The Kenyan ambassador was approximately six feet, seven inches tall and weighed about three hundred pounds. His long robes flowed as he and his entourage strode down the hall.”

In the Committee that afternoon (October 24), after Odero-Jowi had spoken, several African and Caribbean countries promptly spoke in favour of Nairobi. But the next day India, Kenya’s only serious rival among the developing countries for the honour of hosting the

agency, firmly maintained its offer of New Delhi. Odero-Jowi still had work to do.

On Friday, October 27, the Kenyan mission to the UN gave Committee 2 delegates some weekend reading: a 17-page press release expounding in impressive detail the merits of Nairobi as a headquarters site. A “crisp, pleasant and healthy climate,” an international airport handling jumbo jets, telecommunications via an earth satellite link, a big Kenyatta Conference Centre nearing completion, resident missions from 55 countries, luxury housing and hotels, schools, hospitals, computer facilities, even secretarial schools.

Armed with this material, Odero-Jowi went to work on his “Group of 77” colleagues. (The term was even in 1972 modestly obsolete: the 77 developing countries that first banded together at the UN in 1964 had already been reinforced by another 20). When united in the 132-member Assembly, the 97 developing countries could indeed seem like an irresistible voting steamroller. The core of Kenya’s support would be the 40 African members. By November 2, Odero-Jowi was able to circulate a draft resolution with 32 African sponsors. Its preamble proclaimed a doctrine new to the UN: that “secretariats of United Nations bodies should be located having regard to equitable geographical distribution.” The operative paragraph stated that the Assembly “decides to locate the environment secretariat in a developing country,” and “further decides that the question... be settled by the current session of the General Assembly.”

The precise phraseology, given Odero-Jowi’s bold bid for Nairobi in his opening speech, might have seemed something of an anti-climax. There was no mention of the Kenyan capital in Odero-Jowi’s proposal. In reality, the Kenyans could not have played their hand better. One of the reasons why Kenya ‘knew what it was doing’³⁷ was that in 1966 it had failed in a bid to bring UNIDO to Nairobi. UNIDO had gone to Vienna instead (the vote being taken on a secret ballot). Kenya had learned lessons from the UNIDO experience. The same hand had to be played now in respect of UNEP, but this time it would be played with greater cunning.

Kenya's first crucial card was the effort to establish the principle of 'equitable geographical distribution'. There was nothing in the United Nations Charter to suggest that UN agencies should be 'equitably distributed' around the world but the notion sounded modern and plausible. Kenya wisely decided not to risk antagonizing potential supporters by insisting at this stage in naming a specific location.

The second crucial tactic was for Kenya to actually table the draft which it had been circulating. As so often in the UN, knowing the procedural rules in all their complexity can be vitally important. In this particular case, the rules were clear: order of filing determined order of voting. Odero-Jowi had no way of knowing how soon the West would file its own draft, angled either toward Geneva or New York or, which amounted to the same thing as far as the Kenyan bid was concerned, toward a year's delay. So he swiftly filed his draft. Tactically, he was well advised: the Western group was even then struggling to agree on a text, and Odero-Jowi had beaten them to the punch.

On Friday morning, November 3, the chair called on the delegate of Kenya to introduce his draft resolution.

Odero-Jowi hammered home his points with obvious gusto. As noted in the draft, he said, all existing headquarters in the UN system were in North America and Western Europe: a simple statement of fact, and the reasons behind it, he told his fellow delegates, were not technical as some alleged, but historical and political. It was time to democratize the UN through a new principle, the equitable geographical distribution of headquarters sites.

The developing countries, Odero-Jowi went on, would roll out the red carpet for Strong and his secretariat. If any facilities were lacking in the third world, let the UN supply them and thus transfer to the developing countries some much-needed technology. If certain Latin American states had no diplomatic missions in this or that third-world capital (he was careful not to mention Nairobi at this point, since the sponsors were not yet agreed on that), let governments establish them and thus foster contacts within the Third World. Justice for the so-called Third World — that was the simple purpose of this resolution!

All that morning and afternoon, following Odero-Jowi's speech, while other matters held the committee spotlight, knots of delegates formed and dissolved in corridors and harried men in dark suits queued up outside delegates' telephone booths as the Nairobi forces laboured to complete their juggernaut — and the West, plus a few restive members of the "77," laboured to derail it.³⁸

Nicholas Kimani and Elizabeth Mrema take up the tale:³⁹

"The determination by the Group of 77 surprised the West and others. They began questioning what a developing country was; they maligned Kenya as having no hotels; airport, in whispering campaigns, claiming Nairobi was too far (but were on the spot as too far from where?), sought to have the issue determined during the next General Assembly (the 28th in 1973), and to have the issue, if at all, settled by secret ballot (as had been the case in the issue of UNIDO). In any case the issue could not be resolved unless financial implications of the draft resolution were available during the session and up to that point the Secretary-General had given no basis for this. Kenya and the Third World countries resisted all this."

To counteract the negative whispering campaign, Kenya produced, overnight, a document on embassies in Nairobi; airlines landing in Nairobi; international organisations, and hotels of international standard in English and French, to the utter amazement of all delegations. Also in English and French, it reviewed the rules of procedure of the General Assembly and showed there was no requirement for secret ballots on location. It concluded that, in any case, a decision on this had first to be determined by open vote by the Committee, which the Group of 77 would carry. The West lost this, and their arguments were threadbare. Concerning financial implications and in draft resolution, Kenya asked why, since June 1972 the matter had not been sorted out,⁴⁰ and whether the Secretary General had taken Kenya's offer seriously.

The representative of the Secretary-General was taken to task over this technicality, and he asked the relevant Committee to defer the matter until the Secretary-General had an opportunity to prepare and submit a document on financial implications for hosting such an organisation in

Nairobi. The request was endorsed and a UN team was sent to Nairobi — comprising K. U. Menon from India and Albert Khazoom, a Canadian — to assess its suitability as the headquarters of a UN organisation. Kenya had to prove as evidence of its ability to host UNEP that it had sufficient hotels of international standard as well as an airport which was capable of handling international flights. Odera-Jowi then sent Donald Kaniaru of the Kenya Mission to New York to Nairobi to prepare officials for this mission. On meeting with Kenyan government officials, led by Dawson Mlamba, Permanent Secretary, Ministry of Foreign Affairs, and upon touring Nairobi, the UN team came to the conclusion that Nairobi could indeed host the secretariat, thus later settling the issue of financial implications should the secretariat be located in Nairobi.

Back in New York the situation on the environment item was evolving. The secretariat could then, following the report of the two-man UN mission, issue a statement on financial implications. And Kenya and India were discussing the issue of the location, that is, whether Nairobi or New Delhi, with Nairobi and New Delhi involved directly at the highest levels. From contacts between friendly diplomats in New York between the two delegations, the Kenyans were confidentially aware that New Delhi would not insist to the end given the broad support that Kenya by then seemed to enjoy among the Group of 77.

Then the critical point came; the Indian delegation informed the Kenyan delegation that New Delhi had agreed to support Nairobi to host the secretariat. Kenya was overjoyed, and in that ecstatic mood consulted Egypt, the chair of the Group of 77 (Ambassador Abdel Meguid), and it was agreed he would ask for a 15-minute adjournment of the Second Committee for the Group of 77 to consult on a matter likely to advance the deliberations of the Committee. Ambassador Rankin agreed.

In the Group of 77, the consultations were brisk. The Chair gave the floor to India, which in referring to the issue of location of the secretariat informed the Group that they, in the interests of cordial and brotherly relations with Kenya and solidarity in the Group of 77, had instructions from New Delhi to withdraw its candidacy in favour of Nairobi, Kenya. The next speaker was Ambassador Odera-

Jowi of Kenya who deeply thanked India for that brotherly gesture. He suggested that the Chair propose, upon the Committee resuming business, an amendment to paragraph two of the draft resolution to read “further decides to locate the secretariat in Nairobi, Kenya”. That was agreed, and the Group of 77 was ready for the Second Committee, which resumed in timely fashion.

The Chair, Ambassador Bruce Rankin, gave the floor to the distinguished Chair of the Group of 77. Without hesitation, he referred to the pertinent draft resolution, and indicated that the Group of 77 had a “minor” amendment to operative paragraph 2, involving a deletion of the words “to decide the matter during the session” and in place thereof (first at normal speed, and later, at dictation speed, as all delegates gave a visible sigh of relief), the phrase above, namely, “further decides to locate the secretariat in Nairobi, Kenya”. Clearly there was no going back; history was on the horizon, with the first UN body to be located in the developing world.

Precisely why India decided to withdraw its own bid to have UNEP in Delhi and to support Kenya’s bid for Nairobi is, at a distance of 40 years, not entirely clear. India, like Brazil, had played an enormously important role in the whole Stockholm process.

As Strong put it:⁴¹

“Two countries in particular were key to whether the conference would work — Brazil and India. Brazil had taken a strong position on the issues, a position derived not from mere political impulse but from a well-reasoned policy analysis of the constraints that international environmental action might impose on their development — they had, after all, “custody” of that extraordinary global resource, the Amazon basin. One of the first things I did, therefore, was initiate a close and constructive dialogue with the Brazilians.

“India was important because it was especially influential among developing countries; one of my first overseas visits was therefore to New Delhi, where I hoped to see Prime Minister Indira Gandhi.

“My friends at the Indian foreign ministry warned me that I almost certainly wouldn’t get to see her. She was preoccupied with the war in Pakistan and with difficult domestic issues, they said, and it was not reasonable for me to expect to see her on a marginal issue like the environment. Nevertheless, through my friendship with one of India’s most eminent intellectuals and policy leaders, G.P. Parthasarthy, who was very close to Ms. Gandhi, I did get to meet with her.”

Strong went on to describe that encounter.

“It was immediately clear that she had a deep interest in and knowledge of the environment. I then raised a point I thought would get her attention. “If the developing countries sit out the conference,” I suggested delicately, “it would leave the issue in the hands of the industrialized countries.” I found, as I had expected, that she was keenly sensitive to the political implications.

“Why not come to the Stockholm Conference yourself, as you are the best possible person to articulate the concerns and interests of the developing world?” I asked. ‘I can promise you a special place on the programme.’

“She immediately accepted, much to the surprise and, in some quarters, consternation of her officials, and gave me her permission to let it be known that she’d be attending. Thereafter, India became one of the leading participants in preparations for the conference and a strong and effective proponent of the developing countries’ position.

“This immensely enhanced the prospects of participation by other developing countries. A boycott now seemed unlikely.”

When the time came, Ms. Gandhi did indeed attend the Stockholm Conference. Apart from Sweden’s own Prime Minister, Olaf Palme, she was the only Head of Government to do so. Her speech (“Are not poverty and need the greatest polluters?”) was — both at Stockholm and subsequently — widely recognized as one of the most moving and incisive orations to be made on that occasion.

By any objective criteria, if any developing country was going to host UNEP, Brazil or India certainly had to be considered strong candidates. As matters turned out, Brazil didn’t throw a hat in this particular ring and India withdrew hers.

Why, we may wonder, did India withdraw her candidacy? Kaniaru, who was present as a Kenyan official throughout the negotiations relating to the siting of the new UN environmental unit, is convinced that the real reason for India’s support of Kenya was indeed the one referred to by the Kenyan ambassador in his speech to the Second Committee, namely India’s desire to show ‘goodwill and solidarity’ to a fellow developing country, with whom India had close links, in its path-breaking venture to achieve a new international institutional order.

He has firmly denied that there was some deal between Kenya and India. “The Indian diplomats in New York”, he said, “worked closely with the Kenyan diplomats — in the Security Council, in the caucuses, and in the corridors.”⁴²

At all events Odero-Jowi’s critical objective had been won: India had withdrawn its offer of New Delhi and all the “77” — willing or not — were openly hitched to the Nairobi bandwagon.

Now the debating and procedural manoeuvring began in earnest. Though George Bush Snr, who 17 years later would become the 41st President of the United States, was the United States Permanent Representative to the United Nations, Bernard Zagorin, US Ambassador to the Economic and Social Council, was representing his country that day in the Second Committee.

Zagorin, in a long and reasoned speech, argued for a decision grounded on effectiveness rather than mere politics, and warned darkly that Kenya’s “polarizing” tactics would “make it harder for us to accept our commitments.” However, such arguments could not shake the iron discipline of the G-77, revealed in the anguished words of one reluctant member, Tunisia’s Rachid Driss: “If political judgment must hold primacy, good sense will have to go by the board and Tunisia will vote for the 77.”

To such appeals Odero-Jowi, sure of his votes, replied with cold scorn. “You deplore confrontations,” he said. “So do we, but they are unavoidable when efforts are made to frustrate the will of the majority. Some developed countries are still living in the past, remembering when they used to decide matters on our behalf. Now it is up to us to determine what is good for us. This is a political body and it must take political decisions.”

Given the voting outlook, the West’s only slim hope lay in parliamentary tactics. The UN’s legal under secretary, Constantine Stavropoulos, was called in to rule on two points of procedure invoked by the United States and Britain. On one he ruled against them: Kenya’s resolution was a normal and proper way to decide on a headquarters location; it was not necessary, though permissible, to decide by secret ballot among all proposed sites. On the second point, however, he upheld Zagorin: the rules did indeed require a Secretariat estimate of financial implications — how much extra it would cost to run the operation out of Nairobi — before voting on Kenya’s draft.

This ruling won some respite for the West — but how long? In came a UN budget expert to say that field trips would be necessary and the estimate would take six weeks, maybe eight. He was hooted down on the spot by Kenya and its friends. Chairman Rankin did some quick backroom persuasion and, as the exhausting day ended, promised a Secretariat financial estimate by Friday morning. The voting was postponed until then. In the meantime Kaniaru, as noted above, was despatched to Nairobi under instructions to return post-haste with the necessary data.

The West had won four days’ delay - but what use could it make of the time? On Friday morning, Odero-Jowi’s steamroller was still intact and ready to roll. The rush-order financial paper, showing that Nairobi was about a million dollars more costly than Geneva in the first year, didn’t seem to affect a single vote.

A Tunisian amendment was voted on first: to postpone the decision for one year. It was snowed under by 68 votes to 20. Next, a British amendment, for a decision at this session but by secret ballot among all proposed sites, went down 81 to 30.

Then the steamroller went into high gear. On the substance of the Kenyan resolution the vote was 93 to 1 (the United States all alone) with 30 countries, mainly Western and Soviet bloc, abstaining.

When it was over, the tension evaporated and all was conciliation. Congratulations showered on Odero-Jowi in his moment of triumph. Zagorin joined the chorus:

“We accept the decision of this committee. We want to do all that we possibly can to make this decision an effective one. At this stage we believe we must close ranks. We are all full partners in this endeavour.”

To all this Odero-Jowi responded magnanimously, yet there was still a little edge to his eloquence. “The storm in the Committee has passed, and the atmosphere is calm now that the decision is taken ... The gap in understanding between developed and developing countries are painful, but you must realize that our perspectives do differ. We of the developing countries see life from a different angle — a frog’s perspective. We see it from below. Let us try to get into each other’s perspective.” *See Annex 3: 3004 (XXVII). Location of the environment secretariat*

Strong, at the end, praised the committee for its “truly historic decisions”; praised Kenya and Nairobi; and added: “I can assure all future members of the environment secretariat that they could not have a more hospitable or pleasant environment in which to conduct their labours.”

Five weeks later, the committee’s 11 environmental resolutions, major and minor, were formally adopted by the General Assembly itself in half an hour’s voting, most of which followed the lines of division established in committee. There was one surprise. When the last of the 11 was voted on — the Nairobi decision — the lights beside the 132 country names up on the wall flashed solid green — 128 in favour, none opposed, none abstaining, four absent. Even the Russians had come down off the fence. The Assembly burst into applause. Then came a tedious, hours-long voting minuet involving five ballot boxes, in which the 58-nation Governing Council was duly elected — including

both Germanys. It was the first time the General Assembly had elected the German Democratic Republic to anything.

Finally, and again unanimously, Strong of Canada was elected to be the first Executive Director of the Environment Secretariat of the United Nations. Strong commented:

“Although they couldn’t very well say so, the feeling among the Swedes and other industrialized countries (at the choice of Nairobi) was not so much surprise as consternation. They had nothing against Kenya as such, but a new organization like this one (it came to be called the United Nations Environment Programme, or UNEP) would have a difficult enough time under the best of conditions, but to be so far from the other international organizations it would have to work with and influence would make its job even more difficult. Under these circumstances distance was seen as a real impediment.

“Partly because of this, some of the interested countries sent a delegation to urge me to accept the job of heading the new organization, at least during its formative years. I could see their point. They wanted to minimize the difficulties of the Nairobi location by at least avoiding a potentially divisive and uncertain search for an acceptable head, and they knew I’d have broad support from all regions. But seeing their point didn’t mean having to accept it. This was not at all what I had planned. I had made it clear that I did not aspire to and would not accept an appointment to the organization that might be created as a result of the conference. For one thing, I had an obligation to return to the government in Ottawa.

“Also, I felt that if I were seen to be a candidate for this post, it could compromise my objectivity and effectiveness in working for General Assembly approval of the new organization. But representatives of a number of other governments joined the Swedes in importuning me to change my mind. So I consulted Prime Minister Trudeau, and he agreed to my taking the new post for an initial start-up period. I accepted. I agreed to take a full five-year term — any hint that I was there only for a short term would have left me a lame duck — but it was privately understood that I’d return to Canada as soon as I felt the new body had been firmly established.

“My original appointment to head the Stockholm Conference had been made by U. Thant, but by this time Kurt Waldheim was Secretary-General. For reasons unrelated to the subsequent controversy he was involved in, I was unwilling to accept an appointment directly from him. He had let me down in undertakings he had made for me in the past, most recently by sending to the General Assembly a budget and manning table for the new organization very different from what we had agreed on. Accordingly, I insisted that if I were to be a candidate for the job, I must be elected directly, by the General Assembly.

“Waldheim didn’t like this one bit, but instead of confronting me on the issue, he sent another undersecretary to replace me at the committee where the matter was being discussed. I simply sat back and didn’t try to intervene. But I could hardly suppress a smile when his objection was entirely rejected — not a single government supported it. It was a reassuring vote of confidence in me, and I was subsequently elected unanimously to the post. This gave me a certain degree of political independence within the secretariat, while worsening my already difficult relationship with Waldheim.”

Wallace Irwin Jnr., who observed the General Assembly session at close quarters and whose account of the events leading up to the choice of Nairobi as UNEP’s seat has been liberally drawn on for the purposes of this chapter, penned the following contemporary comment on those dramatic days:⁴³

“So the 27th General Assembly put its seal, and its strongly political imprint, on the recommendations of that great political-ecological encounter called the Stockholm Conference. History’s first modest venture in world environmental management would officially begin on January 1, 1973. Sometime in the fall, when its new quarters were ready, Strong’s small secretariat would take up residence in Nairobi, its surprising home.

“Lacking the perspective of time, nobody could be sure yet whether the choice of Nairobi was a historic blunder or an act of statesmanship. Perhaps, as several speakers had implied, it was the third world’s foolish revenge for Washington’s equally foolish indifference to their aspirations

for development. But perhaps also, Kenya and its partisans in the fight would now be honour bound to make this new venture succeed.

“There were, of course, still larger uncertainties. Would Strong, or any other man in any institutional setup however ingenious, really be able to coordinate and master the world’s huge, interwoven environmental agenda — or would he be picked to pieces by the bureaucratic custodians of pieces of that agenda and worn to despair by parochial nationalism? Would the imperatives of the biosphere be met in ways that promote, or further impede, a somewhat better sharing of life’s opportunities between rich and poor? And would the United Nations, chosen instrument of this new planetary endeavour, be inspired by it to

attempt still broader world cooperation — or would the environmental effort itself gradually fall victim to the plague of meaner purposes that still drain away so much of the UN’s vitality?

“Such questions could only be answered over the years by the wise or unwise actions, both in and beyond the United Nations, of the world’s national governments — which between them possess such immense power to act but are still so tragically unskilled at using it together. The discovery seemed to be gradually spreading that there is also a big nation, mankind, with a big national home, the Earth. But it remained to be seen whether that big nation could frame and operate institutions capable of acting on this discovery before time ran out.”



Top Left to Right: Delegates debate home for new UN body. India withdraws its candidacy in favour of Nairobi; UNEPs current offices in the Kenyan capital; New York — Developed Nations were urged to withdraw their candidacies in favour of the developing world.



Palais des Nations, Geneva



3

FIRST UNEP GOVERNING COUNCIL

June 1973

Among many other, perhaps more serious, preoccupations, historians will no doubt continue to dispute the precise date of UNEP's birth. Was the new entity the product of the Stockholm Conference (as it is generally held to be)? In that case, June 15, 1972 must be considered to be the correct birthday, since it was on that day that the Conference's Resolution on Institutional and Financial Arrangements was adopted. Or is the 'official' birthday to be taken as 15 December 1972 when the 2112th plenary meeting of the United Nations General Assembly actually adopted UN-Resolution 2997 (XXVII).

For example, the resolution as agreed in Stockholm, specified a 'Governing Council for Environmental Programmes' (note plural). The Stockholm text recommended that the environment secretariat should be established in the United Nations and 'headed by the Executive Director', who would be tasked with 'providing substantive support to the Governing Council' [presumably, though it is not specified, the 'Governing Council for Environmental Programmes'].

These ambiguities were only cleared up in New York at the United Nations General Assembly when Resolution 2997 (XXVII) of 15 December 1972 clearly stated that 'the environment secretariat shall be headed by the Executive Director of the United Nations Environment Programme' [note the singular] and that his task would include providing 'substantive support to the Governing Council of the United Nations Environment Programme.' It was also noted that the word 'Environmental' in the Governing Council's official title had now been replaced by the word 'Environment.' The first meeting of the now officially-named 'Governing Council of the United Nations Environment Programme' was held in the Palais des Nations, Geneva, from 12-22 June, 1973. The choice of Geneva rather than Nairobi was a reflection of the fact that the facilities offered by Kenya were still in the course of preparation. With UNEP's embryonic secretariat still occupying the offices in Geneva which had served as a base for the small and talented team of officials and consultants who had prepared the Stockholm Conference, the Palais des Nations was a most convenient location.

In some ways, that first meeting of UNEP's Governing Council was itself a mini-Stockholm. All 58 Member States were represented, as well as 25 states not members of the Governing Council. The UN bodies principally concerned as well as the Specialized Agencies were present in force (some of course — like WHO and ILO — were already based in Geneva). So were the NGOs. As we shall see later in this chapter, a special World NGO assembly had been arranged in order to coincide with the Governing Council meeting.

This first session of the Governing Council was the real beginning of the process of implementing the Stockholm recommendations within the machinery created by the General Assembly. The main objectives and priorities of the Environment Programme had to be established, as well as procedures to govern the operation of the Environment Fund.

In his opening remarks to the Governing Council, Strong indicated that priority action was both desirable and feasible in the following fields:

- threats to human health and well-being posed by the contamination of food, air or water;
- improvement of water quality;
- soil degradation;
- deterioration of the marine environment.

In addition, action was called for in the fields of economics and trade, energy and human settlements.

These areas would, he expected, form the subject of detailed proposals to be submitted to the Governing Council at its second session, although work would proceed in the other important areas.

If Maurice Strong expected that the UNEP Governing Council would, at this first session, simply snap its fingers and say 'Yes', he was to be quickly disillusioned.

Martin Holdgate, now Under-Secretary in Britain's newly-established Department of the Environment,⁴⁴ had played a leading part in the UK delegations to the Preparatory Committee for Stockholm and headed the secretariat for the UK delegation to the Conference itself. He also attended that first meeting of the UNEP Governing Council in June 1973. In an account published 30 years later (2003) he wrote:

"A year after Stockholm, the new UNEP Governing Council convened in Geneva. By then it was clear that the organization would be bigger, and its programme wider than the United States and United Kingdom had wanted. Some of the new Environment Fund was to be earmarked for the Earthwatch function — and for a Global Environmental Monitoring System (GEMS) in particular. Some was to go on IRPTC — the International Registry of Potentially Toxic Chemicals. Some was sought for more action on marine pollution, especially regionally (and the Regional Seas Programme became one of UNEP's outstanding achievements, catalyzing a whole series of new regional Conventions). But the draft programme presented to the first session of the Governing Council was heavily weighted towards what were seen as developed country interests — especially action against pollution. The Third World, present in far greater numbers than it had been in Stockholm, revolted.

"The dichotomy had been obvious even before we got to Stockholm. Many developing nations had told Maurice Strong that 'the rich countries produced almost all the chemical pollution and had the money to put it right.' They went on to stress that their problem was 'the pollution of poverty,' due to under-development, insufficient aid and trade barriers set up by the developed world. It is a tragic fact that this is still a persistent refrain 30 years later. North-South tensions had been heightened by the publication of *Limits to Growth*. Maurice had cooled things down before Stockholm at a special meeting in a motel at Founex, on the autoroute east of Geneva, and he convened a follow up at Cocoyoc in Mexico. But the cracks were thinly papered and they tore open at the first Governing Council.

"Deadlock. First week ended. No programme. Second week. Deadlock continued. Maurice began to talk of resigning.

“The Bureau, made up of the President, three Vice Presidents, and a Rapporteur, one from each of the five UN Regional Groups — Africa, Asia, Latin America, East Europe and Western Europe and Others (the Others including the USA, Canada, Australia, New Zealand and Japan) — met. They decided that the programme should be redrafted by two people, one from the developing countries and one from the developed world. The former chose Taghi Farvar, a lively and highly articulate Iranian. The developed countries chose me. There followed the unusual spectacle of a serving British civil servant being given a confidential briefing by Konstantin Ananichev, head of the Soviet delegation, on what the Eastern Europeans could and could not accept.

“Taghi and I sat all day in a little office, occasionally sallying forth for food and consultation. By about 7 pm we had a programme. At 9.30 pm we were with the President of the Governing Council, the Jamaican Ambassador Don Mills, and about 20 other key figures mandated by the Groups. At about 5 am we had an agreed text and slipped out through a violent thunderstorm for a few hours’ sleep. At 10 am we met again in full Council. The President decided on an all-or-nothing approach.

‘Distinguished delegates, we have before us a delicately balanced package. It was produced by two of our colleagues, who worked on it all day yesterday. A larger group of us spent the whole of last night scrutinizing it on your behalf. I believe that it represents a balanced agenda. In the spirit of compromise and consensus I urge you now to adopt it *en bloc* and without further debate. Can we please agree that, and so adopt our programme for the coming year?’

“A brief pause, and the gavel came down. “Thank you.” Sighs of relief, not least from Strong. But of course the paper still bridged some pretty deep fissures. Several opened out yet again in later years.”

The impact of the passionate debate described by Holdgate can be seen in the decisions which the Governing Council took at its 17th meeting on 22 June 1973. The Governing Council that day outlined a veritable cascade of priorities for UNEP. The first level in the cascade related to *General policy objectives* for UNEP.

These were defined as:

- (a) To provide, through interdisciplinary study of natural and man-made ecological systems, improved knowledge for an integrated and rational management of the resources of the biosphere, and for safeguarding human well-being as well as ecosystems;
- (b) To encourage and support an integrated approach to the planning and management of development, including that of natural resources, so as to take account of environmental consequences, to achieve maximum social, economic and environmental benefits;
- (c) To assist all countries, especially developing countries, to deal with their environmental problems and to help mobilize additional financial resources for the purpose of providing the required technical assistance, education, training and free flow of information and exchange of experience, with a view to promoting the full participation of developing countries in the national and international efforts for the preservation and enhancement of the environment.

The Governing Council also adopted 14 *Particular Policy Objectives*, while noting that they had not been fully discussed, and were not exhaustive.

- (a) To anticipate and prevent threats to human health and well-being posed by contamination of food, air or water;
- (b) To detect and prevent serious threats to the health of the oceans through controlling both ocean-based and land-based sources of pollution, and to assure the continuing vitality of marine stocks;
- (c) To improve the quality of water for human use, in order that all persons may have access to water of a quality compatible with requirements of human health;
- (d) To help Governments in improving the quality of life in rural and urban settlements;

- (e) To prevent the loss of productive soil through erosion, salination or contamination; to arrest the process of desertification and to restore the productivity of desiccated soil;
- (f) To help Governments in managing forest resources so as to meet present and future needs;
- (g) To anticipate natural disasters and to help Governments in mitigating their consequences;
- (h) To assist Governments in anticipating and in preventing adverse effects of man-induced modifications of climate and weather;
- (i) To encourage and support the development of sources and uses of energy which assure future levels of energy adequate to the needs of economic and social development while minimizing deleterious effects on the environment;
- (j) To help to ensure that environmental measures taken by industrialized countries do not have adverse effects on international trade, especially the economic trade or other interests of developing countries, and to help developing countries maximize opportunities which may arise for them as a result of changes in comparative advantages induced by environmental concerns;
- (k) To preserve threatened species of plant and animal life, particularly those which are important to human life and well-being;
- (l) To help Governments identify and preserve natural and cultural areas which are significant to their countries and which form part of the natural and cultural heritage of all mankind;
- (m) To help Governments take into account in development planning the relationship between population growth, density and distribution and available resources and environmental effects;

- (n) To help Governments increase public awareness through better education and knowledge of environmental concerns and facilitate wide participation in and support for environmental action;

After the General Policy Objectives, and the Particular Policy Objectives, the Governing Council adopted *Programme Priorities for Action* by the United Nations Environment Programme. It 'noted' that 'the quality of human life must constitute the central concern of this Programme and that therefore the enhancement of the total human habitat and the study of environmental problems having an immediate impact on man should be given the highest priority in the over-all programme'. And — following the basic logic of the Stockholm Action Plan — it 'decided' that 'that the major functional tasks of the Programme consist of the identification and assessment of the major environmental problems, for which "Earthwatch" will be one of the important instruments, environmental management activities and supporting measures.'

As far as the latter category viz. 'supporting measures' was concerned, the Governing Council specified the most important as being:

- (a) The provision of technical assistance to Governments in evaluating their environmental needs and in planning and carrying out measures to meet them;
- (b) The provision of assistance for the training of personnel who will require specialized skills in order to participate in the development and application of measures - including environmentally sound technologies - for the protection and enhancement of the environment, with particular emphasis on planning and management;
- (c) The provision of financial and other forms of support to strengthen national and regional institutions which can contribute significantly to the international institutional network required for carrying out agreed measures under the programme;

- (d) The provision of information and related material in support of national programmes of public information and education in the environmental field and the provision of assistance to governmental or non-governmental efforts aiming at increased availability of environmental information related to development.

Finally, the Governing Council ‘further’ requested the Executive Director — on the basis of agreed criteria — to perform some ‘Tasks’ in the areas of (a) human settlements, human health, habitat and well-being; (b) land, water and desertification; (c) education, training, assistance and information; (d) trade, economics, technology and transfer of technology; (e) oceans; (f) conservation of nature; and (g) energy.

The enumeration of these Tasks took up five single-spaced pages.⁴⁵

By any token, the Governing Council had outlined a vast menu of work for the new body and its partners. The list of priority areas was not intended to be exhaustive nor permanent; nor would it prevent action being undertaken towards the achievement of other objectives of the Programme. However, it was in these areas that action would be concentrated, so that comprehensive programme proposals could be presented to the second session of the Governing Council, planned for March 1974.

The Governing Council at its first session also adopted General Procedures governing the operations of the Environment Fund and approved the use of \$5.5 million in the period up to the second session of the Governing Council according to an agreed apportionment among the different Fund Programme Activities selected for priority action.

Strong subsequently⁴⁶ commented:

“This may seem a generous amount and, indeed, should be adequate—but only just adequate for the initial pre-programming phase of our work. Similarly, the fact that we have at least \$93 million pledged, against our initial target of \$100 million for the first five years of the Fund, could lead us to believe that we are in a comfortable

financial position. However, as I told the Governing Council, I am convinced that the programme steps taken now will have a multiplier effect on the Programme, which will require much larger commitments of resources than we could envisage or justify at the moment. I also believe that it is essential for the success of the Fund that it be as universal as possible and that it include contributions, however large or small, from all countries.”

Both at Stockholm and subsequently, UN agencies with environmental programmes or ambitions to set up such programmes had been anxious to establish the terms on which they would have access to the resources of the Environment Fund. Strong was able to reassure them. “I see the resources of the Fund being used to strengthen and improve existing environmental programmes of members of the United Nations system and to launch new activities in the areas not covered by existing programmes. Co-ordination will thus be achieved not just by defining fields of competence and exchanging information about work programmes, but by creating the framework for a common approach to specific programme activities.”

Governments too, had to discharge their responsibility if co-ordination was to be effective. “I hope, indeed,” said Strong “that the Governing Council of UNEP will be used by governments — as was the intention of the General Assembly — as a focal point enabling them to review the environmental activities of the United Nations system as a whole and avoiding conflicting initiatives which would otherwise result in over-lapping activities and misuse of all-too- scarce resources.”

Over 150 NGOs (Non-governmental organizations) came to Geneva at the same time as the meeting of UNEP’s Governing Council for the first World Assembly of NGOs. Thanks to the very welcome support of the Ford Foundation, there was a considerable representation from the developing world. Henrik Beer, Secretary-General of the International League of Red Cross Societies, made a statement on their behalf. He expressed the NGOs’ ‘satisfaction at the concrete progress that has been made in the last year through the establishment of the United Nations Environment Programme as an independent unit of the United Nations,

with its own Governing Council; the appointment of an Executive Director and co-ordinating staff of high competence and the creation of the Co-ordinating Board for the Environment to harmonize the environmental efforts of the different agencies in the United Nations family.’

NGOs noted the near-fulfilment of the target of \$100 million over five years for the Fund for the Environment. “While they welcome this development, they urge governments to establish the much larger fund realistically required by the scale of international environmental needs.”

NGOs also welcomed Strong’s decision to give full-time responsibility for liaison with NGOs to a member of his staff and looked forward to the United Nations Environment Programme’s establishment in Nairobi.’

Among the other decisions taken by the Governing Council at its first session in Geneva in June 1973 was one which authorized UNEP’s Executive Director to provide secretariat services for the implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The background to this decision is as follows:

The previous June (1972) the Stockholm Conference had recommended (Recommendation 99.3) that ‘a plenipotentiary conference be convened as soon as possible, under appropriate governmental or intergovernmental auspices, to prepare and adopt a convention on export, import and transit of certain species of wild animals and plants.’

In doing so the Stockholm Conference recognized that high exploitation levels and volumes of international trade in wild animals and plants — besides the continuing loss of suitable habitats — might reduce populations to such an extent that their survival became at risk.

For many species regulatory measures might come too late. They might already be extinct or have passed the decisive moment, while others only survived in captivity. There were, however, many endangered species for which it was not too late, but for which it was known, or feared, that trade will further endanger their survival.

Others were not threatened with extinction but might become so, if levels of utilization were not compatible with their survival.

Still other species might not be at risk as such but a country of origin might nevertheless have taken protective measures for its population of a species, or an endemic species, and need the cooperation of other countries in the control of trade.⁴⁷

These problems were first internationally discussed in Caracas, Venezuela, in 1952, at the Third General Assembly of the International Union for Conservation of Nature and Natural Resources (IUCN). A Resolution was adopted urging countries to “prohibit the importation of animals belonging to species which are protected in their natural habitat, unless it has been definitely established that the exportation of such animals from their country of origin has been carried out under completely legal conditions. In those countries where such legislation is already enacted, it is highly desirable that it should be rigorously enforced.” In 1960, the Seventh Assembly, meeting in Warsaw, urged governments to ‘restrict the importation of rare animals in harmony with the export laws of the countries of origin.’

In 1963, the Eighth IUCN General Assembly (held in Nairobi) passed a resolution calling for “an international convention on regulation of export, transit and import of rare or threatened wildlife species or their skins and trophies”.⁴⁸

A first draft entitled “Convention on the Import, Export and Transit of Certain Species” was prepared by the IUCN Commission on Law in 1964 and discussed at the IUCN General Assembly in Lucerne in 1966. A revised draft was presented by Wolfgang Burhenne, Chairman of the Commission, to the IUCN Executive Board in April 1967 and in September of that year it was circulated through diplomatic channels to 90 countries and a number of international organizations. In 1969 a second draft was circulated and a third in 1971. These texts were criticised as ‘too European’, especially by the United States. The process seemed in danger of foundering but was given a new lease of life when the Stockholm Conference adopted its Recommendation 99.3 as cited above. In February 1973 a new draft was adopted at a plenipotentiary

conference — known as the World Wildlife Conference — held in Washington, D.C. in February 1973 and hosted by the Dept. of State with Christian Herter in the chair and an opening message sent by President Nixon.⁴⁹ On 3 March 1973, at the conclusion of the Conference, 21 countries signed the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).⁵⁰

Barbara J. Lausche comments:⁵¹

“Leading up to the conclusion of the Convention, it had been assumed that IUCN would take on Secretariat functions. However, Maurice Strong, Executive Director of the new United Nations Environment Programme, volunteered UNEP as the Secretariat to begin to give the agency visibility and, to sweeten the offer, agreed to provide financing. Countries accepted UNEP’s offer and the Convention text specifies: “Upon entry into force of the present Convention, a Secretariat shall be provided by the Executive Director of the United Nations Environment Programme.”⁵²

“Once the Convention had been concluded, Strong delegated the Secretariat functions to IUCN on behalf of UNEP, and the CITES Secretariat was housed at IUCN Headquarters in Switzerland and operated by IUCN from 1973 to mid-1984 (when then UNEP Executive Director, Mostafa K. Tolba, took it out of IUCN).

“By the second Conference of Parties in Costa Rica in 1979, the question of how to provide sustained financing for the Secretariat had become a pressing issue. Burhenne recalled that the original Convention negotiations had agreed to identify UNEP to run the Secretariat, in lieu of IUCN, because some had expected UNEP to pay and there had been no mention of member obligations. By COP-2, the Secretary General was Peter H. Sand. Now a long-standing IUCN Law Commission member, he recalls the innovative solution that was crafted and that has to be a main financing tool today: “[The Conference voted affirmatively to the Convention] in order to legalize a new system of assessed contributions by member states through a UNEP trust fund to be established for this purpose. The CITES trust fund so established by UNEP.. became the model for a long series of similar UNEP trust funds for other conventions.”⁵³

If CITES is distinctive in that it was the first Multilateral Environmental Agreement (MEA) to be administered by UNEP, it is also distinctive in the emphasis the Convention and subsequent resolutions of the parties place on enforcement and compliance, an issue which would become of increasing relevance over the next decades as the number of MEAs multiplied. This too is an area where UNEP would develop a special interest and where the CITES experience as far as enforcement and compliance is concerned provides some insights of more general application.

Though UNEP had no specific responsibility under the text as finally agreed, UNEP’s Governing Council at its first meeting in June 1973 was able to express its satisfaction that The Convention concerning the Protection of World Cultural and Natural Heritage had been adopted by the General Conference of UNESCO on 16 November 1972. It had developed through the merger of two separate initiatives — one concerned with outstanding natural features, being developed in IUCN, and the second on the protection of cultural and historical monuments under UNESCO auspices, with the support of the newly established Council on Monuments and Sites (ICOMOS).

As far as the latter was concerned, one event that aroused particular international concern was the decision to build the Aswan High Dam in Egypt, which would have flooded the valley containing the Abu Simbel temples, a treasure of ancient Egyptian civilization. In 1959, after an appeal from the governments of Egypt and Sudan, UNESCO launched an international safeguarding campaign. Archaeological research in the areas to be flooded was accelerated. Above all, the Abu Simbel and Philae temples were dismantled, moved to dry ground and reassembled.

The campaign cost about \$80 million, half of which was donated by some 50 countries, showing the importance of solidarity and nations’ shared responsibility in conserving outstanding cultural sites. Its success led to other safeguarding campaigns, such as saving Venice and its Lagoon (Italy) and the Archaeological Ruins at Moenjodaro (Pakistan) and restoring the Borobodur Temple Compounds (Indonesia).

The two drafts had been completed in 1971 and the Stockholm Preparatory Committee had urged their combination: this had been

done under the leadership of UNESCO which, with Maurice Strong's backing, agreed to provide the secretariat.

The UNEP Governing Council also welcomed the conclusion of the London Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matters, which had been called for by the Stockholm Conference under Recommendation 86 (c). The text had been developed at several sessions of an Intergovernmental Working Group on Marine pollution and substantial progress had been achieved before Stockholm. But the Conference gave it the impetus necessary for it to reach a speedy conclusion.

Holdgate remembers:⁵⁴

"The British offer to host a final negotiating session was accepted, and in October 1972 we all met in the gilded, be-mirrored, Long Gallery of Lancaster House (the modern Queen Elizabeth Conference Centre had not then been built). As head of the host country delegation, I was destined for the Chair. Peter Walker came to open the proceedings. As I escorted him out, the instruction was simple:

"'You bring me an agreed Convention in two weeks' time — or don't bother to come back to the Department...'

"He was joking — but the joke was on him. For by the time we adopted the Final Act of the Conference, with the agreed Convention, he had been moved to head the Department of Trade and Industry. Geoffrey Rippon, who replaced him, had none of Walker's dynamism or understanding of the environment.

"The London Convention was my first experience of chairing a tricky piece of international negotiation. It wasn't helped by the room. The Long Gallery is beautiful, but it fits its name. If you sit in the middle, as the Chair must, the table stretches to a remote distance either side. Far away at the edge of sight there was a delegation sign FEDERAL REPUBLIC OF GERMANY. The letters were so small as to be unreadable.

You just had to memorize faces and places. Another and more agreeable problem at Lancaster House arose because each morning, at 11 am, a military band marched past to serenade the Queen Mother at Clarence House. We decreed a Royal Coffee Break as the stirring strains swelled to make negotiation inaudible".

UNEP as such was not involved in the London Dumping Convention. There was no suggestion that UNEP would provide the secretariat, for example, as it did for CITES. But in the broadest sense UNEP could be considered — and did indeed so consider itself — as the guardian of the Stockholm 'legacy', so it was entirely appropriate that the Governing Council should welcome the successful negotiation of the world dumping convention called for at Stockholm.⁵⁵ It had every reason, similarly, to welcome the Oslo Convention to control dumping of polluting waste in the north-east Atlantic, agreed in 1972, and the Paris Convention of 1974 on the Prevention of Marine Pollution from Land-Based Sources. Moreover, its Governing Council, at the first session, laid out a number of priority tasks under the heading 'oceans'.⁵⁶ As we shall see in a subsequent chapter, through the Barcelona Convention of 1976, as well as through the Regional Seas programme and its global programme for dealing with land-based sources of marine pollution, UNEP would have a plausible claim — alongside other bodies, national, regional and international — to be considered a 'major player' as far as protection of the world's seas and oceans was concerned.

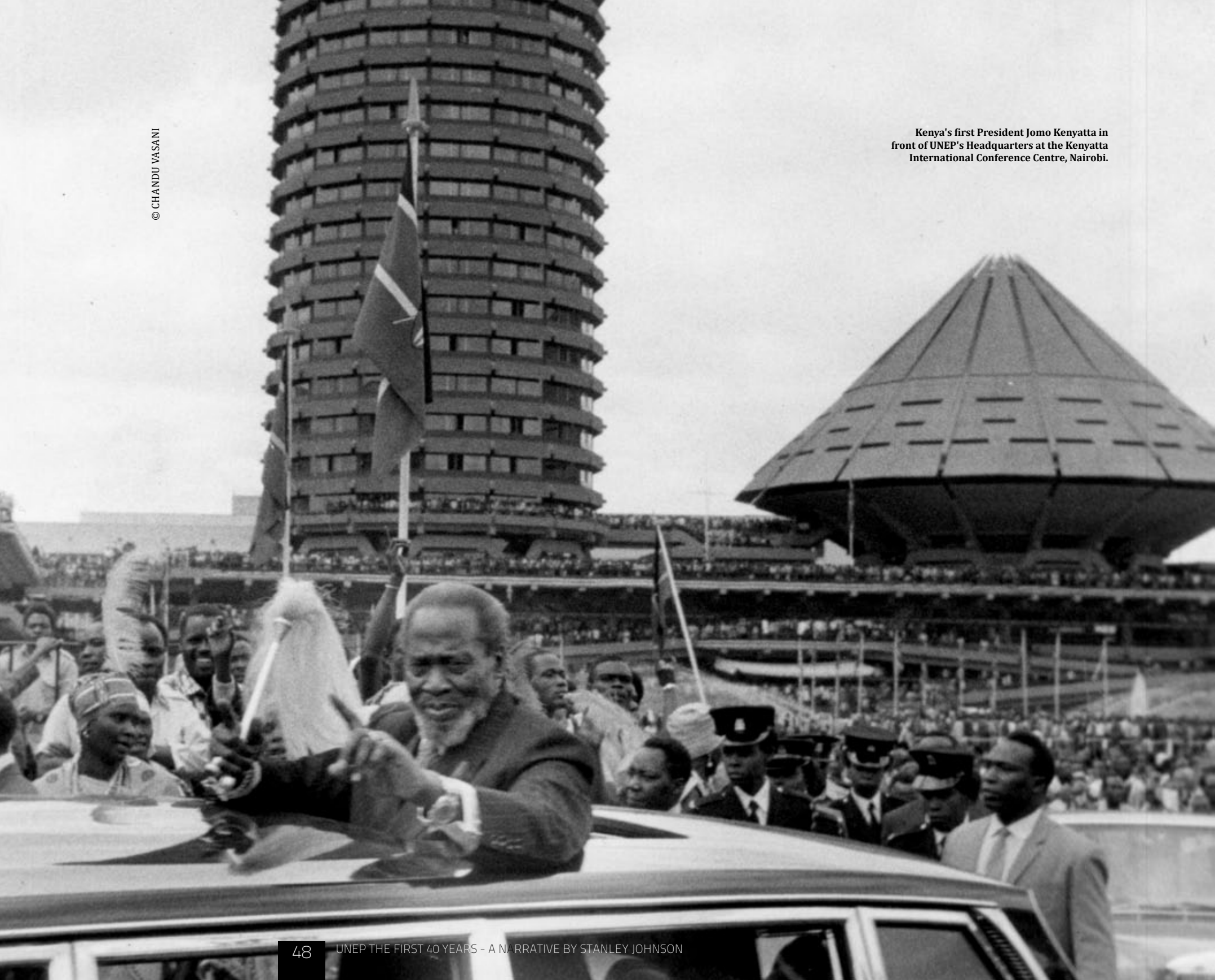
The Governing Council's decision authorizing the Executive Director to provide secretariat services to CITES, also 'further asked' him to give assistance as appropriate in the preparation of other international conventions in the environmental field. Over the years, this too was to prove a fruitful avenue for the new organisation. Indeed, it could be argued, looking back at the 40-year history of UNEP's activities that it is in the field of environmental law that some of its main successes have been recorded though that it not necessarily the field where its future triumphs may lie.



Top Left to Right: CITES was the first multilateral environmental agreement to be administered by UNEP; Aswan High Dam — construction fueled international concerns and led to new safeguards; UNEP welcomed new measures to prevent dumping at sea and laid out priority tasks for oceans; Fernando Lugris (Right), INC Chair, meeting Minamata Disease victim Shinobu Sakamoto during Second Session of the Intergovernmental Negotiating Committee to prepare a Global Legally Binding Instrument on Mercury in Chiba, Japan.; Water pollution was targeted as priority area for the new UN organisation.



Kenya's first President Jomo Kenyatta in front of UNEP's Headquarters at the Kenyatta International Conference Centre, Nairobi.



4

HARAMBEE! UNEP COMES TO NAIROBI

At precisely 11 am on October 2, 1973, there was a fanfare of trumpets as President Jomo Kenyatta took the ceremonial march-past and salute of the corps of Kenyan forest rangers and game wardens. The President then proceeded to inaugurate the headquarters of the United Nations Environment Programme by unfurling the flag of the United Nations on the dais of Nairobi's Kenyatta International Conference Centre where UNEP's new offices were located.

It wasn't just the UN flag which was on display that morning. In the vast forecourt below the 29-storey circular tower of the Kenyatta Centre, the flags of all the United Nations 135 Member States fluttered brilliantly in the African sun.

The President was joined on the podium by Kenya's Foreign Minister, Njoroge Mungai (who had done so much to ensure UNEP's safe arrival in Nairobi) and by Maurice Strong, UNEP's Executive Director. Mama Ngina, the President's wife, carried a bouquet of flowers which had been presented to her as she arrived.

The President was at his most eloquent as he delivered his speech of welcome.

"The formal inauguration of the United Nations Environment Programme today, is warmly welcomed by everyone. Kenya feels very proud that this organization is to be established in our city, for it is the first time a major United Nations Agency has been located in Africa. This trend is to be encouraged even more, so that the various United Nations bodies and activities are spread across the world to reflect universal membership of the United Nations.

"Nature has blessed us with her many gifts of forests, grasslands and rivers. Man has often destroyed and abused them through misuse and neglect. Wide belts of forests have disappeared. Deserts are advancing at an alarming pace across the green stretches of vegetation. Uncontrolled hunting and poaching for game trophies have placed our wildlife resources in danger.

"Poverty, disease and decay are recognized pollutants today, and pose grave dangers to man's survival on this earth.

"All these examples are painful evidence of man's abuse of his environmental heritage.

"Urgent and effective action is needed to preserve what has been given us in plenty. This is the supreme challenge of our times and indeed of future generations. The natural resources at our disposal should be used for welfare and peaceful purposes, to serve mankind and never for destructive ends.

"It is only right that we in Africa should be conservationists, because of our rich and colourful wildlife heritage, forests, lakes and rivers. Kenya's national efforts in this regard are known and receive much-needed support from many quarters throughout the world, and we are mindful of this encouragement.

"I wish the Executive Director of the United Nations Environment Programme and all his staff, every success in discharging immense responsibilities and the challenges of our times, in service to humanity. Rest assured that you will have the support of my Government and the people of Kenya in your worthy endeavours."

President Kenyatta brought the huge crowd of diplomats, dignitaries, tribal groups, civil servants and school children to their feet with his customary Swahili challenge of "HARAMBEE!" meaning "let's pull together". The 83-year-old President led the cry of "Harambee" several times and then spoke in Swahili to his country-men, urging them to welcome the international staff of the new Secretariat, and work for the goals of an improved environment in their own city and country.

After the President had spoken, the United Nations Secretary General Kurt Waldheim's message was read out to the gathering by Strong, UNEP's Executive Director.

"Your Excellency:

"I am very sorry that my official duties in New York prevent me from attending this historic occasion.

"The problems of the human environment cover virtually all human activities, and the establishment of the United Nations Environment Programme last year was a dramatic

demonstration of realisation by all governments that these problems can only be resolved on a global basis. No one believes that they can be solved swiftly or easily, but the World Organization has decided that they must be faced collectively. In order to succeed we need the skills, experience, and enthusiasm of all nations, determined together that we can and must meet the present ambitions and needs of mankind while protecting the interests of future generations.

"Thus, the establishment of UNEP was in itself a historic event, and we are now moving from the period of preparation to that of action. We have taken the first vital steps, it is now imperative that we fully meet the hopes and expectations entrusted to us.

"This occasion has another, and equally profound, significance. The varied problems of the human environment affect all nations and continents, and it is particularly fitting that UNEP should have its headquarters in an African nation. The surge towards decolonisation in Africa has been one of the most remarkable and important movements in world history. The United Nations has played a major role in this process, and it has also given encouragement and assistance to the nearly independent nations. When the Charter was signed, the voice of Africa was not heard. Today, that voice is not only heard—it is heard with respect and admiration. The establishment of UNEP in Nairobi strengthens the United Nations, and will enable it to understand further the unique contribution of African ability and experience to the global tasks facing the new Secretariat.

"I wish to express my particular gratitude to the Government of Kenya for their generosity, cooperation, and assistance in the establishment of the Secretariat in Nairobi. This close relationship gives me further confidence for the future, and I know that the Secretariat staff will find the experience of living and working in Nairobi rewarding and pleasant. I send to you my very warmest wishes."

Finally, it was Strong's turn to deliver his own carefully-crafted speech.

The selection of Nairobi as the site of the new organization by the United Nations General Assembly in New York might have taken him, and others by surprise, but this was not a moment to rehearse any doubts he might have had.

“Now Mr. President, Your Excellencies, it is my honour and privilege to thank you on behalf of the United Nations for the welcome that you have accorded us and the inspiring message that accompanied the welcome this morning and, indeed, also for the hospitality that you and the people of Kenya, and especially of this fine and friendly capital city, have extended to us.

“You have already made us feel welcome as we arrived to take up our homes in this city and now you invite us to take-up offices in this jewel of architecture that you have so proudly and preciously created: a centrepiece for this city in the sun. This surely is the epitome of hospitality—that the best rooms in the home should be reserved for the invited guests. Our work to create a better environment for the world of man will be enhanced because you have created, and have invited us to accept a working environment that is inspiring and pleasant, practical and efficient. May our labours here prove to be worthy of your respect, your trust and your confidence.

“It is fitting that this beautiful and functional Conference Centre which bears your name, Mr. President, should become the headquarters of the first global intergovernmental organization to be located in the developing world because it symbolises the admiration and esteem in which you are held throughout the world for the wise and enlightened leadership that you have provided to this nation and to this continent

“As we take up our offices here and look out upon this fair country, we shall be looking beyond to a world of some three and a half billion people, a single community of man living together on the spaceship we call “Earth”, all of us depending upon its precious supplies of water, of soil, of sunlight and air — the common riches which support life for all men on this planet. From our tower in the heart of Africa, we must envisage the whole earth, and foresee the challenge that faces each man in the proper use of the earth’s resources so that all people may thrive

and no one suffer needlessly. The preservation and enhancement of the environment is a task fitting for every man, and everyone has a part to play in making the earth a home that is free of conflict and despair.

“We are beginning a new journey of hope that must take us on to higher and better ways of living if we are to survive and thrive. The flowers, the fish, the animals and the birds with whom we share this home, can be destroyed by our carelessness. But their fate is but one indication, one foreboding of the risk which we too face. Man cannot see himself apart from the fragile web of life that encircles the earth which he has now the capacity to destroy and thus the responsibility to care for.

“The nations of the world, at Stockholm last year, agreed on a Declaration of Principles to govern the conduct of their environmental affairs. They also agreed on a Plan of Action for investigating and dealing with the principal environmental problems that now confront us. The United Nations General Assembly created the United Nations Environment Programme to carry out that plan. The Governing Council of the Programme, a body of 58 Member States elected by the General Assembly met in Geneva for the first time less than four months ago. Its second meeting will be here in the Kenyatta Conference Building next March. The Governing Council has established guidelines for the programme which the Secretariat will be implementing from its headquarters in the Kenyatta Tower Building”.

“Operating from Our base here in Nairobi, we shall be taking measures to meet such objectives as: preserving the health of the oceans; preventing the destruction on a large scale loss, of productive soil; improving the quality of water for human life; preserving threatened species of plant and animal life; and improving the quality of rural and urban settlements; and mobilizing resources to help developing countries with their environmental concerns.

“Working together — HARAMBEE — is a theme which you are all familiar with. It gives me a thrill to hear it repeated here. Perhaps it should become the theme as well for a world that now has the capability, knowledge, and opportunity to create a better human environment for

all people. The ingredient most needed to bring about this kind of world is the spirit of HARAMBEE — let's work together. We shall accept your slogan and its spirit and we hope that you will join with us in the total challenge of creating a new world order that works — an environment on this "Only One Earth" that we share and will sustain the lives and fulfil the hopes of the entire human community."

In the event the Conference Centre was not to be UNEP's permanent home. Strong believed:

"We needed to build distinctive structures symbolic of our environmental purposes. We also needed room for the long-term expansion that seemed inevitable. After looking at a number of potential sites, I located a large coffee farm in an attractive location on the outskirts of Nairobi that I understood could possibly be made available, though it was not the site the government preferred. When I walked over the land, I knew immediately that this would be the right place for us, and eventually the Kenyans agreed. We had our new headquarters completed and occupied by the end of our first year. The buildings were simple but practical and made full use of the beautiful natural setting and the lush tropical foliage that surrounded them."⁵⁷

His first priority was to recruit UNEP's top executive team. "Nairobi at that time was an attractive place, and though it was difficult to get good people to move there permanently, it proved relatively easy to recruit them for stints of a few years. I already had a deputy. I'd come the long way around to Nairobi, via Cairo, to meet the Egyptian minister who had impressed me so much at Stockholm, Mostafa Tolba. He yielded to my persuasion and would perform as deputy with great skill and dedication."⁵⁸

Other recruits to UNEP's top executive team included Dr. Robert Frosch, a theoretical physicist who for the last seven years had been Assistant Secretary of the US Navy for Research and Development and who would serve as Assistant Executive Director. Paul Berthoud, a Swiss citizen with a long record of service in United Nations bodies, became the Director of the Environment Fund. Peter Thacher, based in Geneva, would be the Director of UNEP's European Office.

Thacher had been Programme Director of the small secretariat preparing the Stockholm Conference.

He would move to Nairobi as UNEP's Deputy Executive Director in 1977, when Maurice Strong was succeeded by Mostafa Tolba.

Adrian Phillips, who took up a posting in Nairobi with UNEP in 1974, gives a delightful insight into those early days.

"I joined UNEP in May 1974. I was appointed as a Programme Officer in Maurice Strong's office but was later promoted to Programme Co-ordinator. I left UNEP to join IUCN in July 1978.

"Working in Maurice's office in Nairobi was quite an experience for someone previously only familiar with the workings of UK Civil Service. His office was run by an enthusiastic Lebanese, Albert Khazoom, and his very able PA, Gabby Gervais from Canada. Albert and Gabby, both of whom had been at Stockholm, introduced me to UNEP. I have to thank Stanley Johnson for my being offered a chance to work at UNEP, as he drew my name to Strong's attention.

"But my recruitment had been a rather curious affair, largely conducted by telephone calls from Maurice and without being given a very clear sense of what awaited me. Albert explained that I was expected to create a management system at UNEP. In those early days, less than a year after the move from Geneva to Kenya, UNEP was indeed in dire need of both management and systems. Its ambitions were huge but its ability to deliver these were very poorly developed. UNEP was great on concepts, but the day to day running of the organisation was chaotic.

"This was hardly surprising. An almost entirely new international team was being assembled around Maurice. Though a few of his Stockholm Conference colleagues, like Peter Thacher, had stayed in UNEP's Geneva office, and a few UN stalwarts came to Nairobi (like Bruce Stedman from UNDP), many of the staff in UNEP were new to the UN, including of course many locally-recruited Kenyans. UNEP itself was less than 2 years old and the first UN HQ body to be located in the developing world.

“Some of the expatriate staff had to adjust to aspects of life that were unfamiliar — power cuts were not good news if you were working near the top of 26 story Kenyatta Tower, where our offices were. Making a reality of UNEP would involve hard work and take time.

“Maurice asked me to be the Secretary of his Management Team, where he was joined by his deputy Mostafa Tolba, Bob Frosch, Bruce Stedman and Dick Foran. We met first thing most days — though it was unusual for all the actors to be in town, and Maurice was often away it seemed for months on end. Despite my best efforts, the meetings were not very business-like. Maurice would literally open his correspondence in the meeting and hand letters around for action — *“Oh, this for you Bob, from the Smithsonian”*. Coming, as I did, from a Civil Service where correspondence would travel around in a stately way attached to files whose whereabouts could always be traced, keeping track of high level communications handled in the UNEP way was a nightmare!

“Maurice Strong’s vision and his inexhaustible energy were an inspiration. His ability to multi-task would do credit even to some women. Gabby told of a tape that he had sent to her to be typed up after a visit to a game park in Africa. She found herself transcribing a sequence for a forthcoming address like this *“.. and so we can see that UNEP’s greatest achievement has been to build a bridge between environment and development. But that message needs to get out to a wider audience — Oh, my, that is a fantastic pride of lions over there! — especially in the developing world”*.

“To a degree, the whole UNEP office in Nairobi operated in this frantic way. I think in part it may have been the curious effect of the telex, suddenly jerking into life in the corner of the room, and noisily spewing out messages that were the model of brevity (*Strong arrives NBO 0730 Panam*). The pressure was always on but most of all at the first few Governing Council sessions which were held in the Kenyatta Conference Centre beneath our offices. We tended to be under-prepared and as a result were under great pressure. Working till 3 or 4 in the morning was a regular experience when the GC was in session. I found myself often working with a team of young Turks, including Neelam Merani, Jean-

Jacques Graise and Ashok Khosla, shaping texts for the meeting next morning. After the translators (whose hours were worse than ours) had made their contribution, Willy Patterson’s print shop churned out the draft texts, using Gestetner duplicators and Tipp-Ex.

“Maurice left to go back to Canada at the end of 1975 and Mostafa took his place as Executive Director. Around that time, I was moved to try to bring some co-ordination to our programme side and began to work more with other parts of the UN. My bosses changed several times: Bob Frosch, Philip Ndegwa (a talented Kenyan economist), Sven Evtsev (a charming Soviet scientist) and Dave Munro from Canada, whom I eventually followed to IUCN, where he was appointed Director General.

“In 1976, I think, UNEP itself moved from the town centre to its new offices in Gigiri on the Limuru Road, skillfully designed by Nairobi architects (and friends) David Mutiso and Braz Menezes. They were temporary offices but set in lovely gardens and a delightful place to work, amid the coffee fields. At one stage it was rumoured that crocodiles were to be introduced to the pools around the site but a conventional security fence was installed instead.

“Staff numbers were growing and in place of the early days of confusion and enthusiasm in equal measure, the office became distinctly more bureaucratic. Some of this was needed — I recall that I had to chair sessions of UNEP’s Fund and Programme teams to synthesise their advice on projects put to UNEP for funding. At one session, the committee recommended against funding an item; half an hour later, after several more decisions had been taken, we were on the point of recommending approval for a project which seemed oddly familiar. It was in fact the same project accompanied by a much more positive assessment. But though UNEP remained a fascinating place to work, it never recovered that extraordinary sense of excitement that surrounded the project in its first year or two. I was extraordinarily fortunate to be around at that time.

“For me, and I think for many others, life in UNEP in the 1970s was inseparable from life in Kenya. There were real drawbacks: many of us had to make numerous overnight and expensive flights to Europe and

the US for example; the hassle of domestic things like getting a telephone or selling a car used a lot of energy; and even then crime was a source of concern. Staff shared their experiences of living in Nairobi: where to shop, eat and go on safari? I think this may even have helped create a

stronger team spirit among the expatriate staff especially. Certainly it gave me and my family a chance to discover a beautiful country, friendly people and glorious wildlife. Kenya made a huge impact on us, and we have UNEP to thank for that.”

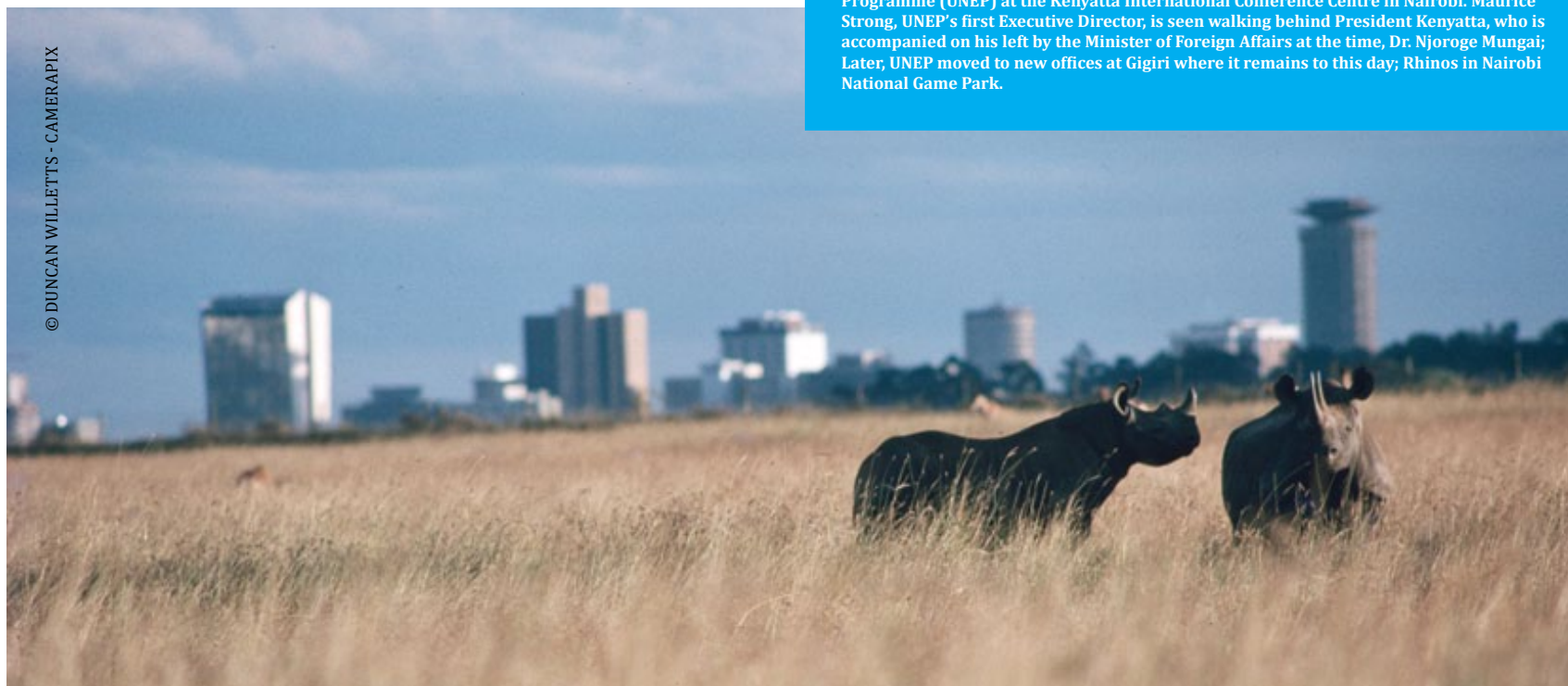


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Top Left to Right: Kenya's founding President, Jomo Kenyatta (left), at the official opening in 1974 of the inaugural headquarter location of the United Nations Environment Programme (UNEP) at the Kenyatta International Conference Centre in Nairobi. Maurice Strong, UNEP's first Executive Director, is seen walking behind President Kenyatta, who is accompanied on his left by the Minister of Foreign Affairs at the time, Dr. Njoroge Mungai; Later, UNEP moved to new offices at Gigiri where it remains to this day; Rhinos in Nairobi National Game Park.



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5

MEDITERRANEAN ACTION PLAN - REGIONAL SEAS

As we have seen,⁵⁹ in his opening speech to the Stockholm Conference in June 1972, Maurice Strong had said; “[Oceans] are the ultimate sink not only for wastes dumped directly into the seas, but for what is washed out from rivers and bays and estuaries and what is deposited through the atmosphere — beginning, as they do, beyond all national jurisdictions. The oceans present a compelling and urgent case for global environmental action.”

As far as global action is concerned, we have already mentioned the successful conclusion in London in 1972 of the International Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, as called for in the Stockholm Action Plan. The Action Plan also looked forward⁶⁰ to the 1973 Intergovernmental Maritime Consultative Organization Conference on Marine Pollution (IMCO) which led to the International Convention for the Prevention of Pollution from Ships (MARPOL) signed in London in 1973, as well as to the Conference on the Law of the Sea, scheduled to begin in 1973.⁶¹

In those opening remarks at Stockholm, Strong also said: “The case for regional cooperation (on ocean pollution) is equally compelling, for a large number of effectively enclosed seas, such as the Mediterranean, the Baltic and the Caspian, are deteriorating at a frightening rate.”

Strong’s reference to the Mediterranean was no doubt inspired by a powerful chapter on marine pollution in Barbara Ward and Rene Dubos’s scene-setting book, published before the Stockholm Conference: *Only One Earth: The Care and Maintenance of a Small Planet*⁶² Amongst other things they pointed out that in 1971 many Italian sea-side resorts had to close their beaches for fear of widespread hepatitis. This, they said, “only gave a preview of what might become the Mediterranean’s universal condition after another decade of inadequate sewage treatment.”⁶³

The Stockholm Action Plan also endorsed the regional approach as a means of dealing with all sources of marine pollution, recommending that “Governments take early action to adopt effective measures for the control of all significant sources of marine pollution, including land-

based sources, and concert and co-ordinate their actions regionally and where appropriate on a wider international basis.”⁶⁴ European Governments had already taken action, agreeing the Oslo Convention on the Prevention of Marine Pollution by Dumping from Ships and Aircraft in 1972, the Helsinki Convention on Protection of the Marine Environment of the Baltic Sea Area in 1973 and the Paris Convention on Prevention of Marine Pollution from Land-based Sources in 1974: Oslo and Paris both related to the north east Atlantic and were merged into one instrument, OSPARCOM, in 1974.⁶⁵

UNEP’s second Governing Council meeting, held in Nairobi at the Kenyatta Conference Centre from 11-22 March 1974, explicitly mandated the organisation to give priority to ‘regional activities’,⁶⁶ indicating that:

- In view of the many activities of numerous other agencies in this field, the United Nations Environment Programme should concentrate on the co-ordination of these activities and on the protection of the marine environment;
- Priority should be given to regional activities, with the possible establishment of programme activity centres in the Mediterranean. The importance of activities in the Caribbean, the Baltic, the Persian Gulf, the Indonesian and Philippines archipelagos, and parts of the Atlantic and Pacific was stressed.

The Governing Council also stressed that: “the Programme should encourage and support the preparation of regional agreements or conventions on the protection of specific bodies of water from pollution, particularly from land-based sources. High priority should be given to supporting activities to protect living resources and prevent pollution in the Mediterranean.”

At that same meeting Spain offered to host a meeting on the protection of the Mediterranean in Barcelona.

The Intergovernmental Meeting (IGM) on the Protection of the Mediterranean was held in Barcelona between 28 January - 4 February

1974 to consider an Action Plan for the Mediterranean. It resulted in a request to UNEP’s Executive Director to draw up, in collaboration with ‘the Governments of the region, the organizations of the United Nations system and intergovernmental and regional organizations concerned, a co-ordinated programme of concerted activities, aimed at a better utilization of resources in the interest of the countries of the region and of their development, while being in accordance with sound long-term environmental management rules.”

By way of example, the IGM cited: “treatment, use and safe disposal of organic and industrial waste resulting from various human activities; restoring degraded natural communities, in particular the protection, improvement and stabilization of soils; the arrangement, of hydrographic basins and the regulation of torrents; best use and recycling of fresh water; and improvement and better utilization of the living resources of the sea, in particular by aquaculture.”

There was to be a study of the costs and benefits of taking the environment factor into consideration in development projects, as well as of the impact of economic development, particularly of the development of tourism and industry, on the environment of the region, taking into account national sovereignty and the level and policies of development in each country. As for funding, the IGM urged UNEP’s Executive Director to use available funds with minimum allocation for staffing and other administrative costs and to establish simple co-ordinating mechanisms which used, to the greatest extent possible, existing international organizations and co-ordinating bodies.

It can be argued that the essential vision of Stockholm, as to the purposes of UNEP, was fully reflected in the provisions agreed in Barcelona in February 1974 for the Mediterranean Action Plan (MAP). UNEP was indeed to be a catalytic and coordinating agency, relying on other bodies both within and outside the UN system to do the bulk of the work. Monitoring and Assessment was to be a vital part of the programmes. An emphasis was also to be placed on training and technical assistance, particularly as far as the developing countries of the Mediterranean region were concerned.

The main objectives of MAP were to assist the Mediterranean Governments to assess and control marine pollution, to formulate their national environment policies, to improve the ability of governments to identify better options for alternative patterns of development and to make better rational choices for allocation of resources.

Although the initial focus of the MAP was on marine pollution control, experience soon confirmed that socio-economic trends, combined with poor management and planning of development, were the root of most environmental problems, and that meaningful and lasting environmental protection was inseparably linked to social and economic development. Therefore, the focus of MAP gradually shifted from a sectoral approach to pollution control to integrated coastal zone planning and management as the key tool through which solutions are being sought.

The Mediterranean Action Plan also had a legal dimension. Of particular importance, both in terms of the MAP itself and for the evolution of UNEP, was the request the Barcelona IGM made to the Executive Director to develop a Framework Convention and related Protocols for the protection of the Mediterranean environment, building on work already done by FAO and IMCO, as well as by the Spanish Government itself.⁶⁷

For an Intergovernmental Meeting to call on a young untested agency to take a key role in drafting and promoting a new and major regional international agreement was remarkable enough, particularly when other more established agencies, such as FAO and IMCO, were already well advanced with their own plans and individual Governments had already taken the lead in the north-east Atlantic and the Baltic. Three things helped. First, UNEP had important support from some Mediterranean countries (such as Spain and Greece). Second, it was obvious even to long established 'players' that, if a new instrument was to be drawn up, it would be useful to cover several sources of pollution. In other words, a multi-sectoral approach was called for, and UNEP from the start was designed to be 'multi-sectoral.'

Finally, UNEP, through the Environment Fund, was able to encourage the active participation of UN agencies and other bodies. In fact, the decisions in Barcelona marked the beginning of a trend: a progressive assumption by UNEP of leadership in the development of international environmental legal instruments.

That said, it was by no means all plain sailing.

In the book which he wrote with Iwona Rummel-Bulska,⁶⁸ Mostafa K. Tolba (who was to succeed Strong as Executive Director of UNEP in 1977) explained the difficulties UNEP faced when the Regional Seas Programme was launched in the mid-1970s. "A miniature ocean bordered by 120 cities with a population totalling at least 100 million, the virtually enclosed waters of the Mediterranean Sea have been the crossroads of European, Asian, and African civilizations for at least 4,000 years of recorded history, but by the early 1970s the Mediterranean was so heavily polluted that many feared it might die.

"Once a symbol of the seas' benefits to man, it became a symbol of man's destructive impact on the seas. Efforts to save it began with an assessment of its condition, carried out by a team of technicians from all the relevant UN organizations. Their prognosis was bleak.

"The question then became, in the midst of wars, political antagonisms, and national feuds, to what extent would countries around the Mediterranean be willing to enter into an environmental agreement that would benefit them all? This was a time when all the Arab states were at war with Israel, Turkey and Greece were disputing ownership of Cyprus, Algeria and Morocco were at odds over the Sahara, and the Cold War was still shaping international relations. In spite of these difficulties, and in the face of the belief that the Mediterranean was beyond saving, the UNEP decided to go forward. Spain offered to host meetings to negotiate regional cooperation in an effort to save the Mediterranean and to the astonishment of many, almost all of the basin states not only attended the negotiating sessions, but also in 1975 succeeded in adopting a joint action that would slow and ultimately reverse the threat."

A year of intensive negotiations, during which there was a general agreement that the parties needed to work together, led in 1976 to the adoption and signing of the Barcelona Convention for the Protection of the Mediterranean Sea against Pollution and two protocols, one to prevent pollution of the Mediterranean by dumping from ships and aircraft and the other to achieve cooperation in combating pollution by oil and other harmful substances.⁶⁹ For the agreement to enter into force it was required that the participating states should ratify the Convention and at least one of the two protocols, so that the countries were committing themselves to a general cooperation and to at least some cooperation in specific areas.

Tolba commented:

“What happened in the Mediterranean had significance beyond its shores. As the programme evolved, the participants were able to enlarge their understanding of the environment’s role in development and began to see evidence that both developed and developing nations were prepared to put aside their political differences as they cooperated to protect their shared environment. As the field of environmental diplomacy developed, several action plans, conventions, and protocols were adopted. Now, through the Regional Seas programme, some 130 countries, 16 UN agencies and more than 40 other international and regional organizations are working together to improve the marine environment and make use of its resources.”⁷⁰

The various Regional Seas initiatives did not all follow the same pathways. Sometimes UNEP found itself being invited in to help with ventures which were already taking shape. Sometimes the programme covered not only the marine environment but a wider range of activities as well. Arthur Dahl, who attended the Stockholm Conference on behalf of the Bahá’í International Community and later had a career in UNEP lasting almost 25 years, recalls how the South Pacific Regional Environment Programme (SPREP) began.⁷¹

“In 1974, I was appointed Regional Ecological Adviser with the South Pacific Commission (SPC) in Noumea, New Caledonia, and made a visit to UNEP in Nairobi to establish collaboration.

“Maurice Strong was away at the time of my visit, so he came to visit me in New Caledonia for three days in December 1974. We discussed how UNEP could support our work in the Pacific Island countries and territories, none of which had participated in Stockholm, and I took him on a tour around the island. He later made reference to Pacific Island collaboration at the Pacific Science Congress in Vancouver in 1975

“As our plans developed for a regional environment programme in the later 1970s, we requested UNEP support. At one meeting of the South Pacific Conference where the institutional home of the programme was being debated between SPC and the South Pacific Forum, the UNEP Regional Director for Asia and the Pacific tried to take over the programme for himself by playing one of us against the other. We told him we did what the governments requested, and if he was not happy he could go home. We submitted an application to UNEP for funds to prepare national reports on environmental problems and needs as the basis for a regional action plan, and I negotiated the terms of reference with UNEP Regional Office for Asia and the Pacific (ROAP). After several months with no response, a UNEP consultant came to see me in Noumea to ask for help in preparing a national report on New Caledonia, using the terms of reference that I had agreed with UNEP as part of our application for support.

“ROAP had gone behind my back and hired its own consultants, but they did not know the region, produced poor and inappropriate reports, and upset the governments, setting our programme back for a time. UNEP then decided to transfer responsibility from ROAP to the Regional Seas Programme, and the difference was like night and day. A visit from Richard Helmer, the deputy director of the Regional Seas Programme, established a new working relationship; we received the support we needed to hold expert meetings, prepare national reports and topical reviews, and organize the Rarotonga Conference on the Human Environment in the South Pacific in 1982 to adopt the Action Plan and launch the South Pacific Regional Environment Programme.

“A coordinating group of the South Pacific Forum Secretariat, SPC, UNEP and ESCAP provided oversight, with the Director of the Forum

Secretariat as Chair, and SPC providing the secretariat (me). It was a bit top-heavy, with a secretariat of one reporting to four intergovernmental organizations, but it worked until my departure from SPC at the end of 1982. UNEP later helped SPREP to adopt its own regional seas convention, and it is now an independent intergovernmental organization with its secretariat in Apia, Samoa. I continued to collaborate with Regional Seas as a consultant, organizing scientific symposia in the region in 1983 and 1987 and editing the resulting publications.”

The Regional Seas Programme has been referred to as one of UNEP’s ‘Crown Jewels’. Most institutions, most programmes benefit from inspired leadership and UNEP’s Regional Seas Programme was no exception. It was an early success for the new institution and its creation and subsequent evolution deserves greater examination.

Stjepan Keckes, who headed the Regional Seas programme at UNEP for many years, writes: “I was an ‘environmentalist’ even before I attended the 1972 Stockholm Conference and joined UNEP in 1974 hoping to contribute to the great vision expressed at that Conference. Yes, I remember with fondness a number of wonderful, earnest and enthusiastic persons I met during my 15 years with UNEP with whom I shared this vision. The memory of the days I spent and worked with them will forever remain with me and I am proud of what we have achieved, against all odds.”⁷²

Arthur Dahl paid this tribute to Keckes:

“Stjepan was a Yugoslav marine scientist and early UNEP staff member who organised the first Regional Seas Programme, the Mediterranean Action Plan, starting in 1974, and then extended the model to other regions of the world. This eventually became the Oceans and Coastal Areas Programme Activity Centre. The following tribute is one of 80 prepared by his many friends to honour Stjepan privately in 2009 (since he always refused any public acknowledgement).

“Stjepan was a tremendous director to work for, demanding the highest standards while creating a strong team spirit.

“He had built the Regional Seas Programme with a small team in Geneva, starting in 1974 with the Mediterranean Action Plan. I started at the same time at the South Pacific Commission building what became the South Pacific Regional Environment Programme, and began collaboration with UNEP through Maurice Strong. When the Executive Director ordered Regional Seas to move to UNEP headquarters in Nairobi, Stjepan resigned in protest, saying it was not possible to work efficiently from Nairobi where communications were poor, and far from the other UN agency partners in Regional Seas. His staff resigned as well in sympathy. All that was moved were the files and one secretary.

“Stjepan was finally convinced to move to Nairobi and re-establish the Oceans and Coastal Areas Programme Activity Centre (OCA/PAC) there. He asked me to come as a consultant to help him get things started and to recruit and train his new staff over several three-month periods

“One of my first assignments was to ‘read the files’ on the East Asian Seas programme and get activity started again. The OCA/PAC filing system was legendary across the whole UN system: a large room of floor to ceiling shelving filled with files systematically organized by activity, region, organization. All incoming correspondence was stamped and dated, actioned to the relevant programme officer with information copies as necessary, with action taken noted and dated as well, and then filed. Anyone replacing an absent officer, for example, could go to the files and find exactly where everything stood, what had previously been done and what further action was needed. Older files were in an equally large archive downstairs. I found this so useful that I developed and maintained similar filing systems for the rest of my UN career.

“On one of these consultancies, Stjepan called me in and said the Executive Director had decided it would be desirable to have an American as Deputy to the Director of OCA/PAC to encourage US funding of the programme, and invited me to apply for the post. Thus in March 1989 I became his deputy, a decision I have never regretted. As he was approaching retirement, he groomed me as his successor. He resigned a last time in 1991, shortly before his retirement, as a matter of principle, and stuck to it knowing that the programme would not collapse again.

“Stjepan believed deeply in the principles of the UN Charter and never wanted to put himself forward. We were faceless international civil servants working as a team and it was inappropriate to take individual credit. When one of the other Directors decided to reserve the best place in the parking lot for himself with a sign “Reserved for Director”, Stjepan pulled the sign out and threw it in the pond. He did the same to a replacement sign. On his separation from the organization, he was billed for the two signs as he had destroyed UN property. He appealed, and was finally vindicated as the signs were considered inappropriate and should never have been approved.

“Stjepan’s achievements in building the Regional Seas programmes showed his remarkable qualities as a scientist, diplomat and administrator, exemplified even more by his refusal to take personal credit for what was accomplished by the teams he built and led. The one justification for embarrassing him with tributes in this way is that his story should be an example to all administrators in the United Nations and a model for young people to follow.”

In the book already cited, published in 2008, Tolba looks back at some of the lessons that have been learned from the Regional Seas Programme.⁷³

“The negotiation of 10 or more regional seas action plans and more than 25 legally binding regional agreements has yielded useful information for future negotiations. To begin with, when science speaks with authority, governments listen. Scientific reports that identified the

cause of the Mediterranean’s ills spurred the countries surrounding it to action; subsequent action plans and agreements have been preceded by scientific assessment of the regional sea in question.

“Governments have also shown themselves to be willing to put aside political differences and address a common threat, but such negotiations succeed only when they share certain features. There must be strong leadership by at least one of the parties; the sponsoring UN organization must take an active, objective role in the meetings; and the negotiating delegates must be made up of government representatives whose strong personalities lead them to make imaginative, effective decisions.

“Dealing with shared environmental problems has inevitably led to an erosion of the old doctrine of absolute sovereignty, as governments have become willing both to give and to accept instructions as to how to modify pollution-causing activities. But the resulting treaties are not, in themselves, enough. Implementation is the key. Any successful treaty must provide for enough financial and technical resources to countries that need help in enforcing the terms of the treaty inside their own borders.

“Last, the importance of public awareness and sensitivity cannot be overemphasized. In the case of the Mediterranean Sea, the public outcry that followed media coverage of Jacques Cousteau’s warnings along with media coverage of further scientific findings prompted the region’s governments to act in concert to avert the environmental calamity. The same pattern saved the waters in the region covered by the Kuwait Convention.”



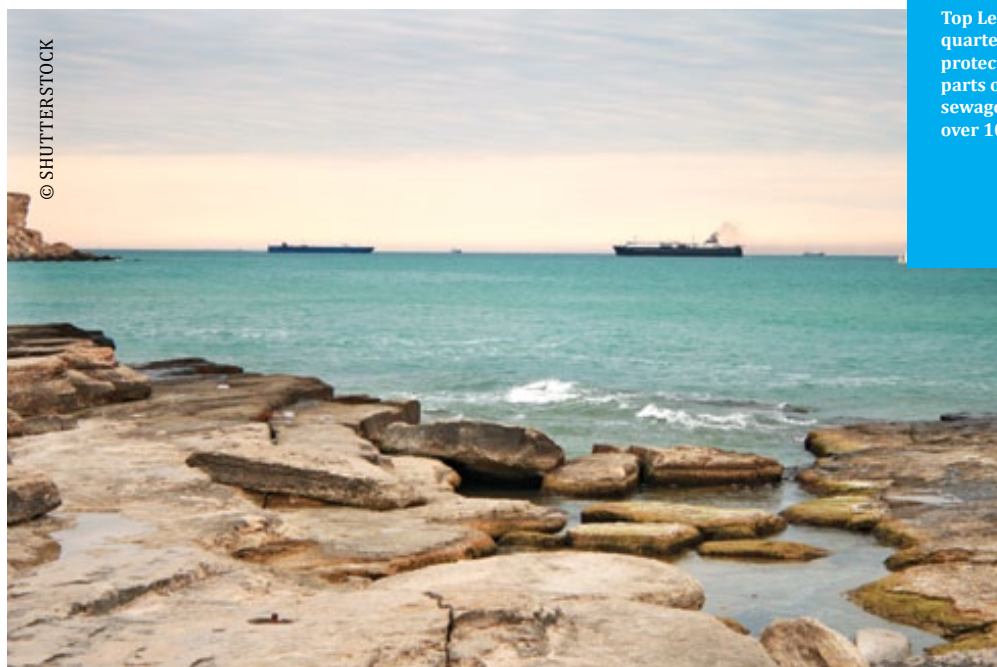
Regional Seas



West to East: North-East Pacific South-East Pacific Wider Caribbean Upper South-West Atlantic West & Central Africa Mediterranean Black Sea Eastern Africa Red Sea & Gulf of Aden ROPME Sea Area South Asian Seas East Asian Seas North-West Pacific South Pacific Partner programmes: Arctic North-East Atlantic Baltic Sea Caspian Sea Antarctic



Top Left to Right: The UNEP Regional Seas Programme has emerged over the last quarter century as an inspiring example of how to craft a regional approach to protecting the environment and managing natural resources; Before the agreement, parts of the Mediterranean had to contend with increasing amounts of untreated sewage; The Mediterranean is bordered by 120 cities with a combined population of over 100 million; The port of Aktau, Caspian Sea.





Aerial view of Antarctica.

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MONTREAL PROTOCOL



6

OZONE DIPLOMACY⁷⁴

In the early 1970s Nairobi was not the bustling metropolis it is today. When UNEP first arrived, barely 10 years had elapsed since Kenya had gained its independence from Britain. The city had grown up around the station that served the trains running on the famous ‘Uganda Railway’, built at the end of the 19th century from Mombasa to Kisumu on Lake Victoria. Photographs of Nairobi town centre taken soon after independence depict an almost pastoral scene with wide avenues and little or no traffic. When it was completed in 1973, the year UNEP came to town, the 30-storey-tall circular tower of the Kenyatta Conference Centre was the most visible landmark around, dominating the skyline. When out in the bush, you knew which way to head home.

Maurice Strong, UNEP’s first Executive Director, was — as we have seen — keen to find a more suitable environment for the fledgling organisation,⁷⁵ and he succeeded. In 1975 UNEP moved from the Conference Centre to a new location on the site of an old coffee farm at Gigiri, on the Limuru road, where it remains to this day. The first buildings were simple, two-storey, temporary facilities but a permanent structure, largely built in reinforced concrete, with spacious conference halls and long wings housing staff offices was ready for the

10th anniversary of UNEP’s establishment, in 1982. One of those wings also accommodated the UN Centre for Housing, Building and Planning, since 1978 incorporated into the United Nations Human Settlements Programme — UN HABITAT.⁷⁶ Today, the coffee has gone and the 100-acre surroundings have the feel of a spacious and (usually) verdant park. Over the years a wide variety of trees, both native and exotic, have been planted, many by visiting dignitaries, such as successive Secretary-Generals of the United Nations, or Heads of State and/or Government. Dendrologists with time on their hands will discover a veritable arboretum.

Given the enormous contribution he made to what many people judge to be one of UNEP’s greatest successes, it seems quite possible that a statue — or at least a bust — of Professor Sherwood (‘Sherry’) Rowland, who died on 10 March 2012, will also soon adorn the grounds. Professor Sherry is credited with bringing the world’s attention to the thinning ozone layer — a subject which would become a key component of UNEP’s activities.

Many obituaries have told Professor Rowland’s extraordinary story in layman’s terms. On 15 March 2012, for example, the UK’s *Guardian*

newspaper printed a full-page tribute to Professor Rowland as well as a photograph depicting him and his colleague, Mario Molina, in their laboratory at the University of California in 1976.

The *Guardian's* obituary said:

“What could be the human significance of a scientific paper entitled ‘Stratospheric Sink for Chlorofluoromethanes: Chlorine Atom-Catalyzed Destruction of Ozone?’ As it turns out, a lot. In 1974, F. Sherwood “Sherry” Rowland, who has died aged 84, and his co-author Mario Molina, saw that a class of synthetic chemicals already in wide and growing usage around the world could cause pronounced thinning of the Earth’s natural ozone layer, thus subjecting life on the planet’s surface to larger doses of harmful ultraviolet (UV) rays from the sun.

“Their paper in the journal *Nature* laid out the basic science and the plausibility, if not inevitability, of global impacts of these chlorofluorocarbon (CFC) chemicals and demonstrated how certain human activities can have environmental impacts far beyond what one might intuit. Two decades later, Sherry, Molina and Paul Crutzen shared the Nobel Prize for chemistry ‘for their work in atmospheric chemistry, particularly concerning the formation and decomposition of ozone’.

“By the mid-1970s, CFCs were regarded as an industrial success story, first as refrigeration fluids and later as propellants for aerosol-spray products such as deodorants and hairsprays. Invisible and engineered to be chemically inert, these synthetic chemicals were thought to be safe. But Sherry had heard of CFCs being detected in air over the Atlantic by the UK scientist James Lovelock and wondered what would eventually happen to them. Laboratory data convinced him and Molina that the CFCs would be destroyed over the course of approximately 100 years, only after drifting above most of the ozone layer and encountering harsh UV light that would break them apart into their component atoms: carbon, chlorine and fluorine.

“That debris would be the problem.

“Chlorine atoms released into the ozone layer would initiate chain reactions, Sherry realised. They calculated that much of the ozone layer could be destroyed if CFC usage continued to grow. That ozone shields the Earth from biologically damaging UV was already known in 1974. UV’s role in inducing some skin cancers in humans was an example.

“He pressed his case, publicizing his findings with press conferences and by testifying to state and federal legislatures. Opposition from affected industries arose and he was criticized, ridiculed and discounted. One industry group called him an agent of the KGB. But he persisted...”

The US National Academy of Sciences concurred with Rowland and Molina’s findings in 1976. Professor Rowland spoke on the subject frequently and emphatically. With public opinion turning against CFCs, consumption decreased in the US and American chemical companies began to seek alternative, ozone-safer chemicals. Pressure mounted for a ban on CFC-based aerosols.

Enter UNEP. At its annual meeting in 1976, UNEP’s Governing Council decided that UNEP should convene a meeting of experts to examine the potential threat to the environment resulting from a possibly thinning ozone layer. UNEP immediately recruited an atmospheric scientist to plan and convene the international meeting required by the Council. The United States of America offered to host the meeting at the US State Department in Washington DC in March 1977. The leadership role on the ozone issue exercised by the United States was abundantly evident, when the newly-inaugurated US President Jimmy Carter came to the State Department in person to open the State Department meeting. Carter was not a large man — one participant recalls that his head barely appeared above the State Department lectern — but both his presence and the speech he gave on that occasion had a salutary effect. Above all, the somewhat sceptical European delegates were impressed by the seriousness with which the United States was taking the ozone issue.⁷⁷

Peter Usher, UNEP's newly-appointed 'atmospheric scientist', takes up the tale:

"With the assistance of two consultants, a Canadian ozone expert to address the science, and a State Department official to deal with the logistics of the meeting, the Meeting of Experts on the Ozone Layer was duly held in the American capital, Washington. The participants were primarily government representatives and designated experts. The chemical industry was heavily represented given that it was its product, the synthetic family of chemicals known as chlorofluorocarbons or CFCs that had been cited as the likely destroyer of stratospheric ozone. There was little representation from developing countries as there were few producers of CFCs outside the industrialized world, India perhaps being the only exception. The Specialized Agencies of the United Nations were invited in view of the potential threat posed by a depleted ozone layer; the World Health Organization because of the threat to human health; and the Food and Agricultural Organization because of the projected dangers to animals and plants. UN representation was at a generally low level and even Tolba did not remain beyond the opening ceremony. It is fair to say that the meeting had generated little excitement or interest and, besides a small number of informed experts, few were aware of the full significance of the issues under discussion."

The Washington meeting concluded without controversy and several days earlier than scheduled. Its main recommendation was "A World Plan Of Action on the Ozone Layer" that charged the United Nations through its specialized agencies, together with other relevant organizations, to make an assessment of ozone layer depletion and its effects. Thus the WMO would address ozone layer science; WHO would take the lead on health; FAO would address the effects of UV radiation on agriculture; UNESCO would address social implications; and the Organization for Economic Cooperation and Development would review the related economic issues. UNEP's role, consistent with its mandate, would be to coordinate the exercise. To help it in this task, UNEP was advised to establish a Coordinating Committee on the Ozone Layer (CCOL), consisting of representatives of the UN bodies and agencies involved in

the Plan, together with experts nominated by countries that had active research programmes on the ozone layer.

Usher comments: "The UN family were, to say the least, luke-warm to the issue and the recommended Plan. WHO ignored the invitation to be part of the CCOL. FAO went further. In a dismissive response to UNEP's invitation, it wrote that it did not consider the issue of ozone depletion to be of significant interest to the organization. FAO implied that it was engaged on important work and could not be distracted by trivialities. It concluded, with barely veiled sarcasm, that, 'should the issue eventually be considered significant, FAO would review its position'. WMO, on the other hand, welcomed the opportunity to lead the physical assessment process and dedicated a senior officer and staff to the task. If it had any misgivings about the lead role being assigned to the fledgling organization, UNEP, it kept them to itself. Countries with scientific programmes on ozone, without exception, joined the Committee. Initially, a dozen countries were involved which, over time, increased by half as much again as attention turned to understanding the ozone layer and the potential threat related to its depletion."

A surprising addition to the Committee was the Chemical Manufacturers Association (CMA) which represented the major CFC producers, such as DuPont and ICI. It was DuPont that had first synthesized the wonder chemicals they named "Freons": colourless, odourless, non-flammable, non-corrosive gases or liquids of low toxicity that were introduced as refrigerants in the 1930s; they also proved useful as propellants for aerosols and in numerous technical applications. "Their low boiling points," Usher comments, "low surface tension, and low viscosity make them especially useful refrigerants. They are extremely stable, inert compounds. The Freons neither present a fire hazard nor give off a detectable odour in their circulation through refrigerating and air-conditioning systems." The CMA had available the production and consumption data on CFCs and a unique understanding of the properties and behaviour of the chemicals that had brought them such commercial success. The discoveries of Rowland and Molina had come as a major surprise to the manufacturers and the precautionary banning of the chemicals in the USA was an expensive body-blow to the industry.

US leadership on the ozone was still in evidence when, six months later, the redoubtable Ms. Barbara Blum, Deputy Administrator of the US Environmental Protection Agency,⁷⁸ made a barn-storming tour of Europe with a view to persuading reluctant European countries to join with the US in banning aerosol-based CFCs. (The US had adopted such a ban earlier in the year).

The full extent of European reluctance to take the ozone issue seriously became evident at a gathering held in Munich, in December 1978, hosted by the German Government. The official title of the event was the: "High-Level Meeting on the Ozone Layer." The Chairman of the meeting was Günter Hartkopf, State Secretary in the German Ministry of the Interior. Hartkopf was responsible not only for environmental policy, but for police and security matters as well. His exalted status did not deter one sceptical European delegate from beginning his intervention as follows: "Thank you, Mr. Chairman, for giving me the floor. It is very gratifying to be invited to a meeting on the ozone layer. In fact it is probably the highest-level meeting I have ever attended!"

State Secretary Hartkopf, with the German Greens snapping at his government's heels and under pressure to help Germany's American allies, did everything he could to push the meeting towards firm conclusions. Even so, progress was not as fast as Ms. Blum would have liked. The British, in particular, with manufacturers such as ICI heavily committed to the production of CFCs, queried the science and were reluctant to envisage caps on production or other restrictions on CFCs.

The meeting's Chief Rapporteur⁷⁹ summed up the situation on the last day, encouraging delegates to take home with them a "Chlorofluorocarbon Anthem:"

*"Why don't we try to keep the blue sky
Free of those nasty F11s and F12s?
Why don't we seek to reduce from their peak
The releases of greases and other perfume?
Who but the British assume
That these things
Are really as pure as angels with wings?"*

*Oh, b***s to the British!*

Let's all go home

And drink to the health of brave Barbara Blum!"

The Coordinating Committee on the Ozone Layer (CCOL) as established by UNEP following the Washington meeting of March 1977 was a body with almost purely scientific aspirations. It was small, non-controversial, did not involve participants with limited or non-existent expertise and was highly efficient.

The assessment of ozone layer depletion and its impacts were concluded and agreed before the end of each annual week-long meeting. The report was made available to Governments by UNEP almost immediately and the annual printed Ozone Layer Bulletin containing the assessment and CFC production data was published shortly afterwards. Usher comments:

"There were no political overtones to the deliberations other than the annual objections by the Soviet Union and the German Democratic Republic to the presence of the Federal Republic of Germany's representative from the Environmental Agency in Berlin. The objection was made at each meeting; an exchange of letters occurred between Embassy officials representing the East and West of the then political divide; formal statements were made; and UNEP, as chair of the meeting took the matter under advisement with the objection duly noted in the report to be forgotten until the next meeting."

There were no representatives of developing countries involved in CCOL meetings. India and Kenya were nominally members but, as UNEP — according to Usher — declined to pay for the participation and costs of any of the participants other than its own staff, no Indian or Kenyan ever attended. The host government, invariably a CCOL member, met the expenses of each meeting so that the cost to UNEP remained within its modest budget of \$20,000 per meeting.

Not that the CCOL was without its detractors. As the 'ozone depletion scare' gained greater prominence in the public eye, more attention was paid to the assessments published by UNEP. The media was quick to

point out, for example, that the Committee calculated highly variable estimates of the future extent of ozone layer depletion from year to year, ranging in one year two to four per cent to be replaced by an estimate of 10 to 12 per cent at the following meeting. What was not immediately understood by those outside the relevant scientific community were the rapidly changing levels of understanding as more and more scientists turned their attention to ozone. Chemicals other than the originally cited CFCs 11 and 12 were discovered to have a contributory influence on stratospheric ozone. (Paul Crutzen, the Dutch atmospheric chemist, would become the third scientist — after Rowland and Molina — to receive the Nobel Prize for determining the relationship between oxides of nitrogen and stratospheric ozone depletion).

Usher comments:

“The chemistry could be surprisingly complex as, for example, the role of polar stratospheric clouds in accelerating the catalytic dissociation of ozone. Mathematical models, too, were becoming more sophisticated and able to integrate a broader range of variables within their calculations. Estimates of depletion did vary, but the trend in all cases was towards a thinner protective ozone layer that was likely to dissipate more rapidly as increasing amounts of ozone depleting chemicals were manufactured and released. CFCs have very long atmospheric lifetimes and their reaction with ozone is not mutually destructive.”

In 1981, prompted by the CCOL, UNEP’s Governing Council decided that UNEP should set up an *ad-hoc* Working Group of Legal and Technical Experts for the Preparation of a Global Framework Convention for the Protection of the Ozone Layer. The group met for the first time in Stockholm in January 1982.

At that first meeting Tolba, Executive Director of UNEP,⁸⁰ provided an overview of the situation⁸¹

“We are meeting to lay the groundwork for a convention that some argue may not be needed, for we cannot say with certainty that the ozone layer is being depleted. However, all the most reliable scientific evidence points to the fact that the earth’s protective ozone layer has

been, is being, and, more importantly, will continue to be depleted by chlorofluorocarbons and other chemicals unless the international community takes preventive action. The urgent task of this meeting is to create a framework that will make that action effective.

“Less than a decade ago, the problem of ozone depletion caused by chlorine atoms penetrating the stratosphere was hardly known. Now, following substantial research and monitoring, we are aware of a potential pollution problem of a scale and consequence never before faced.

“The costs of continued chlorofluorocarbon pollution are not primarily ours to bear. If scientific observations over the next few years turn the theory of ozone depletion into unchallengeable fact, then the hazard of increased ultra-violet light exposure due to ozone depletion is a legacy we will pass on to future generations. Not only man but most other living things are susceptible to UV-B exposure. Nor is the problem one of limited area. Atmospheric transport ensures that the risk is distributed to all parts of the globe.

“If ozone depletion does reach levels where it becomes measurable and at the same time chlorofluorocarbon emissions remain at their present levels then, because of the stability of these chemicals in the troposphere, their imperviousness to degradation, their ability to remain in the atmosphere for long periods, the absence of any significant sink, there exists a certainty of a major accumulation of CFCs in the stratosphere. There, by catalytic action of chlorine atoms, photo-chemical dissociation of ozone molecules is predicted to occur. Such is the life time of these chemicals in the stratosphere that even if future releases of CFCs were stopped or severely limited today, ozone depletion would probably still continue well into the next century.

“We are dealing then with a problem that has yet to be proven conclusively. It is one that is out of sight, and one that could so easily be out of mind. The problem of ozone is not qualitative but quantitative. Uncontrolled release of chlorofluorocarbons other than CFCs 11 and 12 and of chemicals such as methyl chloroform and carbon tetrachloride, which may also affect the ozone layer, obscure the issue and limit our ability to predict with any confidence the future of the ozone layer.

And this problem is compounded by our imperfect understanding of latitudinal, seasonal and other natural variations.

“Although the possible consequences of ozone depletion will not be experienced until well into the future, perhaps beyond our own lifetimes, time is not on our side. We have to act now if we are to ensure that the more severe penalties from upsetting the ozone balance are never incurred. These may include consequences for agricultural production, fisheries and human health. Recent research shows that many terrestrial plants, including important crops such as wheat and rice, and aquatic organisms such as fish eggs and larvae, undergo damage when exposed to increased levels of UV-B. The link between exposure to solar UV-B and skin cancer is well established and there are indications that sunlight may also be a causative factor of malignant melanoma.”

If we look back at the speeches made by Executive Directors of UNEP over the last 40 years — and there have inevitably been quite a few of them — it is hard to find one that is more momentous or better-pitched than this opening address Tolba gave in January 1982 to the first meeting of the Working Group of Legal Experts charged with the task of preparing an Ozone Convention. That the speech was delivered in Stockholm was entirely appropriate, given UNEP’s umbilical link with that enchanting Baltic city.

The Working Group met three more times over the next three years, in Geneva and under the auspices of UNEP. Time was growing short. It was recognized that a Framework Convention was simply that. It needed to be followed swiftly by a protocol or protocols with real teeth. Better still, the protocol(s) should be adopted at the same time as the Convention itself, a plenipotentiary conference having been scheduled to be held in Vienna in March 1985.

In 1983 Sweden, Norway, and Finland presented a proposed draft annex, *Concerning Measures to Control, Limit and Reduce the Use and Emissions of fully Halogenated Chloro-fluorocarbons for the Protection of the Ozone Layer*.

The comments on the proposal by a number of nations⁸² showed how far apart they were on any agreement regarding controlling ozone-depleting substances.

The draft annex then underwent a number of revisions to make it more flexible and to meet the objections raised by several governments. But major differences among Western countries remained unresolved, and no protocol was in fact drawn up for the consideration of the Vienna plenipotentiary conference in March 1985.

If the prospects for solid progress on the ozone front looked dim in the run-up to the Vienna Conference, the situation would soon change dramatically. The work of the CCOL was to be thrust to the forefront of scientific and public attention following the discovery of the Antarctic ‘ozone hole’ by the British Antarctic Survey.

Joe Farman, who led the scientific team involved, recalled the event many years later.⁸³

“I’m Joe Farman. And my team is usually credited with having found the Antarctic ozone hole, back in 1985. The first scare about the ozone layer really started when the Americans wanted to build a supersonic transport, way back in the 1970s. And then two sets of two Americans, in fact, suddenly realised that chlorine — which was in rocket fuel and also which was in CFCs - chlorofluorocarbons — could be a danger to the ozone layer. And they issued a warning about it.

“The British Antarctic survey set up stations in Antarctica. And so we’d been monitoring very many things in Antarctica for a long while. And suddenly in 1985 it dawned on us that we were sitting on top of one of the biggest environmental discoveries of the decade, I suppose, or perhaps even of the century. We saw this little dip appearing, and then it just accelerated so rapidly that, within three or four years, we were talking about a 30 per cent change in the thickness of the ozone above us. Which was an enormous amount. We can be slightly proud of the fact. This was the first time that anyone had shown that ozone levels had changed since the measurements began, way back in 1926 or thereabouts, when Dobson made his original pioneering measurements.”

Less laconically, Usher has explained that, during each Southern hemisphere springtime, a unique set of meteorological conditions results in a local thinning of the ozone layer over Antarctica. What the British Antarctic Survey discovered was that the thinning was occurring in an unexpectedly rapid and extensive way that could only be described as catastrophic.

“Observers would graphically characterize the “hole” as the size of the United States and as deep as Mount Everest is tall!” So unbelievable were the spectrophotometer measurements that they were initially ascribed to faulty instrumentation. The US satellite-based measurements didn’t appear to show the trend identified by the land-based instruments. In fact, the satellite data *did* confirm the trend but the data had been automatically rejected as spurious since they were significantly much lower than historical observations.⁸⁴

Usher goes on: “The measurements were repeated and the awful truth was revealed. The ozone shield that protected life on Earth was disappearing and, we, with our aerosol sprays, discarded refrigerants, foaming agents, fire retardants and food preservatives were destroying a critically important part of the atmosphere. No longer was UNEP and its quaint programme a joke. A potential global catastrophe was probable and urgent international action was essential if it was to be avoided.”

The British Antarctic Survey’s research more than compensated for Britain’s initial reluctance to take the ozone issue as seriously as it deserved to be taken. The paper by J. C. Farman, B. G. Gardiner, and J. D. Shanklin, entitled “Large Losses of Total Ozone in Antarctica Reveal Seasonal ClO_x/NO_x Interaction” and published in *Nature* in May 1985, gave a vital additional impetus to the international negotiating process which would lead to the Vienna Convention for the Protection of the Ozone Layer, 1985, and, ultimately, to the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987.

In their book *‘Global Environmental Diplomacy’* Tolba and Rummel-Bulska describe how the news from the Antarctic (described above) ‘electrified the delegates’ at Vienna. Tolba writes: “Once again scientific findings had accelerated the negotiation process. The community of

nations had decided not to wait for incontrovertible proof of cause and effect, which could come too late to avert irreparable harm, but to take action against a future threat, in what is probably the first application of anticipatory and precautionary principles.”⁸⁵

In March 1985, the Vienna Convention for the Protection of the Ozone Layer was signed by over 20 nations as well as the European Commission of behalf of the European Community (now the European Union). Richard Benedick, one of the lead members of the US delegation that helped negotiate the convention, commented that signing the Vienna Convention “represented the first effort of the international community formally to deal with an environmental danger before it erupted.”⁸⁶ The convention created a general obligation for nations to take “appropriate measures” to protect the ozone layer (although it made no effort to define such measures).

It also established a mechanism for international cooperation in research, monitoring, and exchange of data on the state of the stratospheric ozone layer and on emissions and concentrations of CFCs and other relevant chemicals. These provisions were significant because, before Vienna, the Soviet Union and some other countries had declined to provide data on CFC production. Most important, the Vienna Convention established the framework for a future protocol to control ozone-modifying substances.⁸⁷

This last task — drawing up a protocol on ozone-depleting substances — was specifically assigned by the Vienna Conference to UNEP. UNEP Governing Council in turn delegated this task to its Executive Director, at the same time authorizing him “to convene a diplomatic conference, if possible in 1987, for the purpose of adopting such a protocol.” This was clear evidence of the sense of emergency that prevailed.

Once again, Usher, UNEP’s chief atmospheric scientist, picks up the story:

“There was a clamour for action and UNEP’s Governing Council decided that work should be accelerated towards the elaboration and adoption of a regulatory protocol to protect the ozone layer from

further damage and to begin the process of repair of the ozone layer, including the hole. A new round of working group meetings was held variously in Geneva and Vienna, to elaborate a protocol on substances that deplete the ozone layer. Not every country was comfortable with the rapid progress particularly within the European Union and in Japan, where major chemical industries had significant investments tied up in CFC production.

“For the first time since action had been taken to address the ozone depletion issue, a political dimension was introduced. At one of the expert meetings held in Vienna, the European Union’s chief delegate openly questioned the science, pointing out that model estimations of ozone depletion differed markedly, depending on which side of the Atlantic the modelling institutions were housed. The meeting ended in total disagreement and heightened tension. It was imperative that this seeming paradox was resolved.

“To the scientific experts present, it was clear that the EU was misrepresenting the situation but under the new rules they were powerless to intervene. There was immense cooperation among the modelling community and the models did not differ significantly in the way they behaved. What was different were the scenarios chosen as input data for the model runs. The scientists believed that, by using a common data set as input, there would be little variations in the computer-generated output. UNEP was asked by the concerned scientists to arrange for the development of a realistic set of scenarios that modellers on both sides of the Atlantic could use in a simultaneous exercise.

“There was hardly time to do so as negotiating meetings were scheduled to take place only weeks apart. However, a group of the most prominent modellers were attending an unrelated meeting in Wursberg, Germany and UNEP agreed to meet with them there. The meeting was called in such haste that arrangements for a meeting room failed to materialize, but undeterred, the scientists gathered in a hotel bedroom and opened communications with laboratories in the Universities of Cambridge, England and San Francisco in the USA.

“The conclusions from the two-day meeting were sobering. As expected, all the models running identical scenarios produced similar estimates of ozone depletion but, unexpectedly, they also showed that the situation was worse than previously estimated. The likely reduction in stratospheric ozone would be faster and more severe than even the previously most pessimistic estimate.

“The results were presented to the next session of the Convention working group. The EU delegation was silent and the process moved inexorably towards the goal of a Protocol on substances that deplete the ozone layer. It was perhaps the first and last time that an official United Nations meeting was convened in a bedroom with its working group occupying the attached bathroom!”

In 1986, UNEP held a workshop on CFC trends. This bad-tempered meeting defined the gulf that existed between the EU and the USA over the speed and range of controls believed necessary. It concluded with a near-diplomatic incident when the casually-dressed US delegation, with open-necked shirts on a warm Rome night, was turned away from a formal dinner given by the Italian President. A few months later, the US invited delegates to a meeting on control strategies in Leesburg, Virginia. Delegates were closeted in a remote Conference Retreat. Informality was insisted upon and neckties were forbidden! Evening barbecues and square-dancing further eroded national reservations and hard work resulted in constructive discussions and collective optimism.

This spirit of cooperation continued through meetings in The Hague, Paris, Brussels, Geneva and finally in Montreal.

One new element of the negotiations was the increasing interest of developing countries in the proceedings. When UNEP had written to countries to alert them of the risks to the ozone layer and to the impacts of its depletion, few developing countries expressed interest, with one African state declaring that, as they did not emit CFCs, their ozone layer was fine! In an effort to inform developing countries of the ozone layer issue, UNEP organized a scientific seminar for a selected number of developing country scientists.

This initiative enraged a number of developed countries who accused UNEP of attempting to manipulate the outcome of the Protocol negotiations. Usher commented: "Politics had wrested control from Science and one might speculate that if the influential Wurzburg meeting had been convened then, it would have been vetoed by the policy-makers and its conclusions discarded."

There is not space here to give a detailed account of all the negotiations which led up to the adoption in September 1987 of the Protocol on Substances that Deplete the Ozone Layer. Substantial narrative versions are available in Richard Benedick's book "Ozone Diplomacy" as well as in Mostafa Tolba and Iwona Rummel-Bulska's book, *Global Environmental Diplomacy*.⁸⁸ Right up to the last minute substantial differences remained between the European and American delegations, as regards the measures to be taken and the timing of those measures, including cuts in, or caps on, the production of CFCs and other ozone-depleting substances.

The plenipotentiary conference itself took place from September 14 to 16, preceded by five days of preparation by the working groups. More than sixty governments would attend, mostly at the ministerial level, of which more than thirty were of developing nations. Industry, NGOs, and the international media were also to attend, and yet there was still no protocol.

Tolba/Rummel-Bulska write: "As the plenipotentiary meeting was about to open, Tolba agreed with Lang,⁸⁹ the conference chairman, on a strategy. Each would make an opening statement and immediately, before the ministers and heads of delegations could establish positions they might find it hard later to abandon, the chairman would adjourn the meeting. This was done, and there was a long hiatus, the ministers occupying themselves as best they could in the corridors of the meeting hall while behind closed doors the informal consultations continued at fever pitch.

"As time went by, it became very embarrassing that nothing was emerging, even though in fact three of the issues had by the afternoon of the second day been resolved: control measures, new installations,

and entry into force. The main problem, the special treatment of the EC, seemed insoluble. At last Richard Benedick and Laurens Jan Brinkhorst,⁹⁰ the Director-General of Environment of the EC, reached an acceptable compromise, which required Brinkhorst to obtain agreement from the 12 EC countries.

"This was at 4.00 in the afternoon of September 15, and the ministers were leaving the hall to prepare for an evening reception given by the mayor of Montreal. Brinkhorst met with strong resistance from some of the representatives, and three had to be called by their governments and instructed to join the consensus. At 5.00 the language was agreed on. The small informal group was hurriedly reconvened and accepted all the negotiated texts. When Tolba and Rummel-Bulska appeared at the reception and announced that they had a treaty, they were met with general amazed disbelief."

Briefly, the control measures issue was resolved by a compromise that would reduce production and consumption of all five CFC types by 50 percent by 1999, using 1986 as the base year. There were a number of small adjustments to be made, and language was found to meet the situation of the USSR by allowing new installations to produce CFCs if they had been approved in national legislation before January 1, 1987, and if they were completed before December 31, 1990. On the matter of entry into force, the aim was to assure that at the time the protocol went into force, the major producers would be signatories. At least two-thirds of the global consumption of the substances would be by parties to the protocol before it entered into force. This ensured the membership of the United States, Japan, the EC, and the Soviet Union, as well as some smaller consumers.

Tolba commented:

"The feeling of triumph was general. This was the first truly global environmental treaty, and moreover it dealt with an issue still shrouded in scientific uncertainties, one that posed a threat, not immediately, but in the future, one that potentially affected everyone on earth today and far into the future. It was a monument of collective action, a masterpiece of compromise.

It had the advantages of ease of implementation, flexibility due to its mechanism permitting adjustments to meet scientific, technological, and socioeconomic changes, and the clearly applied principle of common but differentiated responsibility. It was also the first treaty to set for itself, subject to conditions, a date for its own entry into force: 1 January 1989, barely 15 months after the treaty had been signed. There would follow a number of meetings to finalize its details, but the date — 16 September 1987 — went down as a landmark in the history of international negotiation.”

As noted above, the provisions required a phase out of the principal ozone destroying chemicals. Production and consumption of all five CFC types should be reduced by 50 per cent by 1999, using 1986 as the base year. Most importantly, the Protocol left room for a further tightening of regulations should circumstances demand.

The agreement also provided for the control of trade with non-parties, thus providing an incentive for countries to participate. This was of crucial importance and, as far as environmental treaties were concerned, highly innovative in that the ‘trade with non-parties’ provisions were deliberately designed to be discriminatory.

Six months after the Protocol was signed a major report was released by the NASA-NOAA Ozone Trends Panel, demonstrating conclusively that human activities were causing atmospheric concentrations of chlorine to increase around the world. Even more disturbing was the finding that from 1969 to 1986, a small but significant depletion of the ozone layer, amounting to 1.7 to 3.0 per cent depending on latitude, had already occurred over heavily populated regions of the Northern Hemisphere including North America, Europe, the Soviet Union, China, and Japan. It wasn’t just a question of a few sheep in Patagonia and Tierra del Fuego being exposed to UV radiation!

The announcement made headlines around the world. In response the four assessment panels called for by the Protocol were convened early by the UNEP leadership, even though they had yet to be authorized by the First Conference of the Parties. This unconventional proceeding would later be endorsed by the parties, who agreed that action was

urgent in the face of the new scientific evidence. The governments of the United States, the Netherlands, Germany, and the EC covered the cost of the panels, which consisted of some 600 high-level scientists, economists, biologists, medical scientists, engineers, and others, from all corners of the world. Working long days, often into the night, their foremost conclusion was that control measures had to be tightened. The Protocol articles covering finance and technology transfer were more difficult, and informal consultations were again resorted to. Media pressure for more concrete action was intense.

Two months after entry into force of the Protocol, and only a month before its contracting parties were to meet in Helsinki, British Prime Minister Margaret Thatcher convened an international ozone conference in London, in March 1989. By this time the British had swung round completely from their original skeptical position, and wanted to strengthen the targets for getting rid of ozone-depleting chemicals.

Although this appeared to many to be a preemption of the Helsinki First Conference of the Parties (scheduled for April-May 1989), it turned out to be very helpful. More than 120 governments participated in the London meeting, more than two-thirds of them at the ministerial level, a far cry from the meagre two dozen governments represented at the start of negotiations and the sixty in Montreal. More than 90 environmental organizations, as well as media from all over the world were there, all calling for a stern approach to the problem.

Several countries announced in London that they would ratify the Protocol; developing countries reiterated their demand for assurances that financial resources and technology transfer would be forthcoming. Tolba, who also attended the London conference, stressed that “as the industrialized nations begin to address the interlinked threats from ozone depletion and climate change, the developing nations [must be] assisted and not inhibited in improving their economies. ... There is a need for international mechanisms to compensate them for forgoing the use of CFCs. ...”

The treaty could not legally be amended at the first Meeting of the Parties convened in Helsinki in April-May 1989 but a political agreement

was reached by the parties to strengthen international controls together with a detailed process for accomplishing this within the coming year.⁹¹

The Meeting of the Parties was attended, mostly at the Ministerial level, by 54 parties and 44 non-parties. All the delegations were headed by ministers of environment except for that of France, led by the minister of foreign affairs. Thirty-four industrial groups and 14 environmental groups were represented. By the end of the meeting, Governments had agreed to phase out CFCs by the end of the century and to include a series of other chemicals in the list of controlled substances.

They agreed to establish a special fund to help developing countries comply with the Protocol and devised rules for contributions by industrialized countries as well as a management plan. Language was found to provide developing countries a grace period for coming into compliance and to allow the transfer of alternative chemicals and technologies.

The second meeting of the parties to the Vienna Convention and Montreal Protocol was held in London in June 1990. Chris Patten,⁹² Secretary of State in the United Kingdom's Department of Environment, was elected president of the meeting. One of the main issues before the meeting was the proposal to establish the 'financial mechanism'.

These amendments to the Montreal Protocol required ratification, and ratification requires time. So that valuable time would not be lost, the parties agreed by a simple decision to establish an interim fund of \$240 million for 1990-1993.

At the time this was decided, China and India had not become parties to the Protocol; these financial incentives led China to join in 1991 and India to follow soon after. The Canadian Minister of Environment, Robert de Cortet, offered Montreal as the seat for the new fund, beginning with the interim fund, at no cost. The offer was accepted and the offices established on 1 January 1991.

Tolba opened the meeting with another passionate, authoritative, address.

"What we must agree upon is the establishment of a financial mechanism including a properly financed multilateral fund, one designed specifically to meet the incremental costs imposed on developing nations when complying with the provisions of a current and strengthened protocol. What remains is the last step. It is your responsibility to cover it. It may be difficult — but it must be covered.

"A successful outcome will demonstrate to a skeptical audience worldwide that the nations of the industrialized North are serious about tackling the inequity in the global economy which is the underlying reason why our human environment is being destroyed.

"Any setback here in London would amount to a setback for a whole movement to save the environment, a setback from which the world will never recover. I am sure we all bear this in mind as we get down to the task at hand."

This question of the Fund for the Montreal Protocol involved more than just money. There was also the issue of location. As we shall see,⁹³ the arrival on the scene of the Global Environmental Facility (GEF) had transformed the institutional landscape. At the time of the London meeting, two important conventions were being drawn up, one of biodiversity and the other on climate change. Unlike earlier multilateral environmental agreements (MEAs) such as CITES, it was envisaged that both conventions would contain financial mechanisms. Basically, the developing countries had quite simply laid down the law on this point. If you want to slap a new treaty on us, they said (sometimes in so many words) with all the trouble and expense that this will entail for us, then please be so good as to provide the funds to help us with the implementation.

UNEP wanted to convert the Montreal Fund, still an interim fund at that point, into an established fund under the Vienna Convention and the Montreal Protocol. France and the United Kingdom wanted to integrate it into the GEF.

Before the Copenhagen meeting, Tolba paid an official visit to France, meeting with representatives of the ministries of environment, foreign

affairs and finance. He pointed out that if the permanent fund were not established developing countries might disengage from the Montreal Protocol.

With the benefit of hindsight, do events bear out the claim that negotiating the Vienna Convention and the Montreal Protocol with its associated Multilateral Fund, is one of UNEP's greatest successes? The evidence so far seems to justify such an assertion.

Article 6 of the Montreal Protocol provides that, beginning in 1990 and at least every four years thereafter, the Parties shall 'assess the control measures' on the basis of available scientific, environmental, technical and economic information.

In December 1991, the Report of the Technology and Economic Assessment Panel, established under the provisions of the Protocol,⁹⁴ found that total CFC production had been cut by 40 per cent between 1986 and 1991 with maximum reduction (70%) in the production of CFC114. Production of Halon 1211 and Halon 1301 had peaked in 1988 and was now declining.

Production of Halon 2402 had virtually ceased in OECD countries. Several manufacturers were moving faster than the most stringent regulations. By January 1992, halon and CFC recycling would be accepted world-wide. The first HFC-134a automobile air conditioners and domestic refrigerators would also be commercialized. Discharge testing of halon had virtually been eliminated in training and servicing equipment.

The total market for CFCs had declined between 1986 and 1992 by 40 per cent. Major declines were in propellants (58%), cleaning agents (41%), phenolic blowing agents (65%) and extruded polystyrene sheets (90%).

The Panel found that in developed countries it was technically feasible to phase-out all consumption of CFCs and halons by 1995-97; 1,1,1-trichloroethane by 1995 or 2000 at the latest and carbon tetrachloride by 1997. These dates were based on completion of toxicity tests on the transitional substances.

In developing countries the same phase-out schedules were technically and economically feasible in many applications. More time might be needed for some applications (5-8 years). Financial assistance and training would be needed.

The Panel reported that: "the phase-out schedule of the amended Montreal Protocol, if fully complied by all nations and if there are no continued uses of HCFCs, afforded the opportunity to return to stratospheric chlorine abundances of 2 ppbv⁹⁵ sometime between the middle and the end of the next century. This is the level at which the Antarctic ozone hole appeared in the late 1970s and hence is about the level that is thought to be necessary (other conditions assumed constant, including bromine loading) to eliminate the ozone hole."

The Panel commented: "Such levels could never have been reached under the provisions of the original 1987 Protocol." One reason for the success of the Montreal Protocol has been the willingness of governments to contribute to the Montreal Protocol's Multilateral Fund. According to Maria Ivanova, Co-Director of the Center for Governance and Sustainability at the University of Massachusetts, Boston:

"The Montreal Protocol is considered one of the most successful international environmental treaties and has the largest trust fund within UNEP. The significant financial resources devoted to the treaty can be seen both as a reason for and an indicator of the treaty's effectiveness. From 1988 to 2009, governments have invested \$2.5 billion in the Montreal Protocol."

Ivanova points out that this amount is equivalent to the combined total of contributions to UNEP's Environment Fund and earmarked contributions to UNEP during that period.

"Such large, sustained investment" she comments "could be the main reason for the success of the Montreal Protocol. The magnitude and consistency of investment, however, can also be construed to indicate that governments are willing to contribute because the Montreal Protocol has delivered results. In reality, these two dynamics reinforce

each other. Significant initial investment was critical to the fund's success and the initial success stimulated sustained investment."⁹⁶

What are the current prospects for the ozone layer now that the Montreal Protocol has celebrated (in September 2012) its 25th anniversary?

After its 2010 assessment, the Scientific Assessment Panel concluded that: "As a result of the Montreal Protocol, the overall abundance of ozone-depleting substances (ODSs) in the atmosphere has been decreasing for about a decade. If the nations of the world continue to comply with the provisions of the Montreal Protocol, the decrease will continue throughout the 21st Century. Those gases that are still increasing in the atmosphere, such as halon-1301 and HCFC-22, will begin to decrease in the coming decades if compliance with the Protocol continues. Only after mid century will the effective abundance of ODSs fall to values that were present before the Antarctic ozone hole was observed in the early 1980s."⁹⁷

Substantial recovery of the ozone layer from the effects of ozone-depleting substances (ODSs) is expected near the middle of the 21st century, assuming global compliance with the Montreal Protocol. Recovery will occur as ODSs and reactive halogen gases in the stratosphere decrease in the coming decades. In addition to responding to ODSs, future ozone amounts will increasingly be influenced by expected changes in climate. The resulting changes in stratospheric ozone will depend strongly on the geographic region. During the long recovery period, large volcanic eruptions could temporarily reduce global ozone amounts for several years.

Does this mean that the battle is won? Obviously not. Substances and products that are banned have to stay banned. Constant vigilance must be exercised at national and international level to ensure that production and trade in those substances and products does not resume. The meeting on environmental crime hosted by UNEP and Interpol from 27-29 March 2012 demonstrated the extent of unlawful activities across a wide spectrum, from wildlife poaching to illegal logging and international transfers of toxic waste.⁹⁸

Perhaps more importantly, increasing attention is being focussed on the links between ozone depletion efforts and other aspects of climate change as it becomes apparent that success in achieving reductions in ozone depleting substances may, unfortunately, lead to an increased emission of substances with global warming potential (GWP).

The Panel in its 2010 Assessment pointed out that: "All halocarbons have non-zero GWPs and, therefore, contribute to climate forcing. The GWP does not correspond strongly with the ODP of a gas because these quantities depend on different chemical and physical properties. For example, while HFC-134a does not destroy ozone (ODP equal 0), each gram emitted is 1,370 times more effective than a gram of carbon dioxide in causing climate forcing. The future selection of specific HFCs as ODS substitutes or for use in new global applications will have important consequences for climate forcing. When these HFCs are eventually released to the atmosphere, the contribution to climate forcing will depend on their GWPs, which could vary over a wide range (4 to 14,000)."

The Panel continued: "Montreal Protocol regulations have led to reductions in CFC emissions and increases in HCFC emissions. As a result of these actions, the total radiative forcing from ODSs is slowly decreasing. Overall halocarbon radiative forcing, however, is slowly increasing because of growing contributions from HFCs, PFCs, and SF6."

Indeed a recent report by UNEP notes that if the levels of HFCs rise as they replace chemicals for say refrigeration or fire-fighting systems — HFCs being very friendly to the ozone layer but in many cases being powerful greenhouse gases in their own right — they could by 2050 be responsible for emissions equivalent to 3.5 to 8.8 Gigatonnes (Gt) of carbon dioxide which is comparable to total current annual emissions from transport.

In other words, while the ozone problem may be licked — although any foot off the pedal could bring the issue back with a vengeance — there is now the risk that we may well be adding to the global warming problem. There are clearly new and important challenges for the Montreal Protocol to address as far as these replacement substances are concerned, if only because of the link between such chemicals and climate change.

The chief threat to the polar bear is the loss of its sea ice habitat due to global warming.





Top Left to Right: British Antarctic Survey station; Joe Farman; Prof 'Sherry' Rowland and Mario Molina.



A powerful tornado destroying property.



7

CLIMATE CHANGE LAUNCHING THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE (IPCC)

Barbara Ward, who with René Dubos wrote the scene-setting book *“Only One Earth”* for the Stockholm Conference, was not herself a scientist. But she was a brilliant synthesizer and a fine writer. As Professor Bert Bolin, the first Chairman of the Intergovernmental Panel on Climate Change (IPCC), makes clear in his book: *A History of the Science and Politics of Climate Change*,⁹⁹ global research initiatives in meteorology and climatology had been intensifying over the decade prior to the Stockholm Conference, but Ms. Ward’s book, together with other documents such as the SMIC¹⁰⁰ report, certainly helped to place the climate change item on the agenda of the first UN Conference on the Human Environment, June 1972.

Ms. Ward wrote:¹⁰¹

“There is evidence to suggest that, over the last decade, the release of CO₂ into the atmosphere as a result of man’s burning fossil fuels has

been increasing by 0.2 per cent a year. We simply do not know where all the carbon dioxide produced in the biosphere year by year actually goes. Perhaps half is absorbed in the oceans and the metabolism of plants. But the increasing concentration in the air means that, at present rates of use, the earth’s temperature could rise by 0.5°C by the year 2000.

“But present rates may well increase. Excessive deforestation can reduce the rate of natural removal of CO₂ from the atmosphere through the action of leaves. At the same time ever greater amounts are being pumped into the atmosphere as industrialization goes forward; the energy demands of developed societies are still rising sharply. Projections of power demands in the developing world suggest even more precipitous increases. What would be the consequences of multiplying energy consumption in the developing nations to the levels obtaining in technological societies?

“We do not have to postulate the fantasy of three and a half billion cars on the planet to begin to wonder whether the sum of all likely fossil fuel demands in the early decades of the next century might not greatly increase the emission of CO₂ into the atmosphere and by doing so bring up average surface temperature uncomfortably close to that rise of 2°C which might set in motion the long-term warming-up of the planet.”

The Stockholm Conference, in turn, rose to the challenge. In spite of the fact that there was little or no public outcry in Stockholm in June 1972 demanding ‘action on global warming’ (though there was plenty of noise in the streets about other issues, such as whaling and the use of Agent Orange in Vietnam), the Conference adopted a useful, even far-reaching, conclusion. It recommended, under paragraph 79 (d) of the Stockholm Action Plan:

“That the World Meteorological Organization, in cooperation with the International Council of Scientific Unions (ICSU), continue to carry out the Global Atmospheric Research Programme (GARP), and if necessary establish new programmes to understand better the general circulation of the atmosphere and the causes of climatic changes whether these causes are natural or the result of man’s activities.”

The first World Climate Conference was held in 1979, under WMO auspices. The World Climate Programme, established by WMO following that conference, had four components, on research, data, applications and impacts, which were to be implemented by WMO, the International Council of Scientific Unions (ICSU) and UNEP with UNEP being responsible for World Climate Impact Studies Programme (WCIP). This last was later expanded into the World Climate Impacts and Response Strategies Programme (WCIRP). To guide the implementation of the programme, a Scientific Advisory Committee (SAC) made up of a dozen climate experts acting in their personal capacity was appointed.

Peter Usher,¹⁰² UNEP’s atmospheric scientist, writes:¹⁰³

“The most important project approved by SAC for inclusion in the WCIP was the commissioning of an assessment of the greenhouse effect, climatic change and ecosystems. It was, in effect, the first international

assessment of future climate change. The work was carried out by the Stockholm Environmental Institute under the direction of Professor Bert Bolin with the assistance of Bo Doos, the first Director of the WMO World Climate Programme. There had been earlier national assessments, particularly in the United States, but this was the first time the issue was addressed on the global stage. The venue chosen for the Conference was Villach, Austria, with Bolin’s research programme providing the basis for discussion.

“Several preliminary meetings took place at the same venue between 1980 and 1983 and the “UNEP/WMO/ICSU International Conference on the Assessment of the Role of Carbon Dioxide and other Greenhouse Gases in Climate Variations and Associated Impacts”, which was held in October 1985, is remembered as Villach3. The Conference’s conclusions stated: “... it is now believed that in the first half of the next century a rise of global mean temperature could occur which is greater than any in man’s history.” The statement urged accelerated research and further assessment and suggested, rather tentatively, that the world community should, - “initiate, if deemed necessary, consideration of a global convention”. The Vienna Convention¹⁰⁴ had, of course, been adopted seven months earlier.

“Interest in climate change was growing and several new international conferences were in the planning stage, most being organized in conjunction with UNEP. The grandest — in June 1988 — was the “Toronto Conference on the Changing Atmosphere”, opened by Canadian Prime Minister Brian Mulroney. This meeting was the first to urge formally the elaboration of a climate convention. At that time, Canada’s climate credentials were impeccable and it had earned considerable respect for its hosting, a year earlier, of the Montreal Protocol. Canada was anxious to ensure a strong statement of international intent to address the issue and to point a clear path to future action.

“The final Conference Statement considered the potential impact of climate change to be second only to that of thermo-nuclear war, a hyperbole that had originally been generated at one of the Villach meetings. If the Toronto Conference was seminal in promoting the

climate change agenda, it was only one of many UNEP-sponsored conferences, including those in Holland (attended by Queen Beatrix), in Geneva and in Cairo as well as the three Villach meetings that attempted to clarify the issue and alert Governments and people to a potential and possibly very dangerous problem.

“The Toronto Conference did advocate an international assessment process and immediately after the conference, while still in Toronto, Bolin, Goodman, and representatives from WMO, UNEP and ICSU, proposed an Advisory Group on Greenhouse Gases (AGGG) composed of internationally recognized experts who would meet and review ongoing activities and research results relating to climate change. This initiative panicked Governments who were concerned that they would lose control of the assessment process. UNEP and WMO were asked to disband the AGGG and create a formal international assessment process that would be intergovernmental in character. A small meeting of United Nations bodies and invited Government representatives was held in Geneva. It proposed the Intergovernmental Panel on Climate Change (IPCC) process and drafted its terms of reference which were subsequently endorsed by the governing bodies of WMO and UNEP.”

Professor Bolin has published his own recollections of these important events.

“After the completion of the first international assessment in 1980 I felt that it was essential that the next assessment should be more truly international and that it should go beyond an analysis of the physical aspects of climate change that had dominated the efforts so far.. Would WMO and UNEP then support such a more penetrating analysis because of their earlier interest in the subject? In fact, on the train ride from Villach across the Alps in 1980, a group of the participants and representatives of WMO and UNEP informally discussed the possibility of doing something more substantial and I expressed the view that an analysis that was wider in scope, greater in depth and more international was most desirable.¹⁰⁵

“In June 1982, Mr. Mostafa Tolba, the executive director of UNEP, was in Stockholm, invited by his friend Göte Svensson, a former under-

secretary in the Ministry of Environment and one of the key individuals who had organised the UN Conference on the environment in Stockholm in 1972. It was Midsummer Day and I was invited by Mr. Tolba to his hotel for discussions of a UNEP project to carry out a more extensive assessment of the climate change issue. Mr. Tolba, a former professor of biology at Cairo University, was anxious that emphasis should not only be on the physical aspects of climate but that attention should be drawn to the role of the global ecosystems. Presumably the support for such an effort from within UNEP was also going to be stronger, being more in harmony with its prime tasks.

“It would also mean less reliance on WMO participation in this undertaking that might well have been an important aspect in the internal struggle between UN agencies.”

Professor Bolin was invited by Tolba to become the Chairman of the Intergovernmental Panel on Climate Change. The Panel held its first meeting in Geneva in November 1988. Bolin commented: “Only 28 countries responded to the call for the meeting in Geneva in November 1988 in order to form a panel on climate change. Only 11 of these were developing countries, but Brazil, China, Mexico, India and Nigeria attended, as well as key industrialised countries. The climate issue was still not high on the political agenda.”

If the climate issue was still not high on the political agenda in November 1988, it had certainly moved a notch or two further up the ladder of global concerns when the IPCC published its first assessment report less than two years later.

The Second World Climate Conference was held in the International Conference Centre, Geneva, Switzerland, between October 29th and November 7, 1990. Though the first World Climate Conference, in 1979, had been a largely scientific event, its successor had been ‘upgraded’ to take into account the increasingly political dimension of climate change. The first part of the conference consisted of ‘Scientific and Technical Sessions’. These were to be followed by “Ministerial Sessions” and the adoption of a “Ministerial Declaration.”

The first of a series of opening addresses was given by Professor G.O.P. Obasi, Secretary General of the World Meteorological Organization (WMO). This was obviously both right and proper. For the last 40 years, WMO had been the UN body principally concerned with meteorological and climate issues and it was to WMO that Stockholm's Recommendation 79(d) had been mainly addressed.

The first World Climate Conference, held in 1979, Professor Obasi told his audience, had heralded the beginning of the World Climate Programme (WCP). WMO had provided overall international coordination for the WCP, with the International Council of Scientific Unions (ICSU) sharing with WMO the responsibility for the research component. He also saluted the support WMO had received from its partners in hydrological and oceanographic matters, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and its Intergovernmental Oceanographic Commission (IOC), as well as the United Nations Food and Agriculture Organization (FAO), with which WMO had for many years had joint projects in agriculture and forest meteorology.

Obasi pointed out that UNEP was responsible for the impact studies aspects of the WCP and that co-operation had developed and matured through the formation in November 1988 of the Intergovernmental Panel on Climate Change by WMO and UNEP.

Obasi did not know at the time he gave this speech that in 2007, 19 years later, the IPCC would be awarded the Nobel Peace Prize, jointly with former US Vice-President Albert Arthur Gore, "for their efforts to build up and disseminate greater knowledge about man-made climate change, and to lay the foundations for the measures that are needed to counteract such change." By the end of October 1990 Obasi knew enough to say: "We are understandably proud of the achievements of this jointly-supported body."

In truth, for an initiative that was barely two years old, the IPCC had made a remarkable impact on the international stage. Established, as Professor Obasi had recalled, by the World Meteorological Organization (WMO) and the United Nations Environment Programme (UNEP) as an effort by the United Nations to provide the governments of the world

with a clear scientific view of what is happening to the world's climate, IPCC's first important task was to prepare a comprehensive review and recommendations with respect to the state of knowledge of the science of climate change; social and economic impact of climate change, possible response strategies and elements for inclusion in a possible future international convention on climate.¹⁰⁶

The first meeting of the IPCC had been held in Geneva in November 1988. Since then, as Obasi pointed out, more than 1,000 specialists from 70 countries had participated in IPCC's work. The date for the holding of the Second World Climate Conference had indeed been put back so that it could take advantage of IPCC first Assessment Report.

Obasi was clear about the next stage of the work:

"As we can note, the co-operative efforts in the WCP, the IPCC, and this Conference demonstrate the positive work among agencies and countries on climate. This has been truly remarkable; indeed, it could be considered a model for other global activities.

"There will be a need to call on further collaboration as we now move into a new phase regarding the issue of climate change as influenced by man's activities. Many Heads of State or Governments and Ministers will, early next week, be advising us of their countries' views and their commitments to concerted international action concerning climate change. ...WMO and UNEP, under instructions from the UN General Assembly and our respective governing bodies, have made preparations for the opening of more formal negotiations of a global framework convention on climate change.

"Indeed, the preparatory meeting for the development of a framework convention on climate change was held here last month. Negotiations will begin in Washington on 4 February 1991, at the invitation of the Government of the United States of America. They will be based on the best scientific knowledge we now have, produced by the WCP and summarized by the IPCC. The Second World Climate Conference can also significantly influence the coming negotiations. The UNEP Executive Director, Tolba, and I shall be reporting to the UN General Assembly by

the middle of next month on the outcome of your discussions and of those of the Ministerial component.”

When it was Tolba’s turn to speak (his address to the Conference was scheduled immediately after Obasi’s), he exuded confidence. This was a man who had overseen that crucial tightening of the terms of the Montreal Protocol at the London meeting just a few months earlier (June 1990) and whose decision (with Professor Obasi) to set up the IPCC had provided the vital reports for the present gathering. He had good reason to sound confident.

“We all know that the world faces a threat potentially more catastrophic than any other threat in human history: climate change and global warming. The scale of this threat may only recently have begun to filter into the public domain, but it has been at the forefront of concern for the international scientific community for more than a decade. It was articulated at the First World Climate Conference in 1979.

“Despite limited resources, the World Climate Programme — adopted at that conference — has become one of two global authoritative programmes on climate and climate change, the other being the International Geosphere-Biosphere Programme (IGBP). In the past decade, these two programmes have underpinned the whole process of research into climate and its impacts.

“During the next six days, you will review this research. And there will be discussion on reports from the Intergovernmental Panel on Climate Change (IPCC). In the light of all this you will chart the agenda for the World Climate Programme during the next 10 years.

“Much has been clarified since the First World Climate Conference in our understanding of climate and climate change. There is no longer any doubt that increasing emissions of greenhouse gases will spark a rise in global temperature of a greater scale and speed than any change experienced in the past tens of thousands of years. The available evidence suggests that global warming may already have begun. The resulting climate change may in many cases be catastrophic. Scientific studies indicate that a global temperature rise of up to three degrees

Celsius and the ensuing climate change expected by the end of the next century may well be conservative.

“Of course we all know that predictions of future temperature rise and likely climate change are based on current computer models, which cannot take account of many of the interactions within the complex network of systems that make up the dynamics of our planet. Nor can the models quantify the reactions of many planetary systems to increasingly high temperatures. But the IPCC Science Working Group indicates that these various feedback mechanisms are likely to magnify the overall warming and the severity of the impacts of climate change.

“Working Group 1 further warns that, based on past records, it is at least possible that the coming climate change may occur in abrupt, drastic shifts rather than in a gradual and relatively comfortable manner.

“But the IPCC correctly emphasises the urgent need for major collaborative research efforts to fill in gaps, particularly in the areas of oceans, clouds and regional impacts, and the equally urgent need for extensively improving monitoring and assessments. This naturally includes the collection and analysis of data. All of this is the stronghold of WMO, UNESCO and ICSU. The IGBP is about to take off to fill a number of these gaps over the next ten years. And the programme you will agree here should be designed to fill as many of these gaps as is humanly possible within the shortest possible time.

“Similar gaps need to be filled in the area of impacts of climate change. FAO and UNEP have to take a leading role in filling these gaps. They are not alone in this. Several other UN agencies should chip in as well. But let me make myself clear on all these points. International organizations within and outside the UN system do not normally run research centres. The research institutions are yours. They belong to your countries. We assist you in defining the global programme and in implementing it. We do not define programmes for you nor do we implement them for you.

“Yes, there are gaps in our knowledge and some of them are large gaps. But what we know now is more than enough to act, and to act fast.

“The sum of research into the science and impacts of climate change makes it clear that nothing less than dramatic reductions in emissions of greenhouse gases will stop the inexorable warming of the planet. Nothing short of action which affects every individual on this planet can forestall global catastrophe. Nothing less than a complete change in attitudes and lifestyles will succeed.”

Tolba then picked up Obasi’s point about UNEP (and WMO’s) role in negotiating a climate convention.

“Preparations for intergovernmental negotiations of a global convention and related legal instruments to deal with the problem of climate change are now under way. The forty-fifth session of the United Nations General Assembly will consider, two weeks from now ways, means and modalities for further pursuing these negotiations.

“The aim is to reach agreement on the convention as rapidly as possible. Our target date is 1992 in Brazil at the time of the United Nations Conference on Environment and Development. However, two main criteria should govern that process:

- That the convention does not cause distress to developing countries. These nations will need time, additional financial resources and the transfer of the required technologies to prepare for the changes they must make if they are to play their part in reducing greenhouse gas emissions, and;
- That rapid action in developing the convention should not come at the expense of its content. We need a convention with clout, a convention with clear-cut commitments.”

Negotiating a convention was, of course, not the end of the story. As had been the case with CFCs and ozone depletion, unilateral action can often drive multilateral agreements. Whereas in the case of the ozone negotiations the EC could be reasonably accused of a certain amount of foot-dragging, on the climate issue the EC countries (some more than others) were anxious to take the lead.

The European Community¹⁰⁷ (as it then was) had, for example, agreed that autumn (1990) to stabilize Community CO₂ emission levels at 1990 levels by 2000.¹⁰⁸

Tolba continued:

“We cannot wait for the international community to agree on a convention on climate change before we act. The need for immediate action is becoming increasingly pressing. The longer we delay, the worse the disaster will be for our children, and for our children’s children.

“Individual industrialized nations must act now to reduce their emissions of greenhouse gases, and to help the developing world begin to prepare itself to do the same in the foreseeable future. We should not wait until Rio de Janeiro to initiate action. Rather, at Rio de Janeiro there must be reporting of successful corrective action and, in the light of that, commitments to do more, much more.

“Progress towards curbing emissions would be more rapid if nations shared expertise and knowledge. And it would be more rapid if there were fewer gaps in our knowledge of science and impacts of climate change. This is where your work over the next few days really matters.

“Curbing greenhouse gas emissions will cost vast sums, and will demand great changes in economic, legal and institutional systems. Your Second World Climate Programme, especially its applications and impacts components, should address at least some of these issues — the cost of action, and the cost of inaction with respect to these changes, the impacts of these changes on the various sectors of economic activity and their impacts on international economic relations and co-operation.”

Tolba now moved towards his peroration. To those who heard him, it was clear that he believed UNEP’s experience in negotiating the ozone treaty and protocol had put it in pole position to do the same as far as climate change was concerned.

Obasi himself in his own speech had indicated that “WMO and UNEP have been requested to prepare for the process leading to a global

framework convention on climate change.” Tolba clearly believed that the two agencies would indeed assume this responsibility and that they would discharge their mandate successfully.

“There is room for hope that such changes can be achieved. In agreeing on the Montreal Protocol, the international community showed it could reach consensus on difficult actions if the threat were great enough.

“Negotiations for the Montreal Protocol began with fewer facts to back up the possibility of environmental disaster than we now know about global warming. The protocol was signed three years ago without full proof that ozone destruction was a reality, and with little evidence that substitute chemicals and technologies could become available for the broad range of applications in which chlorofluorocarbons seemed so essential.

“I am fully aware that to reach consensus on action needed to halt climate change, minimize its impacts and adapt to it will be infinitely more difficult than dealing with ozone depletion. But I am also aware that you, the scientists, have indicated in an unambiguous way that the threat is great enough, that you have enough evidence on hand that cannot be ignored and that makes immediate action completely justifiable.

“Of course there are still uncertainties about certain aspects of the science, and some impacts of climate change. Thus you, the scientists, are the lynch-pin in the continuing process of action in the face of this threat.

“If policy-makers are to be able to react effectively to this expanding threat, they will need information that is clear, that is accurate, and that is supplied as rapidly as possible. Already, the near-impossible has been achieved by the IPCC, in collating the present knowledge about such a broad-ranging and complex subject within a very short time-frame.

“The world now depends on you to continue this work: all of you, and your fellow scientists outside this hall, in every corner of the globe. Your work under a revised World Climate Programme, under the IGBP and by the IPCC, will feed into the forthcoming negotiations and give a solid basis to urgently needed government action.

“Your deliberations are crucial to saving our Earth, to saving humanity. It is a tough responsibility. But as a scientist, as one of you, I am confident you will carry it out with distinction.”

Professor Obazi of WMO and UNEP’s Tolba were just the start of that morning’s line-up of celebrity speakers. And these lustrous personalities were not there for display purposes only. If any issue needed and deserved a collective approach by all concerned agencies and sectors of society, climate change was that issue.

Federico Mayor, the Director-General of UNESCO, reminded the Conference that a subject of major concern to UNESCO, through its Intergovernmental Oceanographic Commission (IOC), was the role of the ocean in the climate system.

“The ocean plays a role in the climate system which is complementary to that of the atmosphere and of comparable importance. The ocean stores heat and releases it later, usually in a different place, and it transports heat in amounts comparable with atmospheric transport. The ocean absorbs and releases carbon dioxide. It has a long memory; the water now reaching the surface of the ocean from its depths last felt the breath of the atmosphere about 800 years ago — at about the time the ‘little ice-age’ began! The water-vapour content of the atmosphere to a very large extent originates from the ocean — and water vapour of course is a most important ‘greenhouse gas’. The climate system cannot be adequately understood, modelled, and predicted without taking the role of the ocean properly into account, as has also been pointed out by the IPCC. Many of the most severe potential impacts of climate change are also transmitted through the ocean, by the effects of sea-level and temperature rises on coastal zones and areas and small islands.”

But the highlight of the day, undoubtedly, was the presentation by Professor Bert Bolin, the Chairman of the IPCC, of IPCC’s First Assessment Report. This was why the tiered seats in the hall were packed to overflowing and why busy ministers were even then jetting in to Geneva. For Tolba, the man who had taken the initiative to set up the IPCC as a joint UNEP-WMO project, it must indeed have been a proud moment.

Whatever criticisms the IPCC might have to endure in later life, there was no denying the sheer impact of those first dramatic conclusions of the Intergovernmental Panel.

The IPCC's structure, as devised by Tolba and Obasi, was logical and coherent. There were to be three working groups. WG I, chaired by John Houghton,¹⁰⁹ from the U.K.'s Meteorological Office would look at the science of climate change. What was really happening? What was likely to happen? WG II, chaired by Professor Yuri Izrael, from the USSR, State Committee on Hydrometeorology, was charged with looking at the environmental and socio-economic impact of potential climate change. Who were the winners and losers? WG III, chaired by Frederick M. Bernthal, Assistant Secretary of State for Ocean and International Environmental and Scientific Affairs, had to deal with possible strategies. In other words what actions could or should we be taking to prevent or mitigate the effects of climate change?¹¹⁰

Professor Bolin, as Chairman of the IPCC, had the task that morning of presenting the key findings. He performed it masterfully.

- There is a greenhouse effect that is at present being enhanced by man due to emissions of a number of the so-called greenhouse gases;
- These emissions have so far increased the greenhouse effect by an amount that is equivalent to about 50% of that due to the pre-industrial concentrations of carbon dioxide in the atmosphere;
- Even if the man-induced emissions of greenhouse gases were stopped immediately, the increase that has occurred so far would be with us for a century or more. The man-induced greenhouse effect is eliminated by natural processes only very slowly;
- Although we cannot yet predict very accurately the change of climate that a given increase of the concentrations of greenhouse gases would cause, we can tell with confidence that it is going to be significant if present increases of the emissions continue without constraints;

- The climate system responds rather slowly to the changes of the radiation balance that the increasing concentrations of greenhouse gases bring about. Therefore, the change of climate so far in the making due to the currently-observed increases in these concentrations is partly hidden; this undoubtedly is one reason for the fact that we as yet cannot tell for sure if man already has caused a change of the global climate. The observed increase of the global mean temperature of 0.3-0.6 degrees Celsius during the last 100 years or so is, however, largely consistent with the predictions made with the aid of climate models;
- The impact of a change of climate on the environment and global society cannot yet be assessed in quantitative terms. The IPCC has, however, presented sensitivity analyses that provide a qualitative picture of the kind of changes that can be expected.

In his own memoir, Bolin has testified to the care with which he drafted his speech. Nowhere is that care more evident than in the last of his 'bullet points'.

- The IPCC has agreed that measures to limit the increases of greenhouse gases in the atmosphere may well have to be taken before we know with certainty either the magnitude or the timing of a man-induced change of climate and its geographical distribution. At the same time it is likely that global society will respond only rather slowly in implementing agreed measures to prevent even far-reaching consequences of a climate change because of the difficulties in assessing their socio-economic consequences, in overcoming the inertia of the industrialized society and in finding ways and means of achieving reductions of the greenhouse gas emissions in an optimum way, particularly in view of the major differences that exist between developed and developing countries.

Bolin was followed on the platform by the Chairmen of the three Working Groups.

First came the science. John Houghton presented WG I's Executive Summary.

He began in a clear confident way. “We are *certain* there is a natural greenhouse effect which already keeps the Earth warmer than it would otherwise be.”

Some people in the audience looked a bit surprised. Scientists don’t often talk about being ‘certain’. Others, remembering Arrhenius, the great Swedish scientist who ‘discovered’ the greenhouse effect towards the end of the 19th Century, nodded sagely.

But Houghton’s next sentence was even more striking.

“We are *certain*,” Houghton went on: “that emissions resulting from human activities are substantially increasing the atmospheric concentrations of the greenhouse gases: carbon dioxide, methane, chlorofluorocarbons (CFCs) and nitrous oxide. These increases will enhance the greenhouse effect, resulting on average in an additional warming of the Earth’s surface. The main greenhouse gas, water vapour, will increase in response to global warming and further enhance it.”

Houghton continued with his rhetorical cascade.

“We *calculate with confidence* that:

- some gases are potentially more effective than others at changing climate, and their relative effectiveness can be estimated. Carbon dioxide has been responsible for over half the enhanced greenhouse effect in the past, and is likely to remain so in the future;
- atmospheric concentrations of the long-lived gases (carbon dioxide, nitrous oxide and the CFCs) adjust only slowly to changes in emissions. Continued emissions of these gases at present rates would commit us to increased concentrations for centuries ahead. The longer emissions continue to increase at present day rates, the greater reductions would have to be for concentrations to stabilise at a given level;
- the long-lived gases would require immediate reductions in emissions from human activities of over 60% to stabilise their concentrations at today’s levels; methane would require a 15-20% reduction....”

Immediate reductions of over 60 per cent in man made emissions to stabilise concentrations at their present level! Shock-waves rippled around the room.

If Bolin was the Prologue, and Houghton the fizzy first act of this three-act drama, the second act, with Professor Yuri Izrael taking the leading role, sagged a bit in the middle. There is only space here to pick out some of the high-lights of Professor Izrael’s presentation.

“Assessments based on a possible warming over the next few decades show that certain regions with variable moisture supply will become drier, permitting even greater soil degradation and crop losses. Moist regions will become even more saturated with moisture as a result of more frequent and intense tropical storms. There will be a change in the frequency and nature of extreme impacts on agriculture caused by flooding, persistent drought, forest fires and crop pests...

“Climate change may also cause considerable shifts in the main forest zones, which, in the northern hemisphere, may move several hundred kilometres northwards. The boreal forests and forests in the arid and semi-arid zones are particularly sensitive to climate change. Changes in forest systems may also have considerable impacts on both man and animals. Forests are, of course, a most important user of CO₂.

“Flooding related to the sea-level rise caused by climate change accompanied by a change in precipitation may lead to widespread human migration. The most significant consequences can be expected in highly urbanized areas with high population densities..

“The projected global warming will affect the ocean’s thermal budget, cause sea-level rise, modify ocean circulation and cause changes to marine ecosystems, ultimately with serious socio-economic consequences. By the year 2050, a 30-50 cm sea-level rise can be expected and by the year 2100 a 1 m sea-level rise, which will cause erosion of the coastline, increase the salinity of estuaries and increase the tidal range in river mouths and inlets. These impacts will lead to the loss of large areas of productive land, contamination of freshwater sources and the displacement of millions of people from flood-prone

areas. Of the areas affected by climate change, the most vulnerable from the human population point of view may be the large areas close to coastlines, such as Bangladesh, the arable Nile delta area, the small islands in the Pacific Ocean and the Caribbean Basin and the small island States such as the Maldives, Tuvalu, Kiribati, as well as many large ports. The comparatively fast sea-level rise may change the ecological situation in offshore areas and present a serious threat to marine fisheries.”

In a way, the hardest speech to make that morning was the one given by the Chairman of WG III, Frederick Bernthal, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs in the US State Department. If Houghton had summarized the science of global warming, and Izrael had outlined the impacts, Bernthal’s job as Chairman of the Response Strategies Working Group (RSWG) was to tell the world what could or should to be done about it.

He told the Conference:

“The reports of both Working Groups 1 and 2 identified varying levels of confidence with regard to specific predictions about future climate change and its impacts. The RSWG report recognizes the challenge to policy makers confronted with the uncertainties regarding the causes, magnitude, timing, and regional impacts of climate change, on the one hand, and with uncertainties in the economic costs and benefits associated with climate change response strategies on the other.

“In considering specific response strategies, the RSWG recognized that response in the short term should emphasize measures which can be justified on the basis of benefits other than those related to climate change.”

“Win-Win” scenarios, as they are frequently called, are beloved of politicians and bureaucrats alike. Bernthal was already able to identify a handful of such ‘win-win’ solutions.

“Short term limitation measures which meet that criterion include: reducing emissions through improved energy efficiency; use of cleaner energy sources and technologies; increasing sinks through improved forest management and expansion of forested areas; phasing out CFCs;

and reducing emissions of greenhouse gases from nonindustrial sectors through improved agricultural technology and waste management practices.

“Prudent adaptation measures for the near-term include: developing emergency and disaster preparedness policies and programmes; developing comprehensive management plans for areas at risk from sea level rise; and improving the efficiency of natural resource use, for example from research on crops adaptable to the potential climate changes.”

Short-term measures, whether in terms of emission-limitation or adaptation (e.g. building defences against sea-level rise), could only go so far. Other measures might be required in the long term. The RSWG noted that actions should be undertaken immediately to provide the requisite information for making such decisions in the future. These investments in the long-term knowledge base included increased research to reduce scientific and economic uncertainties and the development of new technologies in the fields of energy, industry, forestry, and agriculture.

If Maurice Strong’s main problem, in the run-up to Stockholm in June 1972, had been to ensure the participation of the developing countries, this was doubly true of the climate change issue. Brilliant men like Anil Kumar Agarwal, the founder-director of the Centre for Science and Environment, one of India’s leading environmental NGOs, had helped to set the terms of the debate, arguing forcefully that it was the rich industrialized countries who had used up the ‘absorptive capacity’ of the atmosphere and proposing that any ‘fair and equitable’ allocations of the ‘right to emit’ should be done on a per capita basis.¹¹¹ If developing countries were to be forced to take preventive and/or adaptive measures to deal with a problem which was not of their own creation, why should they not be helped to do so, with financial and technical assistance?

The RSWG, Bernthal told the meeting, had concluded:

“Climate change is a global issue; effective responses would require a global effort that may have a considerable impact on humankind and individual societies.

- Industrialized countries and developing countries have a common responsibility in dealing with problems arising from climate change;
- Industrialized countries have specific responsibilities on two levels:
 - (a) a major part of emissions affecting the atmosphere at present originates in industrialized countries where the scope for change is greatest. Industrialized countries should adopt domestic measures to limit climate change by adapting their own economies in line with future agreements to limit emissions;
 - (b) to cooperate with developing countries in international action, without standing in the way of the latter's development, by contributing additional financial resources, by appropriate transfer of technology, by engaging in close cooperation concerning scientific observation, by analysis and research, and finally by means of technical cooperation geared to forestalling and managing environmental problems;
- Emissions from developing countries are growing and may need to grow in order to meet their development requirements and thus, over time, are likely to represent an increasingly significant percentage of global emissions. Developing countries have the responsibility, within the limits feasible, to take measures to suitably adapt their economies."

Of course, it was not just a question of providing aid and technical assistance to developing countries. There might need to be burden-sharing between the rich countries as well. "Win-win" measures could be useful, even essential. But what happened when a state or a group of states, such as the European Community set itself emission-reduction goals, or adopted emission-reduction programmes which had a real economic and social impact on its citizens, while other countries refrained from such measures. How many 'free-riders' could the world tolerate?

In the light of the foregoing, the RSWG was throwing its weight behind the idea of a global climate convention. Bernthal told the Conference:

"Because effective responses to climate change may require an unprecedented degree of international cooperation, the RSWG noted that the international community should embark upon the negotiation of a framework convention on climate change as soon as possible after completion of the IPCC first assessment report. To assist in that effort, RSWG was directed to develop possible elements of a framework climate convention.

"The product is one I have often referred to as a "road map" for the Convention negotiations. I commend that map to your attention. We concluded that such a Convention should, at a minimum, contain general principles and should be framed so as to gain the adherence of the largest possible number and most suitably balanced range of countries consistent with timely action.

"As this group is aware, it has recently been decided that the first session of negotiations on a framework climate convention will be convened in Washington in early February of next year. This will be exactly one year after the IPCC met in Washington for its third plenary session. In comparison with the typical timetable for international deliberations on a global scale, this is rapid progress indeed, and demonstrates the concern the world community attaches to this issue."

On November 6, UK Prime Minister Margaret Thatcher, in one of the last speeches she gave to an overseas international gathering during her time in office, threw her considerable influence behind international action.¹¹² She was a scientist herself and in 1987 she had convened a 'teach in' for members of her Government on the prospects for climate change.¹¹³ She knew what she was talking about.

"We are all aware of the immense challenge. The enormity of the task is not a matter for pessimism. The problems which science has created science can solve, provided we heed its lessons. Moreover, we have already established a structure of international co-operation on the environment with ozone depletion. For the first time ever, rich and poor nations alike set out together to save our planet from a serious danger. This painstaking work culminated in the historic agreement reached in London this year. That agreement is a real beacon of hope for the future.

“The main focus in London was on protecting the ozone layer. But the agreement will have other consequences. We should not forget that CFCs are 10,000 times more powerful, molecule for molecule, than carbon dioxide as agents of global warming. But of the other greenhouse carbon dioxide is by far the most extensive and contributes around half the man-made greenhouse warming. All our countries produce it. The latest figures which I have seen show that 26 per cent comes from North America, 22 per cent from the rest of the OECD, 26 per cent from the Soviet Union and Eastern Europe and 26 per cent from the less developed countries.

“These figures underline why a joint international effort to curb greenhouse gases in general and carbon dioxide in particular is so important. There is little point in action to reduce the amounts being put into the atmosphere in one part of the world, if they are promptly increased in another. Within this framework the United Kingdom is prepared, as part of an international effort including other leading countries, to set itself the demanding target of bringing carbon dioxide emissions back to this year’s level by the year 2005. That will mean reversing a rising trend before that date.”

The UK Prime Minister supported strongly the idea of a global convention:

“But our immediate task this week is to carry as many countries as possible with us, so that we can negotiate a successful framework convention on climate change in 1992. We must also begin work on the binding commitments that will be necessary to make the convention work. To accomplish these tasks, we must not waste time and energy disputing the IPCC’s report or debating the right machinery for making progress. The International Panel’s work should be taken as our sign post: and the United Nations Environment Programme and the World Meteorological Organisation as the principal vehicles for reaching our destination.

“We will not succeed if we are too inflexible. We will not succeed if we indulge in self-righteous point-scoring for the benefit of audiences and voters at home. We have to work sympathetically together. We have to recognise the importance of economic growth of a kind that benefits

future as well as present generations everywhere. We need it not only to raise living standards but to generate the *wealth* required to *pay* for protection of the environment.

“It would be absurd to adopt policies which would bankrupt the industrial nations, or doom the poorer countries to increasing poverty. We have to recognise the widely different circumstances facing individual countries, with the better-off assisting the poorer ones as we agreed to do under the Montreal Protocol.

“The differences can’t be drafted away in that famous phrase so beloved of diplomats “a form of words”. They need to be resolved by tolerant and sympathetic understanding of our various positions. Some of us use energy more efficiently than others. Some of us are less dependent on fossil fuels. And we each have our own economic characteristics, resources, plans and hopes for the future. These are the realities that we must face if we are to move forward towards a successful conclusion to our negotiations in 1992.

“Just as philosophies, religions and ideals know no boundaries, so the protection of our planet itself involves rich and poor, North and South, East and West. All of us have to play our part if we are to succeed. And succeed we must for the sake of this and future generations.

One of our great poets, George Herbert, in his poem on “Man” wrote:

“Man is all symmetry.

Full of proportions, one limb to another,

And all to all the world besides;

Each part may call the farthest, brother;

For head with foot hath private amity

And both with moon and tides.”

On 7 November 1990, the Second World Climate Conference adopted the Ministerial Declaration calling for negotiations on a ‘Global Framework Convention on Climate Change.’

“We call for negotiations on a framework convention on climate change to begin without delay after a decision is taken by the 45th Session of the General Assembly of the United Nations recommending ways, means and modalities for further pursuing these negotiations.”

Tolba and Professor Obasi might, as they scrutinized this text, have been disappointed that there was no specific mention of UNEP and WMO as the bodies to take the negotiating process forward. Wasn't that what Prime Minister Thatcher and other speakers had explicitly suggested?

Their disappointment turned out to be well-founded. Seven weeks later the United Nations General Assembly in New York¹¹⁴ decided to “establish a single intergovernmental negotiating process under the auspices of the General Assembly, supported by the United Nations Environment Programme and the World Meteorological Organization, for the preparation by an Intergovernmental Negotiating Committee of an effective framework convention on climate change, containing appropriate commitments, and any related instruments as might be agreed upon, taking into account proposals that may be submitted by States participating in the negotiating process, the work of the Intergovernmental Panel on Climate Change and the results achieved at international meetings on the subject, including the Second World Climate Conference”.

The UN General Assembly further decided that the Secretary-General of the United Nations should appoint “as head of the *ad hoc* secretariat a senior official of an appropriate level, who shall act under the guidance of the Intergovernmental Negotiating Committee.” It requested the head of the *ad hoc* secretariat to co-operate closely with the Intergovernmental Panel on Climate Change to ensure that the Panel can respond to the needs and requests for objective scientific and technical advice made during the negotiating process”.

The decision that the United Nations General Assembly itself should be responsible for the negotiation of the global climate convention, rather than UNEP and/or WMO took many by surprise, including apparently some of the delegates who voted for it.¹¹⁵ In fact, there had already been some straws in the wind. The General Assembly's draft was based on

a proposal by Malta. Maltese Prime Minister Edward Fenech-Adami, in his own speech on 6 November 1990 to the Ministerial Segment of the Second World Climate Conference, had already signalled his thinking. His profuse thanks to UNEP and WMO for the work they had played in establishing the IPCC was quickly succeeded by the thought that it was now time to move on to the ‘political level’.

In the event, the negotiating committee for what became the United Nations Framework Committee on Climate Change was set up along the lines of the General Assembly's decision and a Frenchman, Jean Ripert¹¹⁶ of France, was appointed as its Head. In due course, a Convention containing many of the elements listed in the IPCC's Response Strategies Working Group Report was presented to the United Nations Conference on Environment and Development, Rio de Janeiro, June 1992, alongside the Convention on Biological Diversity.¹¹⁷

Article 2 defines the Convention's objective:

“The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.”

Given the scope of the Convention's stated objective, as quoted above, it could be argued that ‘the whole of life is there’, not to speak of the hopes and aspirations of posterity. Small wonder, perhaps, when it came to the stage of negotiating political commitments, UNEP lost the ‘pole position’ it had in the IPCC framework.

Some have suggested that Tolba had almost been too successful, too ‘pharaonic,’ in some of the previous intergovernmental negotiations, for example in respect of ozone, ‘forcing’ governments to make concessions which, on reflection, they might come to regret.

Given the even higher stakes involved in the climate change negotiations, maybe they felt safer leaving the primary responsibility for negotiations in other hands.

This is, of course, mainly speculation. Maybe some official papers will see the light of day in countries where a thirty-year rule still operates and around January 2021 we will be treated to some newspaper headline recalling a 'Secret Deal over Climate Treaty'. Whatever the motives may be, the reality is that the United Nations Framework Convention on Climate Change as finally agreed on 9 May 1992, barely in time to be typed up for Rio, mentions UNEP only

once, and that is a purely formal reference to UNEP's co-sponsorship of the Global Environment Facility (GEF). No secretariat functions are assigned to UNEP.

All that said, as far as climate change is concerned, history may well record that UNEP 'played a blinder'. To pursue the metaphor, it seized the ball and ran with it — to tremendous effect. That ball — post-Rio, post-Kyoto, post-Copenhagen, post-Cancun, post-Bali, post-Durban, post-Doha — is amazingly still in play. There is still a chance, just a chance, the world will do something useful and effective about climate change and global warming before it is too late.



Top Left to Right: Mostafa Tolba; Rajendra Pachauri; Prof Bert Bolin; Prof Robert Watson.



Greenpeace Ship 'Arctic Sunrise'.



8

TRANSBOUNDARY MOVEMENT OF HAZARDOUS WASTES AND THEIR DISPOSAL

Dealing with the transfrontier movement of waste was not, it must be said, one of the priorities which emerged from Stockholm. Admittedly, Principle 6 of the Stockholm Declaration stated:

“The discharge of toxic substances or of other substances and the release of heat, in such quantities or concentrations as to exceed the capacity of the environment to render them harmless, must be halted in order to ensure that serious or irreversible damage is not inflicted upon ecosystems. The just struggle of the peoples of all countries against pollution should be supported.”^{118, 119}

And Principle 21, famously, stated:

“States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental

policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.”

That said, we do not find in the Stockholm Action plan specific references to the transboundary movement of hazardous waste (TMHW) except in the context of the marine environment where:

“It is recommended that Governments, with the assistance and guidance of appropriate United Nations bodies, in particular the Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP):

“86(c) Ensure that ocean dumping by their nationals anywhere, or by any person in areas under their jurisdiction, is controlled and that Governments shall continue to work towards the completion of, and bringing into force as soon as possible, of an over-all instrument for

the control of ocean dumping as well as needed regional agreements within the framework of this instrument, in particular for enclosed and semi-enclosed seas, which are more at risk from pollution...

“86(e) Participate fully in the 1973 Intergovernmental Maritime Consultative Organization (IMCO) Conference on Marine Pollution and the Conference on the Law of the Sea scheduled to begin in 1973, as well as in regional efforts, with a view to bringing all significant sources of pollution within the marine environment, including radioactive pollution from nuclear surface ships and submarines, and in particular in enclosed and semi enclosed seas, under appropriate controls and particularly to complete elimination of deliberate pollution , by oil from ships, with the goal of achieving this by the middle of the present decade. “

A decade after Stockholm, the 1982 World Charter for Nature¹²⁰ called for “special precautions” to be taken to prevent the discharge of radioactive or toxic wastes,¹²¹ but the issue of the transboundary movement of wastes was not addressed.

However, as the 1980s progressed, greater scientific understanding of the chemical behaviour and dangers of some toxic, persistent and bio-accumulative substances seems to have led to a shift in the political climate. Technological advances had spawned ever-increasing numbers of new synthetic chemicals, some of which were in themselves toxic, persistent and bio-accumulative, and some of which had been manufactured by processes which involved the generation of wastes which were equally hazardous. Arguably the single most important sector responsible for this was the organochlorine industry, driven by the vast amounts of chlorine available for use as a by-product of the production of alkalis.¹²²

The fact that an environmental problem was not specifically mentioned in the Stockholm Action Plan did not, of course, preclude UNEP, or the United Nations system, more generally being concerned. As we have seen¹²³ the Governing Council at its first meeting, when it approved UNEP’s role in CITES, encouraged UNEP to assist in the preparation of other environmental conventions. In response to this and other signals

UNEP had — by the beginning of the 1980s — developed a considerable competence in the growing field of international environmental law, including some areas which had not been the subject of specific recommendations at Stockholm.

Of particular importance in this respect was a series of meetings of ‘Senior Government Officials Expert in Environmental Law’. The experts were requested by the UNEP Governing Council “to establish a framework, methods and programme, including global, regional and national efforts, for the development and periodic review of environmental law, and to contribute to the preparation and implementation of the environmental law component of the System Wide Medium Term Environment Programme.”¹²⁴

The first such meeting took place in Montevideo from 28 October - 6 November 1981. Convinced “that environmental law is an essential instrument for proper environmental management and the improvement of the quality of life”.

Senior Government Officials expert in environmental law concluded:

- (c) That guidelines, principles or agreements should be developed in accordance with the agreed objectives, and strategies, as set out below in the following major subject areas:
 - marine pollution from land-based sources;
 - protection of the stratospheric ozone layer;
 - transport, handling and disposal of toxic and dangerous wastes.
- (d) That the following subject areas also call for action in accordance with the agreed objectives, and strategies, set out below:
 - international cooperation in environmental emergencies;
 - coastal zone management;
 - soil conservation;
 - transboundary air pollution;
 - international trade in potentially harmful chemicals;

- protection of rivers and other inland waters against pollution;
 - legal and administrative mechanisms for the prevention and redress of pollution damage;
 - environmental impact assessment.
- (e) That work should be done to promote the general development of environmental law.

Though the Montevideo Programme and its subsequent iterations would be of great importance both to UNEP's own work programme, and to the field of environmental policy more generally, what is of interest for the purposes of this chapter are the conclusions of the experts as far as the issue of transboundary movements of waste are concerned, the third of three priority areas identified above (*after Marine Pollution from Land-Based Sources, and Protection of the Stratospheric Ozone Layer*).

The conclusions in respect of the transport of hazardous waste were quite specific:

Subject: Transport, Handling and Disposal of Toxic and Dangerous Wastes

Objective: To prevent, reduce and control damage, and the risk thereof, from local and international transport as well as from handling and disposal of wastes that are toxic and dangerous to human health and to the environment.

Strategy: Preparation, at the global level, of guidelines, principles or conventions, as appropriate; development and implementation of guidelines and principles through specific regional, sub-regional or bilateral agreements, as well as by means of national legislation.

Under the heading *Strategy*, we may note that the Montevideo experts were quite flexible as regards the form of the instrument to be developed at the global level, indicating that guidelines, principles or conventions might all be considered. Faced with a choice, in the first

instance, UNEP chose what has now become known as the 'soft law' approach, opting for 'guidelines'. An *Ad Hoc* Working Group on the Environmentally Sound Management of Hazardous Wastes was held in Cairo from 4 - 9 December 1985.¹²⁵

Basically, the Working Group recommended documentation combined with notification as a means of dealing with the transfrontier disposal problem.¹²⁶

Transport Documentation

To ensure that hazardous wastes are safely transported for disposal, and to maintain records of the transport and disposal of such wastes, States should establish a system by which all transport of such wastes should be accompanied by a hazardous wastes movement document from the point of generation to the point of disposal.

This document should be available to the competent authorities and to all parties involved in the management of such wastes.

■ Notification and Consent Procedure in Respect of Transfrontier Movements of Hazardous Wastes

- (a) States should establish a system which ensures that all States involved in a transfrontier movement of hazardous wastes receive full information sufficiently in advance to enable them to assess the proposed movement properly.
- (b) A State of export should take such steps as are necessary to ensure that a request from a State of import or transit State for relevant information concerning the transfrontier movement in question elicits a constructive and timely response.
- (c) In the absence of bilateral, regional or multilateral arrangements, States should provide that it shall not be lawful for any person to initiate a transfrontier movement of hazardous wastes until the State of import and any transit State have given their consent to that movement.

- (d) The consent of the State of import referred to in paragraph (c) above should take the form of an explicit consent, provided always that States may by bilateral or multilateral arrangements adopt a tacit consent procedure.
- (e) Any transit State should be notified in a timely manner of a proposed movement, and may object to it within a reasonable time in accordance with its national laws and regulations. The consent of a transit State referred to in paragraph (c) above may also take the form of a tacit consent.
- (f) The State of export should not permit a transfrontier movement of hazardous wastes to be initiated unless if it is not satisfied that the wastes in question can be managed in an environmentally sound manner, at an approved site or facility and with the consent of the State of import.
- (g) In order to facilitate implementation of this guideline, each State should designate an agency which shall be the focal point to which the notifications and inquiries mentioned in the foregoing paragraphs may be addressed.
- (h) Nothing in this guideline shall be so construed as to affect the sovereign right of a State to refuse to accept within its territory hazardous wastes originating elsewhere.

UNEP's Governing Council, at its 14th session held in Nairobi 8-19 June 1987, approved the Cairo Guidelines. It stressed "the need to extend international measures to guarantee the environmentally sound management of hazardous wastes and, in particular, the control of trans-frontier movements of such wastes." And it authorized the Executive Director to convene in consultation with Governments, within available resources, a working group of legal and technical experts with a mandate to prepare a global convention on the control of transboundary movements of hazardous wastes and welcomed the offer of the Government of Switzerland to host a diplomatic conference in order to adopt and sign the global convention. We might ask why, with the ink barely dry on the Guidelines, did UNEP's Governing Council authorize the move towards a legally-binding 'global convention'.

There seem to be two answers to this question. The first relates to the growing political pressure to 'do something' about the problem. The second to the fact that the OECD had a head-start in the field and was about to 'do something' itself.

Taking the first point first. There is no doubt that as the 80s rolled on, the media was having a hey-day with what had become known as 'toxic waste tourism'. A classic example was the famous voyage of the cargo barge *Khian Sea*, registered in Liberia.

On 31 August 1986, the *Khian Sea* was loaded with more than 14,000 tons of toxic ash from waste incinerators in Philadelphia, Pennsylvania. The city had previously sent the waste to New Jersey, but that state refused to accept any more after 1984.

The companies handling the waste (Joseph Paolino and Sons, Amalgamated Shipping and Coastal Carrier) intended to dump the ash onto a man-made island in the Bahamas. However, the Bahamian government turned the barge away, and Philadelphia withheld payment to the companies because the waste was not disposed of.

Over the next 16 months, *Khian Sea* searched all over the Atlantic for a place to dump its cargo. Dominican Republic, Honduras, Panama, Bermuda, Guinea Bissau and the Dutch Antilles refused. An attempt to return to Philadelphia failed as well. In January 1988, the crew finally dumped 4,000 tons of the waste near Gonaives in Haiti as "topsoil fertilizer" (when it was too poisonous to be used that way). When Greenpeace warned the Haitian government of the true nature of the waste, the Haitian commerce minister ordered the crew to reload the ash but the ship slipped away. The Haitian government banned all waste imports. Local clean up crews later buried some of the waste in a bunker inland.

Next the crew of *Khian Sea* tried to unload the rest of the cargo in Senegal, Morocco, Yugoslavia, Sri Lanka and Singapore. After repairs in Yugoslavia, the ship's name changed to *Felicia*, registered in Honduras. Later it was renamed *Pelicano*. Changes failed to hide the ship's original identity.

The rest of the ash disappeared en route from Singapore to Sri Lanka in November 1988. The crew had no comment but eventually the ship's captain admitted that they had dumped the remaining waste — more than 10,000 tons - into the Atlantic and Indian Oceans. This, of course, was in direct contravention of the 1972 London Convention.

The *Bark* was another infamous vessel that attained notoriety at the same time as the *Khian Sea*. The ship's point of departure was, again, Philadelphia. But it was heading, not for New Jersey, as the *Khian Sea* had done, but to Panama with a load of incinerator ash scheduled to be used in constructing a roadbed. Greenpeace exposed the ship's contents to the Panamanian government by providing EPA studies showing that the ash contained lead, mercury, aluminium and organic products that form dioxin. After being turned away from Panama, the *Bark* found its way to the West African nation of Guinea, where the ship became the first of the known 'poison ships' to unload its cargo. In this case, the cargo was to be used in the construction of concrete-like bricks. However, the deal ignited an international furore when it was discovered that the dumping of the waste violated a two-year ban against all foreign wastes entering that country. The *Bark's* Norwegian owner agreed to remove the waste only after the Guinean Government arrested the Norwegian consul-general for complicity in the dumping.

These well-publicized incidents were motivated in part by tighter environmental regulations in industrialized countries, including of course bans on dumping at sea under national and international regulations. As the costs of waste disposal skyrocketed, "toxic traders" searching for cheaper solutions started shipping hazardous wastes to Africa, Eastern Europe and other regions. Once on shore, these waste shipments were dumped indiscriminately, spilled accidentally or managed improperly, causing severe health problems — even death — and poisoning the land, water and air for decades, possibly centuries.

Tolba himself, speaking in Nairobi in March 2012 on the occasion of UNEP's 40th anniversary celebrations, recalled the origins of UNEP's work — a quarter of a century earlier — on what would become the Basel Convention.¹²⁷

"It is very strange that this is the only treaty that was not brought to my attention, or to the attention of the Governing Council, either by non-governmental organisations or by the academics. It was brought to my attention by the media. It was the media who came and told me that there was German hazardous waste, carried by Swiss ships, and it was being dumped on the shores of Somalia at the time when they had the bitter fighting among themselves and nobody was in control. So I called Flavio Cotti who was the Minister of the Environment, who became the President of the Swiss Confederation after that, and I told him 'you have a ship which is doing this' and he said 'unfortunately we don't have anything in the law in Switzerland that prevents any Swiss carrier carrying any hazardous waste, so long as it was not produced in Switzerland'.

"So then I asked Klaus Töpfer — he was the German Minister of the Environment before joining UNEP — and he said 'well unfortunately again we have nothing in the law that prevents us sending out our hazardous waste, so long as it is not carried by German carriers.' So they were getting the Swiss carriers, who have nothing in the law that prevents them doing this, to carry their hazardous waste.

"So I raised the issue with the Governing Council, who immediately said 'all right start a process of negotiation'. The only ones who really gave me a very hard time were the Americans. They wanted every sentence to say 'without contradiction to the national law'. And I keep telling them 'why do we have an international treaty if it is not in contradiction?'

"So, ultimately they budged and we came up with a treaty which is reasonably strong on what are the controls before you send any hazardous waste outside your country: you have to get a prior agreement of the country which is receiving and any country where the carrier is going to stop on the way. It took about two or three years to negotiate."

The second reason for UNEP's urgent espousal — in the second half of 1987 — of the legally-binding option of the global convention (instead of the 'voluntary' guidelines) was the fact that the OECD was, as noted above, on the point of launching a global convention itself, building on

the detailed work undertaken by its Waste Management Policy Group over almost two decades.

The OECD's Environment Committee and environment directorate actually predated the Stockholm Conference and the establishment of UNEP. Its programme in the field of chemicals was especially strong. By the end of 1981, the OECD Waste Management Policy Group had prepared a detailed report which covered national legislation, availability of insurance covering transport and treatment facilities; costs of complying with the regulations; and types and quantities of hazardous wastes exports from one country to another. The report also highlighted the potential for movement to developing countries, based on the growing profitability of such "North-to-South" transactions.

In 1985 the OECD sponsored an International Conference on the Transfrontier Movement of Hazardous Waste, in Basel, Switzerland, where delegates called upon the organization to develop 'an effective and legally binding system of controls'¹²⁸

It says much for the generosity of spirit of the OECD, as well as the splendid opportunism of UNEP, that the first negotiating draft of what would become the 'Basel Convention' was in effect a carbon copy of OECD's own draft.

In particular, it followed the line advanced by OECD in that it specified in its annexes: a list of types or categories of hazardous waste (e.g. clinical wastes, pharmaceutical wastes, waste oils, waste chemicals);, a list of substances or material which render a waste hazardous, e.g. arsenic, mercury, lead, asbestos, phenols; and a list of hazard characteristics — explosive, flammable, toxic, corrosive.

Indeed, the Basel Convention is a splendid example of how the 'catalytic role' can work in both directions. UNEP may inspire other international bodies or its constituent member states about the importance of this or that environmental issue. It may engage in 'technical assistance' to, and even financial support of, third parties. But UNEP is also in a position to profit from its position at the centre of the spider's web.

In reality, like most international bodies, it draws its strength from its wide range of contacts, with organizations and individuals, formal and informal, at both national and international level. As far as the transboundary movement of wastes was concerned, UNEP was able to build on a solid foundation already laid by others, without having to waste time and energy in 're-running the calculations' themselves.

When the negotiators met in February 1988 for the first of six negotiating sessions, the technical competence of the draft could not obscure the deep political divide between those (mainly industrialized) countries who were ready to see controls on the export of toxic and hazardous waste, including as prior notification to receiving or transiting countries and — if they were really pushed into it — prior informed consent, and — on the other side of this Great Rift Valley — a number of (mainly African at this stage) developing countries who wanted an outright ban on such shipments.

Katharina Kummer Peiry cogently summarizes the background to this 'deep political divide':¹²⁹

"During the mid-1980s, the political discussion of the issue of international transport of hazardous wastes in general, and that of illegal transboundary traffic in such wastes in particular, had gathered momentum, reaching its culmination in 1988 in widely publicized media reports on incidents involving the illegal dumping of toxic wastes from industrialized nations in Third World countries.

"The problem was taken up by governments and intergovernmental agencies, as well as non-governmental environmental groups, at the national and international levels. The growing interest in the issue is reflected in the number of States represented at the sessions of the Working Group, which increased from twenty-four at the organizational meeting to almost eighty at the last session, and in a similar increase in the number of organizations participating in the proceedings as observers.

“Due to these developments, the focus of public opinion during the negotiation process on the Basel Convention was almost exclusively on the “North-South” aspect of the problem: the threat posed to the environment of ill-equipped developing countries by the illegal import of hazardous wastes from industrialized nations. The fact that, even at the time, the vast majority of international waste transport took place between industrialized nations was widely ignored. This added a political dimension to the negotiation process, which had considerable influence on the direction of the discussions. The elaboration of the Basel Convention was seen by many primarily as an opportunity to put a stop to illegal international waste traffic from North to South.

A substantial number of developing countries, led by member States of the Organization of African Unity (hereinafter referred to as “OAU”), the predecessor of the African Union, regarded the deliberations as an opportunity to demonstrate their solidarity in refusing to tolerate the use of their territories as dumping grounds for toxic wastes from the rich States of the industrialized world. Their demand for a complete ban of all transboundary movements of hazardous wastes world-wide was strongly supported by environmental non-governmental organizations (NGOs). On the other hand, many developed countries, focusing on the option of controlled waste traffic, were not prepared to agree with any proposed measures that would put too many restrictions on the trade in wastes – especially recyclable materials with an economic value – amongst industrialized States.

UNEP adopted the position that a complete ban of international hazardous waste transport was not the best solution from an environmental viewpoint, since it would preclude such transport even in cases where waste disposal in a country other than the country of origin was more environmentally sound.

This position attracted harsh criticism from developing countries as well as environmental NGOs, who saw it as a betrayal of their struggle against illegal traffic and as an active support of the interests of the industrialized world. Disagreement between developed and developing countries also arose on other key issues.

“As the negotiations progressed, the rift between industrialized and developing countries deepened. Following the adoption by the Council of Ministers of the OAU in May 1988 of a resolution on the dumping of nuclear and industrial wastes in Africa, which condemned the import of such wastes into the African continent as “a crime against Africa and the African people”, the OAU member States consolidated their position in the negotiations, demanding the incorporation of strong safeguards against waste traffic from developed to developing countries into the draft Convention, as well as far-reaching provisions for financial and technical assistance to developing countries in the field of waste management.

An African Ministerial Conference, convened in Dakar in January 1989 by the Government of Senegal in cooperation with UNEP as a forum for discussion of the contentious issues by representatives of African States and a small number of Western States, led to open disagreement between the two sides. The only result of the conference was a very broadly worded appeal for active participation by African States in the Basel negotiations.

At the fourth session of the Working Group, held shortly afterwards, disagreement was so strong that the Working Group failed to produce a further amended version of the draft Convention, as had been planned originally: instead agreement was only reached on a limited number of provisions. At this point, doubts emerged concerning the feasibility of elaborating an agreed draft for submission to the Basel Conference and, therefore, concerning the success of the Conference itself.

In an attempt to redeem the situation, the Executive Director of UNEP convened, at short notice, a round of informal negotiations of the Working Group where the most contentious issues were discussed. Based on the results of these talks, which took place in early March 1989, the Working Group was able to resume work at its fifth session, which immediately preceded the Conference of Plenipotentiaries.

“At the opening of the adoption ceremony, a statement was made on behalf of the President of Mali, then Chairman of the OAU, to the effect that the African States were not prepared to sign the Convention as they considered it too weak and that they had agreed to decide on their final position after further discussion within the framework of the OAU. This came as a considerable surprise to the other delegations.

“A number of other States, including important industrialized States such as the Federal Republic of Germany, the United States of America, the United Kingdom and Japan, also deferred their decision on signature, for exactly the opposite reason. This meant in effect that there was considerable danger of the Basel Convention remaining an ineffective declaration of intentions, should all these States ultimately decide against becoming parties to it. It also shows how precarious the agreed compromise was.

“On the key issue of a complete ban on international hazardous wastes transport, the outcome was considered mainly by developing countries and environmental NGOs (as well as a number of academic writers) to be less than satisfactory: a prohibition of transboundary movements of hazardous wastes in general, or to developing countries in particular, was rejected due to the opposition voiced by industrialized States. At the suggestion of Greenpeace International, a provision was introduced by way of

compromise which mandated the Conference of the Parties (COP) to reconsider the issue at regular intervals.”

In their 1997 book *Global Environmental Diplomacy*, Tolba and Iwona Rummel-Bulska recall the dramatic events which took place on the opening day of the final Conference of Plenipotentiaries on the Global Convention on the Control of Transboundary Movements of Hazardous Wastes, convened at the invitation of the Swiss Government from 20 - 22 March 1989 in Basel.

“The plenipotentiary conference convened in Basel on 20 March 1989 at the ministerial level, with Flavi Cotti¹³⁰ as chairman, Tolba as secretary-general, and Rummel-Bulska as executive secretary. The problem of the African delegates’ intransigence hung heavy in the air. The African ministers, several of whom had authorizations from their capitals not only to adopt the convention but also to sign it, held long caucuses, during which the half-dozen ministers opposed to the convention blocked members from signing by shouting and screaming.”

Shouting and screaming! Given the event (a normally solemn ‘plenipotentiary’ conference), given the place (a normally placid town in one of the most normally unruffled countries in the world) this must indeed have been a moment of high drama.

Tolba and Rummel-Bulska again:¹³¹

“The meeting at large began with a few amendments, additions, and deletions to the fourth draft proposed from the floor, which could probably have been dealt with within the meeting.

Then came the position of Africa, presented by Morifing Kone, Minister of Environment of Mali, which was at that time at the head of the Organisation of African Unity (OAU).

“Kone reminded the conference that the presence of African delegations in Basel reflected their awareness of the gravity of the problem and the importance of addressing it. He emphasized the

conviction of African nations that the dumping of toxic wastes in the African continent is a morally reprehensible and criminal act. Recalling efforts made by the OAU in recent years to address this problem, he mentioned in particular the discussions at the forty-eighth Ordinary Session of the Council of Ministers of Africa and the subsequent summit of its heads of state, which led to the adoption of a "Resolution That Condemns the Dumping of Nuclear and Industrial Wastes in Africa as a Crime against Africa and the African People."

The resolution calls on African states to prohibit the import of such wastes and requests the secretary-general of the OAU to cooperate with the relevant international organizations to assist African countries in establishing appropriate control mechanisms. Kone also recalled the resolution adopted by the Council of Ministers of the OAU at its 49th Ordinary Session, which called upon African states to adopt a common position in the negotiating process on the Basel Convention.

"Although expressing his appreciation of the efforts of the international community to adopt a global legal instrument addressing the problem, Kone stated that African countries were not prepared to sign a convention at this stage.

"In particular, he expressed concern that because of the limited technical capabilities of developing countries, it would be difficult for them to use the Basel Convention to prevent unscrupulous individuals from engaging in illegal dumping activities, and that African countries could still be used as dumping grounds for foreign waste, despite the efforts of the OAU.

"Kone and other African ministers then presented some twenty-four different amendments to the draft convention. The chairman, secretary general, and executive secretary agreed that it was imperative to resort to informal consultations with all ministers who proposed changes."

Geoffrey Lean, doyen of British environment correspondents, interviewed Tolba in 1999, on the 10th anniversary of the signing of the Basel Convention:

"Then, on the morning of the first day, the delegate representing the African states proposed some 30 different amendments to parts of the text of the Convention that had already been agreed. Suddenly the achievable seemed impossible; the delicately constructed package appeared in danger of being torn apart.

"Mostafa Tolba, then Executive Director of UNEP, turned to Flavio Cotti, then the Swiss Minister of the Interior and one of the architects of the Convention, who was in the chair, and asked him to adjourn the meeting before any other ministers could speak, and to request that the African representatives, leaders of other delegations with unresolved points, and Tolba, join him in a side room.

"We sat there from 10.30 in the morning until 10 or 11 at night,' remembers the Egyptian scientist and former politician who led UNEP from 1974 to 1992. 'I did not let people leave the room. That was a must. Nobody would leave until we agreed.'

"He recalls how they went through the text and agreed that most of the issues raised by the African states had been taken into consideration, and that the five or six others could be resolved. They reached agreement, and the Convention was unanimously adopted by the 116 states at this Conference of Plenipotentiaries, though it was some time before the African countries signed it.

"It was the second narrow squeak for Mr. Tolba in just a few days. Just before the ministers arrived, during the preparatory negotiations, he suffered a mild heart attack and was rushed to hospital for an operation. But he was soon back at the talks again. 'In spite of the exhaustion and tiredness and so on, it gave me joy that governments were responding to something of significance to every human being on Earth. And it was very good to go back to UNEP's headquarters

in Nairobi and to call a meeting of the staff and tell them that the achievement was due to the effort of each and every one of them.”¹³²

The Basel Convention was adopted unanimously by the Conference on 22 March 1989. The Conference also adopted eight resolutions related to the further development and the implementation of the Basel Convention. One hundred and five States and the European Economic Community (EEC) signed the Final Act of the Basel Conference. On 22 March 1990, when the Basel Convention was closed for signature in accordance with its article 21, fifty-three States and the EEC had signed it. It entered into force on 5 May 1992 upon deposit of the twentieth instrument of accession (article 25). As of April 2012, there are 179 parties to the Basel Convention (178 States and the European Union).¹³³

The story of the Basel Convention does not, of course, end on March 22, 1989. The African countries who had hoped for a universal ban didn't give up the fight. Environmental NGOs, such as Greenpeace, who had been both visible and audible during the negotiation process, kept up the pressure. Writing in November 1999, Kevin Stairs, Greenpeace's international policy adviser for Trade and Toxic issues, and Marcelo Furtado, co-ordinator of the Greenpeace International Campaign against Toxic Trade explained:¹³⁴

“The Basel Convention can be (seen as) one of the most important instruments in the transformation to a clean production-based economy - a prerequisite for sustainable development. It is not just about stopping pollution being transferred from richer to poorer. It goes beyond ‘Not in My Back Yard’ to ‘Not on Planet Earth’.

“Some industries reacted to the stopping of ocean dumping, more stringent environmental protection regulations and higher disposal costs in the rich nations, by seeking an alternative solution to waste

disposal - dumping on the poor. Arms and drug traffickers even started to seek out poor nations willing to exchange poison for cash.

“The waste trade follows the path of least resistance. The poorer and less informed the community (or country), the more likely it is to become a target for the traders. So poorer communities have always ended up with a disproportionate share of toxic waste.

“As the Basel Convention was coming into being, both developing countries and environmentalists alike wanted to end this destructive dynamic with a ban on the export of all hazardous waste from rich nations (who generate most of it) to the less industrialized ones. But, when the Convention was adopted in 1989, it fell far short of this. It originally merely set out to monitor the movement of waste, rather than to prevent it, and so was heavily criticized for legalizing what many considered a crime.

“Africa, the first target for hazardous waste dumping, reacted by being the first to establish a regional ban on waste imports — the Bamako Convention.¹³⁵ Latin America followed with a number of national bans and a regional agreement between Central American governments. Then the Mediterranean and Pacific States established their own regional bans in the Barcelona Convention and the Waigani Treaty.¹³⁶

“As a result Asia became the main target of the dumpers. In addition, waste dumping became disguised as ‘recycling’, with hazardous waste renamed as ‘products’ or ‘secondary raw material’. Even so-called legitimate hazardous waste recycling creates a circle of poison — generating, recycling and disposing of hazardous materials with pollution at each stage.

“In all, it took almost a decade for the international community to accept the message from the developing world to the industrialized nations: ‘We Don't Want Your Toxic Waste!’ The historical 1994 Basel Ban decision (incorporated as an amendment to the Convention in 1995) — prohibiting the wealthy, OECD countries from exporting hazardous waste for any reason, including recycling, to non — OECD states — set the record straight.

"The process of change was by no means smooth. Many industries fought heated campaigns for free trade in hazardous wastes. Some used misinformation and economic terror tactics. A few OECD governments constantly used their political machines to try to undermine the Basel Ban by weakening its language, questioning its definitions and threatening to circumvent it.

"There was a clear division. On one side was dirty industry — and some industrialized governments taking instructions from it. On the other were the majority of states and those industries willing to move towards cleaner alternatives. Thus a few countries, with the greatest capacity for dealing with the hazardous waste crisis, became the main obstacle to solving it. Fortunately, the will of the majority prevailed.

"The battle is not yet over. The Basel Ban is a judicial and environmental victory; but it still requires a number of ratifications from states to enter into legal force. And, despite the ban, some industries and some governments will continue to seek loopholes in the Convention so as to go on exporting their hazardous wastes."

Fast forward another 13 years. The 'Ban Amendment'¹³⁷ is still not in force. The media and the NGOs are still highlighting horror stories. For example, a recent investigation by CBS News at a landfill site in Manila found an increasing prevalence of tuberculosis among workers and their children, which a doctor treating them attributed to chronic exposure to burning copper from the electrical goods.

One community youth leader had brought more than 200 people suffering from TB to a health centre. The chemical, which coats much of the e-waste burned by the women and children at the dump, polyvinyl chloride plastic, is even more dangerous due to its emission of carcinogenic gases, according to scientists.

A 2008 Greenpeace report found containers of e-waste from Germany, Korea, Switzerland and the Netherlands being opened at Tema harbour, the biggest port in Ghana. The team documented children, most between the age of 11 and 18, but some as young as five, taking the electronic scraps apart with their bare hands, releasing toxic fumes.¹³⁸

The good news, however, is at the last meeting of the Conference of the Parties (COP), held 17-21 October 2011 in Colombia's beautiful and historic Caribbean city: Cartagena de los Indios, a breakthrough seems to have been achieved.

Based on a joint initiative by Indonesia and Switzerland at COP 9 in 2008, the Cartagena meeting adopted a 'package deal' that allows the Ban Amendment to enter into force for those countries that wish to adhere to it, and mandates a group of experts to develop a framework for those countries that wish to trade in wastes to do so while ensuring environmentally sound management, preventing health and environmental impacts, and putting into place adequate social and labour conditions.

The Cartagena meeting also decided that, in accordance with the now agreed interpretation of Article 17(5) of the Convention, the Amendment would enter force upon ratification by an additional 17 Parties.

Environmental campaigners, who have been battling to broker a deal on the dumping of toxic waste for more than 20 years, said they were "ecstatic" about this "major breakthrough".

Kevin Stairs, Greenpeace's EU chemicals policy director, told *The Independent on Sunday*: "This is a great breakthrough for the environment and human health. Finally, the way forward into forcing developed countries to assume responsibility for their own hazardous waste and stop shipping it to developing countries has been agreed.

"All forms of hazardous waste including that sent for recycling, to obsolete electronic waste, will be banned from leaving wealthy countries destined for developing countries"

Jim Puckett, the executive director of the Basel Action Network (BAN),¹³⁹ said he was "ecstatic" with the decision: "I've been working on this since 1989 and it really does look like the shackles are lifted and we'll see this thing happen in my lifetime."

And on 25 October 2011, lending his own voice to the chorus of praise, Achim Steiner, UN Under-Secretary General and UNEP Executive Director, said:

“The results of the Cartagena conference offer a concrete example of how transformative environmental action can serve to reduce poverty and promote a healthy environment and social equity, advancing the promise of a green, sustainable economy which will be the focus of the Rio+20 conference next year.”

“In Cartagena, we have demonstrated that multilateralism works,” said Paula Caballero, the Colombian Ministry of Foreign Affairs officer who served as President of COP10.

“The striking progress made in Cartagena demonstrates how by working together Governments can find common ground on issues that have confounded agreement for well over a decade. Cartagena has given to the global community a model for achieving sustainable development in the field of waste management,” said Jim Willis, Executive Secretary of the Basel, Rotterdam and Stockholm Conventions.



BASEL CONVENTION



Top Left to Right: 'Khian Sea' vessel; Greenpeace patrol; e-Waste dumping Ghana; The Permanent Representative of the Syrian Arab Republic Ahmad Fathi Al- Masri (seated) signing the Basel Convention on the Control of Trans-Boundary Movements of Hazardous Wastes and their disposal. Looking on are Max Lewy (left) of the UN Treaty Section and Khalil Abou-Hadid of the Mission of the Syrian Arab Republic.

Sea turtle in clear unpolluted waters.



9

BONN CONVENTION (CMS), BRUNDTLAND AND BIODIVERSITY

The conservation of biodiversity and the sustainable management of natural resources have always been at the heart of the United Nations environment programme, taken in the widest (and original) sense of that expression, i.e. with the ‘e’ of environment and the ‘p’ of programme both in lower case. It was, after all, UNESCO that in 1947 instructed its first Director-General, Julian Huxley, to convene “an international technical conference for the protection of nature” — a mandate that led UNESCO to host, with others, the meeting in 1948 that created what became the International Union for Conservation of Nature and Natural Resources (IUCN) . In 1949, UNESCO convened the United Nations Scientific Conference on the Conservation and Utilization of Natural Resources (UNSCCUR).¹⁴⁰ The conservation of nature and the sustainable use of natural resources have also come to be at the heart of UNEP’s work.

There were 106 Recommendations altogether in the Stockholm Action Plan. No less than 50 fell under the heading ‘Environmental Aspects of Natural Resources Management’ (Recommendations 19-69). Other sections of the Action Plan also contained Recommendations in this area. For example, Recommendations 98 and 99, to be found under

‘educational, informational, social and cultural aspects of environmental issues’ deal with the ‘conservation of the world’s natural resources and cultural heritage.’

Of course, none of these Stockholm recommendations was directed specifically at UNEP since UNEP did not at that stage exist. Many of them were clearly directed at agencies which had already a mandate or a competence in particular aspects of natural resources management. Thus all the recommendations about the world’s genetic resources (e.g. Recommendations 39-45) were in the first instance aimed at the Food and Agriculture Organization of the United Nations (FAO), though UNESCO and IUCN were handed ‘supporting actor’ roles; FAO was also identified as a lead actor as far as forests and forestry were concerned (Recommendations 24-28) as well as for fish and fisheries (Recommendations 46-50).

Regional organizations were also invited to prepare ‘within the framework of international agreements, legislative measures designed to protect marine (and fresh-water) fisheries resources within the limits of their national jurisdiction’ (Recommendation 102 (c)).

UNESCO earned a special mention for its leading role with its Man and Biosphere Programme which the Stockholm Action plan recommended should be 'vigorously pursued'(Recommendation 65). IUCN, for its part, urged the Stockholm Conference to back four particular Conventions - one on the conservation of 'islands for science' (never pursued in that form); one on the export, import and transit of certain species of wild animals and plants (achieved as CITES); one on the conservation of wetlands on international importance especially as waterfowl habitat (the Ramsar Convention of 1971, which already existed but needed more signatories) and the fourth on the conservation of the world heritage (discussed in Chapter Three).

Other Recommendations did not have name-flags actually attached, but it was well understood at the time of the Stockholm Conference that one or other agency already had a foot on the ground and was poised to stake a claim. Thus, as we have seen¹⁴¹ the Stockholm Conference had recommended (Recommendation 99.3) that 'a plenipotentiary conference [should] be convened as soon as possible, under appropriate governmental or intergovernmental auspices, to prepare and adopt a convention on export, import and transit of certain species of wild animals and plants.' In practice, IUCN was already far advanced in its work on a convention and the plenipotentiary conference mentioned in the recommendation would take place at the invitation of the United States would take place a bare eight months later in Washington, DC. That conference would give birth to the Convention on International Trade in Endangered Species of Fauna and Flora (CITES), otherwise known as the 'Washington' convention.

But like the great white continent of Antarctica, there were some areas where claims had not yet been staked. International lawyers might have described the ground as '*res nullius*'.

Stockholm's Recommendation 32 was a case in point:

"It is recommended that Governments give attention to the need to enact international conventions and treaties to protect species inhabiting international waters or those, which migrate from one country to another:

- (a) A broadly based convention should be considered which would provide a framework by which criteria for some regulations could be agreed upon and the overexploitation of resources curtailed by signatory countries;
- (b) A working group should be set up as soon as possible by the appropriate authorities to consider these problems and to advise on the need for, and possible scope of, such conventions or treaties"

Though the Third United Nations Conference on the Law of the Sea (UNCLOS) had already been called for (in 1970) by the United Nations General Assembly and would start its detailed work in 1973, it was clear that Recommendation 32 was not primarily directed at UNCLOS.¹⁴² On the contrary, it envisaged a more specific instrument and one, moreover, which was not limited to marine species. As delegates, journalists and representatives of non-governmental organizations made their way home from Stockholm, some of them may have wondered who, precisely, was going to pick up the challenge Stockholm had thrown down with its Recommendation 32.

One obvious contender was IUCN¹⁴³ and one obvious candidate within IUCN as 'point-man' was Wolfgang Burhenne, then Vice-Chairman of IUCN's Environmental Policy and Law Commission. To be precise, there were two Burhennes to be taken into consideration. For Wolfgang Burhenne was married to Ms. Françoise Burhenne-Guilmin. Director of IUCN's Centre for Environmental Law.

When UNEP in 1991 awarded the Sasakawa Prize for outstanding contributions to the environment jointly to Wolfgang Burhenne and to his wife, Ms. Françoise Burhenne-Guilmin, they saluted one of the most remarkable partnerships of the 'modern' environmental movement.

The Sasakawa Prize citation proclaimed:

"No two people have done more to strengthen the position of international and national environmental law as a fundamental element of environmental management, than Dr. Wolfgang Burhenne and Françoise Burhenne-Guilmin.

“They have been directly involved in nearly all the major international conventions concerned with conservation over the past 25 years, and to the development of the World Conservation Union (IUCN) Environmental Law Centre in Bonn. Under the direction of Ms. Françoise Burhenne-Guilmin, who is Belgian, the Centre has accumulated the world’s most extensive collection of environmental legislative texts.

“The couple’s first venture together was helping the Organization of African Unity (OAU) establish the Algiers Conservation Convention in 1968.¹⁴⁴ Wolfgang Burhenne was one of 12 signatories to the Morges Manifesto, which established the World Wide Fund for Nature (WWF) in 1961. The insights and skills of the Burhennes were essential to the creation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1973, the World Charter for Nature, adopted by the United Nations General Assembly in 1982, and the Association of South-East Asian Nations (ASEAN) Agreement on the Conservation of Nature and Natural Resources in 1985.”

The above citation could equally well have mentioned the crucial role Wolfgang Burhenne and Françoise Burhenne-Guilmin played in the genesis of the Convention on Migratory Species (CMS). As is so often the case, the key factor was the astonishing network of personal contacts which the Burhennes have established at many different levels and in many different countries.

As far as Wolfgang Burhenne was concerned, at least one important contact was not far to seek. He was good friends with one of the most powerful men in Chancellor Willy Brandt’s Cabinet, Herr Joseph Ertl, the Minister for Food, Agriculture and Forests.

Barbara Lausche writes:¹⁴⁵

“In the early 1970s after Stockholm, German environmental NGOs became increasingly critical of the government for not taking international initiatives in nature conservation. The Federal Ministry for Food, Agriculture and Forestry (responsible for nature conservation) was the focus of this criticism.

“The responsible Minister, Joseph Ertl, and Wolfgang Burhenne (then Vice-Chair of IUCN’s Commission on Environmental Policy and Law under Lynton Caldwell) knew each other well.

“Burhenne recalls that in 1974, Minister Ertl approached the IUCN Law Commission and Law Centre through him for suggestions on what might be calm this criticism. In a meeting with the Minister, also attended by Dietrich Hegel, Head of the Ministry’s Nature Conservation Division, and Hans-Jürgen Rohr, State Secretary to the Minister, Wolfgang suggested “to take the initiative.” Minister Ertl asked what initiative he might take, Burhenne mentioned the recommendation from Stockholm for a migratory species convention and suggested Germany take the lead in promoting its development and conclusion.¹⁴⁶

“The Minister liked the suggestion and asked Hegel and Rohr to follow up. As recounted in an historical review many years later, Minister Ertl “announced to UNEP’s second Governing Council in 1974, that the Federal Government Germany would develop a draft convention and organize an international conference to debate and adopt it. Beyond political considerations, all were agreed that it made obvious technical and biological sense to deal with migratory species on a multilateral basis.”

This second meeting of UNEP’s Governing Council (mentioned in the above quotation) was in fact the first actually to be held in Nairobi (the first meeting of the Governing Council, as we have seen in Chapter Three, took place in Geneva). Martin Holdgate, who had helped in hammering out a first action programme for UNEP at the Geneva meeting held nine months earlier, recalls the flavour of the occasion:¹⁴⁷

“In 1974 we held the first meeting of the Governing Council in its new home city, Nairobi. I found myself elected a Vice President — perhaps in recognition of that long negotiation over the programme¹⁴⁸ a year before. We gathered in the new Kenyatta Conference Centre, in an auditorium that looked like a flying saucer about to take off. The Kenyan Foreign Minister, Mr. Mungai, took the chair, Mzee Jomo Kenyatta gave a welcoming speech, and everything went smoothly. So smoothly that I have no recollection of the discussions!”

As noted by Holdgate, President Kenyatta — in June 1974 — made his first official speech of welcome to the UNEP Governing Council.

“I have been impressed with the pace and competence of events since the United Nations Environment Programme was established. The first session of the Governing Council, which was mainly concerned with questions of organization and procedure, was held at Geneva last June, and its report was adopted by the General Assembly in December.

“Six months ago, I had the pleasure of formally opening this United Nations Environment Programme headquarters. You have assembled again for a second and vital session of the Governing Council, which I understand is to be concerned with concrete activities and programmes.

“Much useful work has been motivated under such headings as the monitoring of pollutants, the protection of oceans, the conservation of wildlife and the problems of human settlements. All these have been contained within comprehensive reviews of the world environmental situation, as background to a detailed action programme which your Council will be invited to approve.

“It is my earnest hope that the United Nations Environment Programme will initiate and operate expanding programmes with the fullest co-operation of United Nations agencies and the Governments of all Member States. The full range of programmes will require substantial finance, as well as projects of training and readjustment in many cases of development plans at national or regional levels.

“I am glad to learn that such requirements embrace the facilities and objectives of this United Nations structure.

“Beyond some of the issues I have mentioned, your deliberations will touch upon many matters of critical, but no exclusive, concern to developing States. You will be discussing drought and desert encroachment in countries bordering the Sahara, erosion of soils and better management of arid lands, the dangers of pollution, and the conservation of forests, water regimes and wildlife.

“Such topics are vital to the endurance of this planet and the welfare of humanity, as indeed are many grave questions arising from population growth and expanding human settlements. However, no single issue can exist in isolation.

“All have some co-ordinated influence upon the fundamental laws, balances and cycles which alone can sustain biological life.

“I wish you well in all your most critical work. I urge you to cherish the worldwide spirit of concern and consensus made so manifest at Stockholm.

“I call upon you all to recognize the responsibility of the Governing Council of the United Nations Environment Programme, in which now resides perhaps the last and only element of hope for all mankind.

“HARAMBEE”

“UNEP — the last and only element of hope for all mankind!” There may have been some in President’s Kenyatta’s audience that day who thought that he was possibly over-egging it. But there was no doubting the sincerity and obvious pride with which the President spoke.

Kenya’s Foreign Minister Njoroge Mungai,¹⁴⁹ who had fought so hard to ensure that Kenya would host UNEP, presided over this second session of the Governing Council.

The proceedings opened with a ‘general debate’. Strong, UNEP’s Executive-Director, taking a realistic approach, told the meeting that it would not be feasible to develop a comprehensive set of programme activities covering the whole broad range of priority areas agreed at the first session of the Governing Council. He urged the Council to agree on a relatively small list of specific areas within the priorities agreed at its first session.¹⁵⁰ He sought the guidance of the Council regarding future activities of UNEP in respect of these subjects.

The official report of the debate indicates that German Agriculture Minister Ertl’s message, congratulating the Kenya Government on hosting UNEP and spelling out Germany’s enthusiasm for a new

convention on migratory species, was delivered quite late in the debate. One of the last paragraphs of the official report of the meeting notes succinctly that: “The representative of the Federal Republic of Germany stated that his Government would assist in drafting and preparing a convention on the conservation of migratory species and would be happy to act as host to an international conference on this subject.”

There is no indication in the record that any detailed discussion took place on the German proposal, but it is clear that it received the assent of the gathering since the Governing Council’s Decision 8 (II) indicates in paragraph 5 (a) that particular attention should “be given to the protection of endangered species of fauna and flora. In this connexion, the Executive Director should take steps to encourage the early ratification of the 1973 Convention on International Trade in Endangered Species, and *to assist in the conservation of migratory species and others not adequately covered by existing conventions*” (author’s emphasis)

Making clear that its support of the German proposal was not a one-off, but that — on the contrary — UNEP’s interest in nature protection was broad and encompassing, the Governing Council decision goes on to indicate (Para. 5(b):

“For the preservation of aquatic and terrestrial ecosystems, biomass and habitats, efforts should be made to expand the network of terrestrial and marine parks, in which studies of the relevant ecosystems should be encouraged. Emphasis should be placed on arid lands, forests, wetlands and marine areas. The Executive Director is requested, in co-operation with appropriate international organizations, to promote studies leading to concrete action facilitating the exploration, protection and conservation of nature in the humid equatorial zones.”

Lausche comments that Burhenne recalls that the timing and circumstances surrounding that meeting with Minister Ertl were fortuitous, opening a path for developing a convention on migratory species “which might not have happened otherwise”:¹⁵¹

“As with CITES, those were the years when a convention needed a country to be champion and sponsor, not only for development and

promotion of draft text but also for the associated costs of diplomatic conferences. UNEP and other specialized UN agencies commonly take on that role today, but UNEP then was just beginning. Moreover, treaties often are cited by reference to their place of adoption and so, perhaps, there also could be a ‘Bonn Convention.’”

“After further consultations in the Ministry, it was decided that the Environmental Law Centre would be contracted to prepare the convention draft for and with the Ministry. The work was undertaken as a joint project by CEPLA and the environmental Law Centre, based on a preliminary study undertaken by Law Commission member Cyrille de Klemm, which proposed formulating an international agreement for migratory species in the form of a framework or ‘umbrella’ convention. Work was begun in 1974. During 1975, Daniel Navid joined the Law Centre and became heavily involved in the drafting work along with Françoise Burhenne-Guilmin and de Klemm.

“By September 1975, a first IUCN draft was ready for circulation and distributed to all countries with which Germany maintained diplomatic relations, with a request for comments. The draft had been prepared by IUCN and presented as the IUCN recommended draft for first round of governmental reviews. Subsequent versions, taking successive governmental comments into account, became drafts submitted by the Government of the Federal Republic of Germany, which continued to manage the process to the convention’s conclusion with IUCN technical assistance.

“With initial response to the draft mostly favourable, Germany decided to hold a meeting of experts in Bonn in July 1976 to more fully consider the document. The meeting was well attended; some 102 experts from 45 countries and 11 international organizations participated. It was billed not as a drafting session, but rather a session to assist in the preparation of a Working Paper for a Plenipotentiary Conference that the Government of the Federal Republic of Germany would convene within two years toward conclusion of a convention. Discussions were informal and participants were allowed to present views and comments on a personal basis so as not to formally commit

the governments or organizations they represented. As observed by Daniel Navid, rapporteur for the meeting, “These conditions greatly favoured the work of the participants.”

“In light of input received at that meeting of experts, a revised draft was prepared and circulated in mid-1977 as a first government draft. On the basis of further comments received, including those from a meeting of experts of European Community countries convened by Germany with IUCN as advisor, the Government decided further final revisions were necessary prior to convening a Diplomatic Conference to conclude the Convention. The IUCN Law Programme continued to provide technical advice on the elaboration of the draft and in addition convened a meeting of experts in July 1978 to develop recommendations for species that might be included in Appendices to the Convention.”

A Diplomatic Conference to negotiate the final text was hosted by the Government of the Federal Republic of Germany in Bonn from 11-22 June 1979. On 23 June, the Convention was adopted. The final text was entitled the Convention on the Conservation of Migratory Species of Wild Animals (CMS) (also to be known more commonly as the ‘Bonn’ Convention).

The Convention on Migratory Species of Wild Animals came into force in November 1983. In November 1984, a Secretariat — provided by UNEP under the terms of the Convention — was established in Bonn at the invitation of the Government of the Federal Republic of Germany.

Today, almost 30 years later, it is clear that the ripples from that first encounter between Minister Ertl and Burhenne have spread far and wide. The CMS ‘umbrella’ agreement has spawned many subsidiary agreements and memoranda of understanding, such as the Africa-Eurasian Waterbird Agreement (AEWA, entered into force 1999) and, most recently, the Gorilla Agreement (entered into force 2008).

UNEP’s role as provider of the Secretariat of the CMS, taken together with the responsibility it holds for CITES, clearly entitled it to be regarded as one of the main players in the biodiversity field even though it did not play a major part in the negotiation of either Convention.

Both treaties are considered to be ‘UNEP’ treaties (as is the Basel Convention). Add to this package the undeniable fact that many, if not most, of the regional seas conventions¹⁵² which UNEP had already developed or was in the process of developing made provision for specially protected areas and for the protection, more generally, of the marine and coastal environment, including wildlife, against pollution and other threats.

But the story does not end there. As the 1980s got under way, another even bigger prize was in sight: a Global Biodiversity Convention.

Once again, an element of ‘serendipity’ comes into play. In this case the World Conservation Strategy of 1980, prepared by IUCN jointly with UNEP and WWF, the World Wildlife Fund and the World Charter for Nature, adopted by the UN General Assembly in 1982, drew the attention of the world community to the fragmentary nature of global conservation agreements. The World Conservation Strategy had, moreover, very much at UNEP’s insistence, turned away from a traditional protectionist approach to nature conservation and emphasised that living resource conservation was the essential foundation of sustainable development. Indeed the sub-title of the Strategy — ‘Living Resource Conservation for Sustainable Development’ — was probably the first use of what is now a familiar term in a global environmental document.¹⁵³

This philosophy was re-echoed in the Report of the World Commission on Environment and Development, published in 1987. It included the now celebrated definition: “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”¹⁵⁴

There have, over the last 50 years or so, been numerous reports which have, either directly or tangentially, dealt with the subject of development and environment. The Pearson Report¹⁵⁵ and the Brandt Commission Report¹⁵⁶ spring to mind. But few such reports have had the global impact of the Brundtland report. Of course, success has many fathers, as we all know, whereas failure is an orphan. Nonetheless, since this is a book about UNEP, it may be well to recall that UNEP has a fair claim to be called the real progenitor of the Brundtland Commission.

UNEP itself had taken particular stock of its role in 1982, a decade after Stockholm. At Mostafa Tolba's prompting, the Governing Council decided to hold a Session of Special Character, to which Heads of State and Ministers were invited. As one input, UNEP prepared a major report on the World Environment, 1972-1982, reviewing the state of the planet in the decade.¹⁵⁷ That report re-echoed the statements in the World Conservation Strategy, recognising that "terrestrial biota need to be managed in harmony with the basic needs of socio-economic systems, and in most developing countries alleviation of poverty is a major societal objective." It called for action to conserve the planet's living resources, the integration of conservation with development, and international support for national programmes to those ends.

On the basis of that Report, along with the Report of the Session of Special Character, the 11th session of UNEP's Governing Council held in Nairobi from 11-24 May 1983 decided to propose to the United Nations General Assembly the setting up of a special Commission:

- (a) To propose long-term environmental strategies for achieving sustainable development to the year 2000 and beyond;
- (b) To recommend ways in which concern for the environment may be translated into greater co-operation among developing countries and between countries at different stages of economic and social development and lead to the achievement of common and mutually supportive objectives which take account of the interrelationships between people, resources, environment and development;
- (c) To consider ways and means by which the international community can deal more effectively with environmental concerns, in the light of the other recommendations in its report;
- (d) To help to define shared perceptions of long-term environmental issues and of the appropriate efforts needed to deal successfully with the problems of protecting and enhancing the environment, a long-term agenda for action during the coming decades, and aspirational goals for the world

community, taking into account the relevant resolutions of the session of a special character of the Governing Council in 1982.

This draft decision was approved by the United Nations General Assembly virtually unchanged on 19 December 1983¹⁵⁸ and would become the terms of reference for Brundtland Commission.

Holdgate, who chaired the 11th session of the UNEP Governing Council, recalls that the business of bringing the Brundtland Commission into being was not as simple as the above summary might indicate. "The delegate of the USSR would have preferred the Commission to be an intergovernmental body with members appointed by governments and the report approved by governments."¹⁵⁹ At their insistence, UNEP was also instructed to prepare, in consultation with governments, "An Environmental Perspective to the year 2000 and Beyond".

Ms. Brundtland concluded her Chairman's Foreword to the World Commission's Report with the following statement: "I thank also the Executive Director of the United Nations Environment Programme, Mr. Mostafa Tolba, for his valuable, continuous support and interest."

It is a compliment which Tolba has always graciously acknowledged.¹⁶⁰ The compliment was delivered to Tolba personally, but it can also be seen as a compliment to UNEP itself. 'Inventing Brundtland' was a different kind of achievement to, say, patching up the ozone hole, dealing with toxic waste or coming to terms with global warming. But it was a real and important achievement for UNEP nonetheless. The irony, as we shall see in the next Chapter, is that for UNEP itself, as an institution, the implications of Brundtland would be challenging to say the least.

As far as UNEP's efforts for the protection of habitat and species was concerned, the publication of the Brundtland Report in March 1987 was of immense importance. Just at the moment that the UNEP Governing Council was gearing itself up to take further steps as regards biodiversity, Brundtland came out with some of the clearest and unambiguous language about the importance of protecting nature and natural resources that the world had so far seen.

What was more Brundtland argued powerfully that protecting natural resources, wildlife and ecosystems was a vital component, indeed the essential underpinning, of sustainable development. One whole chapter, Chapter 6, of the Report of the World Commission on Environment and Development (to give the Brundtland Report its official title) is devoted to precisely this subject. It echoes statements in the World Conservation Strategy, the World Charter for Nature and UNEP's Report on the World Environment, 1972-82, but puts the points even more forcibly.

A convenient summary is to be found in the Overview in the section entitled:¹⁶¹ Species and Ecosystems — Resources for Development.

"The planet's species are under stress. There is a growing scientific consensus that species are disappearing at rates never before witnessed on the planet, although there is also controversy over those rates and the risks they entail. Yet there is still time to halt this process.

"The diversity of species is necessary for the normal functioning of ecosystems and the biosphere as a whole. The genetic material in wild species contributes billions of dollars yearly to the world economy in the form of improved crop species, new drugs and medicines, and raw materials for industry. But utility aside, there are also moral, ethical, cultural, aesthetic, and purely scientific reasons for conserving wild beings.

"A first priority is to establish the problem of disappearing species and threatened ecosystems on political agendas as a major economic and resource issue.

"Governments can stem the destruction of tropical forests and other reservoirs of biological diversity while developing them economically. Reforming forest revenue systems and concession terms could raise billions of dollars of additional revenues, promote more efficient, long-term forest resource use, and curtail deforestation.

"The network of protected areas that the world will need in the future must include much larger areas brought under some degree of protection. Therefore, the cost of conservation will rise — directly and in terms of opportunities for development foregone. But over the long

term the opportunities for development will be enhanced. International development agencies should therefore give comprehensive and systematic attention to the problems and opportunities of species conservation."

From the standpoint of UNEP's own ambitions as far as a global diversity convention was concerned, the crucial paragraph of Brundtland's Overview stated:

"Governments should investigate the prospect of agreeing to a 'Species Convention', similar in spirit and scope to other international conventions reflecting principles of 'universal resources'. They should also consider international financial arrangements to support the implementation of such a convention."

Brundtland gave some striking examples of species loss:

"In Madagascar, until about mid-century, there were 12,000 plant species and probably around 190,000 animal species, with at least 60 per cent of them endemic to the island's eastern strip of forest (that is, found nowhere else on Earth). At least 93 per cent of the original primary forest has been eliminated. Using these figures, scientists estimate that at least half the original species have already disappeared, or are on the point of doing so.

"Lake Malawi in Central Africa holds over 500 cichlid fish species, 99 per cent of them endemic. The lake is only one-eighth the size of North America's Great Lakes, which feature just 173 species, fewer than 10 per cent of which are endemic. Yet Lake Malawi is threatened through pollution from industrial installations and the proposed introduction of alien species.

"Western Ecuador is reputed to have once contained between 8,000 and 10,000 plant species, some 40 and 60 per cent of them endemic. Given that there are between 10 and 30 animal species for every one plant species in similar areas, western Ecuador must have contained about 200,000 species. Since 1960, almost all the forests of western Ecuador have been destroyed to make way for banana plantations, oil

wells, and human settlements. The number of species thus eliminated is difficult to judge, but the total could well number 50,000 or more — all in just 25 years.

“The Pantanal area of Brazil contains 110,000 square kilometres of wetlands, probably the most extensive and richest in the world. They support the largest and most diversified populations of waterfowl in South America. The area has been classified by UNESCO as ‘of international importance’. Yet it suffers increasingly from agricultural expansion, dam construction, and other forms of disruptive development.”

Why, it might be asked, did the Brundtland Report have such an impact? The answer lies in part, of course, in the quality of the product. The Commission’s Secretary-General, and ex-officio member, was Jim MacNeill who, until taking on his assignment for the Commission, had been OECD’s Director for the Environment (and responsible for path-breaking work on the definition of toxic and hazardous waste which UNEP had used as the underpinning of the Basel Convention¹⁶²). He had also been a participant in the famous Founex meeting.¹⁶³ MacNeill not only had a felicitous turn of phrase which is reflected in the Report. He insisted on a process of consultation in all corners of the globe so that Commission members could hear, and be seen to hear, the arguments for — and the benefits of — the ‘new’ approach to environment and development and the news synthesis: ‘sustainable development.’

Another part of the answer lies in the sheer eminence (and competence) of the members of the Commission.¹⁶⁴ Though country name-flags were attached to the list when the report was published, this was not, definitely not, a report of governments. The text had not been ‘approved’ as such by the United Nations but could be deemed to be the expression of genuinely-held beliefs and deep personal commitment.

Another striking fact about the list of members was the number of men and women from the developing world. At Stockholm, in spite of the great efforts made by Strong and the secretariat to bring the developing countries on board, there had been an under-representation of the developing world. In the Brundtland Commission, a better balance was achieved.

One last reason for the success of the Brundtland Report was possibly down to luck. Ms. Brundtland had already had a short spell as Norway’s Prime Minister in 1981, before she was appointed Chair of the World Commission. She became Prime Minister again in 1986, so she was in office when the Report was published and she didn’t step down as Prime Minister till October 1989. Richard Sandbrook, who was then Director of the International Institute for Environment and Development, writes that this factor helped ‘bring the report into the public domain.’¹⁶⁵

“Mrs. Gro Harlem Brundtland, the chair of the commission, became the Prime Minister of Norway.... she was thus in a position to promote the conclusions of the report at the highest possible level. And this she did. Ironically, she was joined by Mrs. Margaret Thatcher, the UK Prime Minister who had originally opposed the Commission. But, as a scientist, Mrs. Thatcher had become deeply concerned about the discovery of the hole in the ozone layer. As a result she decided to promote the environment issue at the United Nations and was joined by Gorbachev, Mitterrand and Gandhi. Thus the international beauty contest of world leaders was set in motion. By the end of 1988, some 50 national leaders had come out in strong support of the conclusions of the Commission, with many calling for a major event to discuss and act upon the Brundtland report.”¹⁶⁶

Though its impact was certainly felt in other sectors of UNEP’s operations, Brundtland’s recommendations as far as species and ecosystems were concerned had a totally energizing effect on the Governing Council which on June 17, 1987 at its 14th session adopted Decision 14/26 on the Rationalization of international conventions on biological diversity.

“The Governing Council,

“Concerned about the disappearance of plant and animal species as a result of the destruction of their habitats and their exploitation for commercial and other purposes,

“Recognizing the need for adequate protection and preservation of biological diversity, because of both the intrinsic and economic value of the species concerned,

“Noting the recommendation of the World Commission on Environment and Development concerning the protection of biological diversity and the achievements of United Nations bodies and other international organizations, including non-governmental organizations, in this field,

“Noting in particular the need to support actively the efforts currently underway within the International Union for the Conservation of Nature and Natural Resources to develop a convention for the *in situ* preservation and conservation of biological diversity,

“Aware of the need to avoid duplication of effort and to co-ordinate present and future efforts in this field in order to ensure the effective and efficient use of available financial resources,

“Requests the executive Director, in consultation with Governments and within available resources, to establish an ad hoc working group of experts to investigate in close collaboration with the Ecosystems Conservation Group and other international organizations the desirability and possible form of an umbrella convention to rationalize current activities in this field, and to address other areas which might fall under such a convention;

“Further requests the executive director to report to the Governing council at its next regular session on the results of this investigation.”

Yet again tribute must be paid to Burhenne. The actual drafting of this Governing Council decision owed much to his intervention. Burhenne proudly maintains that he has never missed a regular session of the UNEP Governing Council or indeed a Special Session.¹⁶⁷

His presence in June 1987 certainly paid off not only because he was able to influence the text of the Governing Council’s Decision but also because he was able to establish a close link between the work of the newly-established ‘*ad hoc* group of experts’, as defined in the Governing Council’s Decision 14/26 and the ongoing work of the IUCN in the field of biodiversity.

As it happened, Burhenne told his interlocutors, the IUCN was already in the process of drawing up a global species protection convention. Indeed IUCN’s work in this field was already several years old. The 15th IUCN Assembly (Christchurch, New Zealand, 1981) had adopted a resolution which among other things instructed the IUCN Secretariat to carry out a preliminary study “on the conservation, accessibility and use of genetic resources with a view to providing a basis for an international management regime and for rules to implement it.” That mandate was subsequently expanded to include a consideration of more general measures for nature protection and species conservation. By 1986, IUCN’s Environmental Law Centre, under the leadership of its director Françoise Burhenne-Guilmin and long-time member of the IUCN Law Commission, Cyrille de Klemm, a small group of experts had been convened to discuss a first draft of a global biodiversity convention.

Barbara Lausche comments:¹⁶⁸

“During this period, IUCN Law Commission Chairman Burhenne used the occasion of his observer attendance at UNEP’s Governing Council meetings to promote informally and build UNEP support for the IUCN initiative. At the 14th UNEP Governing Council meeting in 1987, some Members moved that UNEP should prepare an umbrella convention simply to consolidate instruments already in force in this field. Concerned that this motion might, in effect, put a stop to the considerable work already done by IUCN toward a more comprehensive framework, Burhenne undertook intensive informal consultations with delegates to promote amendments to this motion that would support IUCN efforts and link them to any future UNEP work. He later wrote about those critical moments:

“With the help of the United Kingdom representative, Dr. Martin Holdgate, compromise wording was worked out and adopted. It called for support of IUCN’s efforts in developing ‘a convention for the *in situ* preservation and conservation of biological diversity’ and requested the UNEP Executive Director to ‘establish an ad hoc working group ... to investigate the desirability and possible form of an umbrella convention to rationalise current activities in this field.’

“The working group would work ‘in close collaboration’ with it the Ecosystems Conservation Group of which IUCN is a member.

“After that crucial Governing Council decision, UNEP moved swiftly to established a technical working group, chaired by Veit Koester of Denmark’ The first meeting of this UNEP working group was held in November 1988. Three subsequent meetings were convened - February 1990, July 1990 and November 1990. Renamed the Intergovernmental Negotiating Committee, the group had another four meetings before a convention text was finally agreed — on 23 May 1990 — less than two weeks before the opening of the United Nations Conference on Environment and Development where the Convention would be open for signature.”

There are at least two extensive accounts of the negotiations leading up to the adoption of the Convention. *Global Environmental Diplomacy* by Mostafa Tolba with Iwona Rummel-Bulska¹⁶⁸ continues the blow-by-blow insight into the negotiating process which we have already drawn heavily on in the chapters dealing with ozone and the movement of hazardous waste. Fiona McConnell, leading the UK delegation in the CBD negotiations,¹⁶⁹ has published an engaging personal narrative of the key events and personalities. There is, of course, also an abundance of academic commentary on the evolution of this important new legal instrument.¹⁷⁰ In layman’s terms, the key issues to be resolved were: was the Convention primarily a ‘conservation’ convention, aimed at protecting biodiversity? Or was it dealing principally with the question of genetic resources, including the issues of access and fair compensation? Or could it cover both issues at the same time?

As far as the conservation question was concerned, there were some more subtle points to be considered. Some countries, particularly France, wanted to see a global list or lists included in the convention, presumably by way of an annex, which would establish the species and even possibly the types of habitat to be protected.

The listing approach had already been adopted as the basis of the African Convention on the Conservation of Nature and Natural Resources, signed in Algiers in 1968.¹⁷¹ It had been a central feature of

the Council of Europe’s Berne Convention of 1979 on the Conservation of European Wildlife and Natural Habitats.¹⁷²

The Nordic countries, though keen on the conservation aspects of the Convention, saw the political problems involved (would the developing countries see the ‘list’ approach as an infringement of sovereignty, for example?). They put their faith in the stress to be placed by the Convention on national actions.

Another fundamental issue was financing. It was clear that the developing countries were not ready to come to the table (and certainly not ready to negotiate a final text) unless they had assurances that funds would be available to implement the convention. Though the Global Environment Facility (GEF) had been set up in the pre-Rio period by the World Bank, UNDP and UNEP with precisely the objective of helping in the implementation of global environmental conventions, many developing countries were not happy with the ‘governance’ structures then in place for the GEF. As they saw it, the GEF was dominated by the World Bank with its ‘non-democratic’, system of governance. They wanted a more ‘democratic’ system.

These issues had to be resolved before the Convention could be adopted. And they were. The ‘list approach’ was dropped. France protested to the end. Refusing to initial the Final Act of the Conference, France’s delegate stated formally:

“France expected practical and sound provisions to strengthen the conservation of biodiversity. Such provisions are few and too vague. In this respect, it seemed to stand to reason to include a provision existing in several conventions (World Heritage and Biosphere Reserve of UNESCO, Ramsar, CITES) in a convention on biological diversity: we refer to global lists. France regrets that the manner in which the text of the Convention was adopted did not allow it to make a compromise proposal on the question of the global approach to biological diversity. The difference of outlook on the part of some delegations towards a provision that France regarded as essential, together with the way in which the text of the Convention under-values the scientific approach, force France to refrain from initialling the Final Act of the Conference.”¹⁷³

On the financing point, it was agreed that the GEF would serve as an interim financial mechanism but that its position as the permanent financial vehicle of the Biodiversity would only be confirmed after the GEF's own statutes had been amended.

The delegate of the United States also made a statement.¹⁷⁴

- In signing the Final Act, the United States recognizes that this negotiation has drawn to a close.
- The United States strongly supports the conservation of biodiversity and, as is known, was an original proponent of a convention on this important subject. We continue to view international cooperation in this area as extremely desirable.
- It is deeply regrettable to us that — whether because of the haste with which we have completed our work or the result of substantive disagreement — a number of issues of serious concern in the United States have not been adequately addressed in the course of this negotiation. As a result, in our view, the text is seriously flawed in a number of important respects.
- As a matter of substance, we find particularly unsatisfactory the text's treatment of intellectual property rights; finances, including, importantly, the role of the Global Environment Facility (GEF); technology transfer and biotechnology.
- In addition, we are disappointed with the development of issues related to environmental impact assessments, the legal relationship between this Convention and other international agreements, and the scope of obligations with respect to the marine environment.
- Procedurally, we believe that the hasty and disjointed approach to the preparation of this Convention has deprived delegations of the ability to consider the text as a whole before adoption. Further, it has not resulted in a text that reflects well on the international treaty-making process in the environmental field.

If there were imperfections in the final text — and there certainly were — these may have been due not only to basic differences of approach,

but also to the speed with which the negotiations had to be conducted if the Convention was to be ready for signature in Rio.

Professor Laurence Boisson de Chazournes¹⁷⁵ comments:

“...the convention text was finally agreed upon on 23 May 1992 — virtually on the eve of the United Nations Conference on Environment and Development, which took place in Rio de Janeiro, 3-14 June 1992. Since the beginning of preparations for the Conference, a legally binding convention on biodiversity was envisaged as its key output. This provided a sense of urgency and an important impetus for the successful conclusion of the negotiations in time, and against the strategy of the Convention's critics to try to drag out negotiations of the CBD beyond the Conference with a view that it might eventually disappear again from the international policy agenda.”

Professor Boisson de Chazournes summarizes the negotiating process:

“The focus of the negotiations very quickly moved away from trying to establish an umbrella convention that would streamline existing agreements, as proposed by the United States, and from the concept of a convention that would merely focus on in situ conservation, as initially proposed by IUCN, towards developing a general treaty on biodiversity. Once it became clear that the majority of States wanted a convention that would include not only conservation but also social and economic aspects of biodiversity as well as the issue of biotechnology, the initial State sponsor of the process, the United States, turned into one of its most vocal opponents. Being one of the most important exporting countries, the United States was particularly concerned about including any provision relating to the development, management, safe use and release of genetically modified organisms, and about the protection of intellectual property rights, and opposed the inclusion of prior

informed consent requirements in the context of exporting biotechnology or its products. The position of opposing prior informed consent requirements was also supported by Japan.

“On the other side stood the developing countries; since most of the genetic resources which are the raw materials for biotechnology in agriculture and pharmaceuticals are located in their territories, they made clear that they would oppose any new convention if biotechnology was not included. They favoured a convention that would be based on national (rather than international) action and wanted an emphasis on national sovereignty rights over biological resources. Focus on national action was also supported by a large number of developed countries, notably the United Kingdom.

“The most difficult item of the negotiations, however, turned out to be finding an agreement on the financial mechanism. While developed countries insisted on utilizing the Global Environmental Facility (GEF), developing countries viewed this mechanism as too donor country defined, and favoured the establishment of a new structure. In the final hours of the negotiation process, a compromise clause was agreed upon and integrated as article 39, assigning the mandate of financial mechanisms to the GEF on an interim basis. Its governance system has in the meantime been restructured, and the GEF has so far been retained as the Convention’s financial mechanism.”

Would the Convention on Biological Diversity have been a better convention if it had been negotiated without the pressure of the UNCED Conference’s June 1992 deadline?

Might the United States, for example, have been brought on side if some of the objections signalled by its delegation had been addressed?

The irony is that the United States began as one of the original proponents of a global biodiversity convention (at least as a means of ‘rationalizing’ existing instruments) but ended up making common cause with countries who, in some cases, had entirely different objectives.

Whatever the judgement of history may be on the outcome of the negotiations, it is clear that Tolba, as Secretary-General of the Negotiating Conference, was highly effective. Techniques (such as ‘informal’ negotiations) which he had deployed successfully on other occasions, such as during the ozone and waste negotiations, were deployed again. The physical circumstances of UNEP’s Kenya headquarters presented other opportunities. It was difficult for delegates to communicate with their capitals.

McConnell again, in typically forthright terms:¹⁷⁶

“Dr. Tolba continued to apply his bullying, cajoling, wheedling and threatening tactics. He was unwaveringly courteous to the US because, as he told us all, he did not want to give them an excuse to walk out. But to everyone else he distributed his contempt even-handedly. Japan was accused of taking up space and saying nothing. India was attacked for talking too much. Malaysia was ordered not to mention the GEF again. The UK was blinkered, mean and would not listen to Darwin if he were still alive. Brazil was interested in UNCED, not biodiversity Mexico should decide if it wanted to join OECD or stay with its G77 brothers. And so on. A laugh from Mr. Tolba in response to a proposal he did not favour was inevitably the precursor of an insult...

“By 3 a.m. it was clear that whether or not to specify the GEF as the interim mechanism remained the most intractable issue in a difficult Article. At this point Sweden, which had not been active in the core group, suggested that as the draft Resolution on interim work before the first COP mentioned the GEF it did not need to be included in the convention itself. One by one G77 delegation heads thought they could accept this. So too could the Netherlands and Australia. Mr. Tolba looked on with a smile reminiscent of a crocodile about to enjoy a tasty meal. There was a distinct air of optimism in the centre and rear of the room. Those of us at the front hung our heads. There was no need to speak.

“Without a reference to the GEF we simply could not join any kind of consensus. This could be the end of the negotiations for four or five donor delegations. Mr. Tolba then took the floor. Whatever the undoubted shortcomings of the GEF, he said, it was the only mechanism into which the major donors were prepared to put their money or their trust.”

“Did Sweden and the G77 really want a convention that would be boycotted by countries that would be expected, under any scale of assessment, voluntary or mandatory, to pay more than 75 per cent of the contributions?”

“If so, they had better go somewhere else and put together a meaningless instrument: UNEP would not be associated with it.

“He stood up to leave, but was halted by the Indian delegation head who asked for the opportunity to offer a last chance solution.

“India proposed that there should be no mention of the GEF in Article 21 but that it could be designated in a separate Article as the “institutional structure” for the period between entry into force of the convention and the first Conference of the Parties. Mr. Tolba promptly closed the meeting, told those present to give careful thought to this last chance solution, and sent us wearily away.”

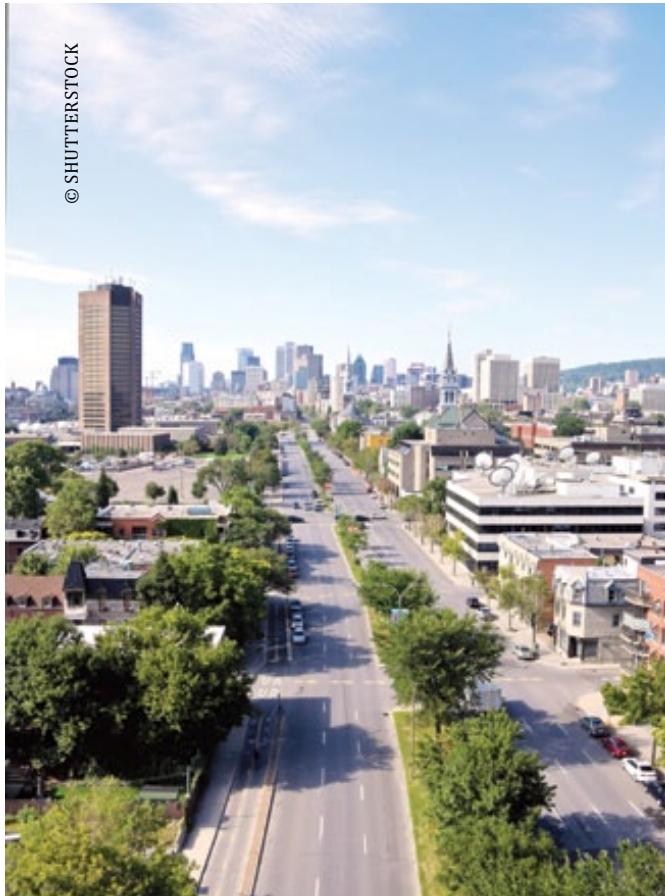
The negotiations on the Convention of Biological Diversity ended on May 22, 1992. The United Nations Conference on Environment and Development was scheduled to begin on June 5, 1992, in Rio de Janeiro, Brazil. And it is to Rio that we must now turn.



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Top Left to Right: Sperm whale; Amazon Forest - Biodiversity hotspots are also major carbon sinks; Threatened Siberian crane; Dying coral reef; Bukhara deer; Secretariat of the Convention on Biological Diversity is based in Montreal, Canada.

Sugarloaf mountain, Rio de Janeiro.



10

THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT (UNCED)

Rio De Janeiro, June 1992

Maurice Strong served as the Executive Director of UNEP from January 1973 to December 1975. His tenure was perhaps shorter than his many friends and admirers had hoped it would be. He himself clearly had some regrets. This was not one of those ‘win-win’ situations. He writes in his memoir: “By the last half of 1975 things were going well in Nairobi and I was continuing to find my life there both personable and challenging. On the other hand I realized that the time was coming when I would need to confront my obligations to return to Canada.”¹⁷⁷

In fact, the Canadian Prime Minister, Pierre Trudeau, wanted him to return home to run Petro-Canada, the national oil company which had been set up in response to the 1973 oil crisis.

Whatever hesitations Strong may have felt in leaving UNEP so soon after it had made its entry onto the world stage would have been alleviated by his admiration for the qualities of his deputy and successor: Mostafa Tolba. Tolba had been Strong’s personal choice as his deputy. The association between the two men went back to Stockholm. It was

Tolba who, as chairman of one of the main committees, had managed to broker an agreement on the all-important Stockholm Declaration of Principles. Strong writes: “It was nearly dawn before agreement was reached and the wording settled. The breakthrough owed much to the relentless leadership of the committee chairman, Mostafa Tolba, Minister of Science and Technology for Egypt and head of his country’s delegation. I marked him as a promising candidate for international leadership.”¹⁷⁸

When Strong returned to Nairobi in August 1990 in his capacity of Secretary-General of the United Nations Conference on Environment and Development, on the occasion of the first meeting of the Conference’s Preparatory Committee, he paid an extensive tribute to his successor. After thanking the President of Kenya, Daniel Arap Moi, who had addressed the opening session of the Preparatory Committee, “for all that he and his government have done to make the city of Nairobi the world’s Environmental Capital as the headquarters of the United Nations Environment Programme and Habitat,” Strong turned to his old friend and colleague.

“I have other reasons to be especially pleased and grateful on this occasion. Foremost amongst these is my deep pleasure and satisfaction at sharing this podium and this experience with my dear and esteemed friend and colleague, Mostafa Tolba, Executive Director of the United Nations Environment Programme. His enlightened and dynamic leadership has established UNEP as the centrepiece of the global environmental movement and the indispensable instrument through which virtually all the principal achievements in global environmental cooperation have been effected. Indeed, UNEP’s work and its initiatives have also provided the primary source of inputs for the United Nations Conference on Environment and Development (UNCED).”¹⁷⁹

When Strong spoke of UNEP as the ‘primary source of inputs’, he was not being merely diplomatic.¹⁸⁰ The previous week UNEP’s Governing Council had held a Special Session in Nairobi (its second). Its main purpose had been to prepare and guide UNEP’s contributions to UNCED. Strong himself had addressed that special session. He had congratulated UNEP for the overview paper it had prepared on United Nations system-wide activities in the fields of environment and development. UNEP, he said: “had earned the confidence and respect of the international community. It deserved to be strengthened so that it could carry out its expanding responsibilities as the global environmental protection agency of the planet.”

Did Tolba, as he sat on the podium in Nairobi that morning on 6 August 1990, wonder whether UNEP itself might have been assigned the secretariat role, as far as the preparation of UNCED was concerned? And did he ever wonder whether he, as the current Executive Director of UNEP, might therefore have been the Secretary-General of the Conference?

The answer to both those questions is undoubtedly: “Yes.”

On 15 June 1972, on its last day of business, the Stockholm Conference, besides adopting the Declaration and the Action Plan,¹⁸¹ had approved four resolutions. One related to ‘institutional and financial arrangements’ and, as we have seen, formed the basis of UNGA Resolution 2997 (XXVII) of 15 December 1972.

Another recommended that the UN General Assembly should designate 5 June as “World Environment Day” (which it duly did). The third condemned nuclear weapons tests. The last, Stockholm Conference Resolution 4 (I), related to the convening of a Second United Nations Conference on the Human Environment. It recommended that the General Assembly of the United Nations decide to convene a second United Nations Conference on the Human Environment. It also recommended that the ‘new environmental machinery’ referred to in the recommendations of the first United Nations Conference on the Human Environment be entrusted with the preparation for the second United Nations Conference on the Human Environment.

In the event, the General Assembly took some time before resolving the question of a second conference. Over the years various offers had been made by various countries to host a second conference, some offers being more serious than others. But no definitive decisions had been taken.

Lars-Göran Engfeldt¹⁸² has given a masterly 30-page account of the complex process, leading up to the final UN General Assembly decision in December 1989. There is only space to summarize that account here.

Engfeldt wrote:

“The formal decision to convene the United Nations Conference on Environment and Development — the Rio Conference — was taken in December 1989 when the UNGA unanimously adopted Resolution 44/228. This resolution provided the substantive, organizational and procedural direction to the preparations which started during 1990. It was preceded by an intermediary resolution that had been adopted in 1998, also unanimously.”

In that ‘intermediary resolution’¹⁸³ the General Assembly:

- *Decides* to consider at its forty-fourth session the question of the convening of a United Nations conference on the subject of the present resolution no later than 1992, with a view to taking an appropriate decision at that session on the exact scope, title,

venue and date of such a conference and on the modalities and financial implications of holding the conference;

- *Requests* the Secretary-General, with the assistance of the Executive Director of the United Nations Environment Programme, urgently to obtain the views of Governments on:
 - (a) The objectives, content, title and scope of the conference;
 - (b) Appropriate ways of preparing for the conference;
 - (c) A suitable time and place and other modalities for the conference;

and to submit those views to the General Assembly at its forty-fourth session, through the Economic and Social Council, and to make them available to the Governing Council of the United Nations Environment Programme at its fifteenth session;

- *Also requests* the Secretary-General, with the assistance of the Executive Director, to obtain the views of appropriate organs, organizations and programmes of the United Nations system and relevant intergovernmental and non-governmental organizations on the objectives, content and scope of the conference, and to submit those views to the General Assembly at its forty-fourth session, through the Economic and Social Council, and to make them available to the Governing Council at its fifteenth session;
- *Further requests* the Secretary-General, with the assistance of the Executive Director, to prepare a statement of the financial implications of preparing and convening the conference, and to submit that statement to the General Assembly at its forty-fourth session, through the Economic and Social Council, and to make it available to the Governing Council at its fifteenth session.

It was quite clear from the terms of the intermediary resolution that the Executive Director of UNEP was to be in the driving seat at least for this first exploratory stage. It might reasonably be assumed that when the General Assembly came to take a definitive decision 'on the exact scope, title, venue and date of such a conference and on the modalities and financial implications of holding the conference'

(which it undertook to do at its next session, i.e. in 1989), UNEP would remain in the driving seat.

However, that was not the way it turned out.

Engfeldt again:

"The process leading to Resolution 44/228 [the final UNGA decision in December 1989] was characterized by a strong continuity in the agendas and concerns that had been held by the key actors since Stockholm, even though the substantive and political context had evolved considerably and, in some cases, dramatically. As outlined previously, this was reflected in the increasing severity of the environmental crisis everywhere, the reduced support for multilateralism and the waning of public pressure for increased environmental protection as a result of the oil crises and economic difficulties in many parts of the world.

"With the reversal of the latter trend in the mid-1980s and the publication of the World Commission on Environment and Development (WCED) report in 1987, an important momentum was created for the movement towards a follow-up of the Stockholm conference. However, as was shown in the 1987 UNGA negotiations, this did not signify broad political acceptance in terms of practical implementation of the proposed new agenda for sustainable development. In fact, a central element in the UNGA negotiations in 1988 and 1989 was that key parts of the agenda were resisted by the main actors both in the South and the North because of overriding national interests.

"The impact of the WCED report grew over time. Its message of policy integration had become an important political factor when the substantive preparations for the Rio Conference commenced in 1990.

"Another important characteristic of the evolution of the UN process in 1988 and 1989 was that, as with the preparations for Stockholm, it started as a Northern-driven initiative (Nordic countries, Canada, Netherlands) but ended with the G77 in the political lead. Generally, governments were now better organized and advised. This reflected a maturing process of national institution-building and the

new environmental diplomacy after Stockholm. The issues under consideration were very similar, but their substantive and political contexts had become broader and more complex. This sowed the seeds for the further evolution of environmental diplomacy into a new diplomacy for sustainable development.

“Just as in 1968, Sweden took the lead in the formal process, based on the statement by Foreign Minister Andersson in the UNGA in September 1987. During the spring of 1988, a possible concept for a new conference was elaborated in the Ministry for Foreign Affairs. This served as a basis for informal consultations in New York in June and during the summer session of United Nations Economic and Social Council (ECOSOC) in July.”

Engfeldt goes on to recall that Sweden had made a tentative offer to host the conference. But there were two problems.

“The first (problem) was of an internal character. The financing of the proposed conference was causing problems in the Swedish Ministry of Finance and led to an instruction to keep a low profile on the offer to host the conference. The underlying reason for the problem was a general disagreement on spending policies between the Foreign and Finance Ministers.

“The second was that (UNEP) ED Mostafa Tolba was very cool to the conference idea. He warned that the positive image of ‘Stockholm’ in environmental circles could be eroded if a second conference in Stockholm were not as successful. The Foreign Ministry felt that this probably reflected a concern that UNEP and the ED would not have the same central role if the international interest were focused on a new environment conference. Such was not the intention behind the initiative, which emphasized UNEP’s role in the preparations of a conference. There was, however, a question mark about the issue of a secretary-general for a conference, a matter which would be on the agenda only at a later stage.”

Engfeldt was at the time head of the United Nations Department at Sweden’s Foreign Affairs Ministry so these insights into Tolba’s view of a ‘second Stockholm’ are certainly authentic.

As we shall see, Tolba’s hesitation turned out to be perfectly justified, at least from his own perspective as Executive Director of UNEP.

In the first half of 1989, however, with the clear mandate of the General Assembly’s ‘interim’ resolution in front of him, Tolba set to work, obtaining the views of governments, agencies, NGOs on the Conference – what should it discuss, how should it be prepared, where should it be held?

In May 1989, at its 14th session, UNEP’s Governing Council held a full discussion on the topic of the proposed conference. The outcome of that discussion was that the Governing Council, anxious to make sure the details were all properly nailed down, adopted its own ‘draft General Assembly decision.’ In doing so, UNEP certainly appeared to assume that this plum was there for it to grasp. First, UNEP was to be the ‘main organ dealing with environmental issues’ in the UN system. This had been established at Stockholm, confirmed by the UN General Assembly in Resolution 2997 (XXVII) and reaffirmed on several occasions since. Second, it could be argued that UNEP had definitely earned the job.

As we have seen, the list of UNEP’s achievements by the end of the 1980s was impressive. Regional seas, ozone, climate change, toxic waste, biodiversity: in each and every one of these vital areas UNEP had made a major impact. The substantive agenda of UNCED, as finally envisaged by the General Assembly, followed almost word for word the text submitted by UNEP. For example, in the draft resolution as prepared by UNEP, the General Assembly ‘affirms that:

“the following environmental issues, which are not listed in any particular order of priority, are among those of major concern in maintaining the quality of the Earth’s environment and especially for achieving an environmentally sound and sustainable development in all countries:

- (a) Protection of the atmosphere by combating climate change and global warming, depletion of the ozone layer, and transboundary air pollution;

- (b) Protection of the quality of fresh-water resources;
- (c) Protection of ocean and coastal areas and resources;
- (d) Protection of land resources by combating deforestation and desertification;
- (e) Conservation of biological diversity;
- (f) Environmentally sound management of biotechnology;
- (g) Environmentally sound management of hazardous wastes and toxic chemicals;
- (h) Protection of human health conditions and quality of life, especially the living and working environment of poor people, from degradation of the environment;"

If we now look at UN General Assembly Resolution 44/228 of 22 December 1989, adopted seven months after the UNEP's 15th Governing Council session, we find that the operative paragraph is virtually identical.

The only substantive change is that UNEP's draft for sub-para (h) is split into two in final General Assembly version, as follows:

- (h) Improvement of the living and working environment of the poor in urban slums and rural areas, through the eradication of poverty by implementing integrated rural and urban development programmes, as well as taking other appropriate measures at all levels necessary to stem the degradation of the environment;
- (i) Protection of human health conditions and improvement of the quality of life.

UNEP's Governing Council had also proposed in its draft resolution that the Governing Council should act as the 'Intergovernmental Preparatory Committee'.

But here, it seems, UNEP totally misread the situation. The General Assembly kicked this idea into touch, deciding instead that the

Intergovernmental Preparatory Committee would be set up by, and report to, the General Assembly; that an *ad hoc* secretariat, rather than UNEP, would be set up, and that the Secretary-General of the United Nations would appoint the head of this *ad hoc* secretariat.

Why did things go so badly wrong for UNEP at this crucial moment, justifying — and indeed, from a purely institutional point of view, more than justifying — Tolba's initial caution?

The formal answer must lie in the fact that, following Brundtland, following the Environmental Perspective to the Year 2000, UNCED was to be about 'environment and development' not just environment and therefore its mandate would be wider than UNEP's mandate, thus necessitating different institutional arrangements.

This was not an entirely convincing argument. As we have seen, many of the central issues UNCED had to deal with had a familiar 'environmental' look about them.

For example, two of Rio key 'outputs' were to be the Climate Change and Biodiversity Conventions, which would be 'opened for signature' at the start of the Conference. The development of both instruments was motivated strongly by environmental considerations and UNEP, as we have seen, had played an important role.

The adoption of the Rio Declaration on Environment and Development would be another milestone in the environmental calendar. The Rio Declaration would be the direct lineal descendant of the Stockholm Declaration and would incorporate many of the same ideas and even the same phraseology.

The famous Stockholm Principle 21, for example — the one about States having the right to exploit their own resources and the responsibility not to damage the environment of other states or areas outside the limits of national jurisdiction — appears word for word in the Rio Declaration, though it has been bumped up the batting order into second place.

As for **Agenda 21**, the vast bulk of that massive document covered exactly the themes that UNEP had proposed.

The subsections of Agenda 21's Section 2, for example, on the Conservation and Management of Natural Resources for Development dealt with:

- *"Protection of the Atmosphere*
- *Integrated Approach to the Planning and Management of Land Resources*
- *Combating Deforestation*
- *Managing Fragile Ecosystems: Combating Desertification and Drought*
- *Managing Fragile Ecosystems: Sustainable Mountain Development*
- *Promoting Sustainable Agriculture and Rural Development*
- *Conservation of Biological Diversity*
- *Environmentally Sound Management of Biotechnology*
- *Protection of the Oceans, all kinds of seas, including enclosed and semi-enclosed seas and coastal areas and the protection, rational use and development of their living resources*
- *Protection of the quality and supply of fresh-water resources*
- *Environmentally sound management of toxic chemicals, including prevention of illegal international traffic in toxic and dangerous products*
- *Environmentally sound management of hazardous wastes, including prevention of international traffic in hazardous wastes*
- *Environmentally sound management of solid wastes and sewage-related issues*
- *Safe and environmentally sound management of radioactive wastes."*

Yes, there is a section on 'economic and social dimensions' but even here many of the sub-sections were meat and drink to UNEP or to the wider 'United Nations environment programme' where UNEP was supposed to play a central role. The 'trade and environment issue', for example, was already on UNEP's table and would become increasingly important as General Agreement on Tariffs and Trade (GATT)¹⁸⁴ evolved into World Trade Organisation (WTO)¹⁸⁵ and the possibility of trade versus environment disputes loomed. 'Changing consumption patterns' would become heartland territory for UNEP over the next two decades, though this was a fiendishly difficult area to make progress in. 'Health' was obviously a natural adjunct to the environment, as was 'promoting sustainable human settlement development'. Indeed, up until the establishment of Habitat in 1978, the 'human settlement issue' was always at the top of UNEP list of priorities.

The sub-section on 'Combating poverty' was obviously challenging, but since — post Brundtland — everyone agreed that the sound management of resources provided the vital underpinning for economic growth, it was hard not to see that this too was an area of relevance to UNEP. And in any case the six pages on 'combating poverty' in Agenda 21 (out of a total of around 400 pages) look rather skimpy. 'Demographic dynamics and sustainability' obviously fell within the competence of the United Nations Population Division and the United Nations Fund for Population Activities. But the next World Population Conference (Cairo 1994) was already being prepared and it was not clear how much UNCED would bring to the table. Having the population issue on UNCED's agenda should not, by itself, have been enough to disqualify UNEP from playing the leading role in the preparatory work, and at the conference itself.

The more important reason for UNEP's failure to 'seal the UNCED deal' seems to have been political. If the Rio meeting really was to be an "Earth Summit", with Heads of State and Heads of Government flying in and out, then New York wanted to be in charge, not Nairobi. The United Nations General Assembly was used to hosting Heads of State and Government. It did so every autumn. And UNEP was a Programme of the General Assembly. By definition, the General Assembly was entitled to overrule

UNEP's Governing Council, if it wanted to. And that is what it did. If this showed a lack of 'joined-up government' back in the national capitals (why agree something in Nairobi if you are going to change your mind in New York?), well, that might be regrettable but it was, as New Yorkers anyway had a habit of observing, 'just the way the cookie crumbled.'

Leaving aside any such 'macho' considerations, it seems clear that between the May 1989 Governing Council and the December 1989 General Assembly, there was growing concern in some national capitals, not that UNEP would not make a good job of UNCED, but that it might make too good a job. The environment, in short, was coming to be seen as too important (read: potentially too costly and all-pervasive) to be left to the environmentalists. Maybe some people didn't want UNEP to get too big for its boots. Maybe they had read Fiona McConnell's book and didn't want to be bullied by Tolba!¹⁸⁶ Where at the end of the day (UNCED had an overall annual price-tag of some US\$600 billion with \$US125 billion of that to be provided by foreign aid and investment¹⁸⁷) was the money to come from? When huge flows of resources were at stake, politics obviously came into play.

Engfeldt describes it in his book how, in New York, support for Maurice Strong as UNCED Secretary-General grew by the day, and it was in New York that the decision would be taken. Strong was not seen as a retread. He was a tried and trusted commodity. The Canadian Government supported him whole-heartedly. So did powerful figures like Colombia's UN Ambassador Enrique Peñalosa.

On 8 February 1990, not much more than a month after the General Assembly's decision to accept Brazil's kind offer to host UNCED, while rejecting UNEP's kind offer to manage the process, the United Nations Secretary-General Javier Pérez de Cuéllar¹⁸⁸ appointed Strong as UNCED Secretary-General.¹⁸⁹

Strong did not disappoint his backers. UNCED must be one of the best-prepared international conferences that have ever been held. UNCED's¹⁹⁰ staff were led by Nitin Desai, a high-level Indian civil servant with strong environmental credentials: he had been economic adviser to the Brundtland Commission and a member of the Commonwealth

Expert Group on Climate Change. His team were knowledgeable and proficient and, in masterminding the production of Agenda 21, UNCED's main output, did a tremendous job.

Agenda 21 was the vital centre-piece of the Rio feast. In some ways a more satisfying document than the Stockholm Action Plan in the sense that, whereas the Stockholm Plan was largely directed to international targets, Agenda 21 was comprehensive in its approach. At the end of each section there is a clear indication as to who is to do what. All the available levels are specified: national and regional, as well as international.

All the available actors, not just governments, are invited to play a part. UNCED invented the concept of 'major groups' — women, children and youth, indigenous people, NGOs, local authorities, workers and their trade unions, business and industry, scientific and technological community, farmers — which has endured to this day in the United Nations' lexicon of useful expressions. Nowadays, during UN meetings, there is almost always space set aside for representatives of 'major groups', often — it must be said — quite far back in the hall.

Leaving aside the question as to whether UNEP could or should have had a greater role in organization of UNCED, in terms of the publicity it generated the 'Earth Summit' was — like Stockholm 20 years previously — a brilliant public relations effort.

Almost 20 years to the day since the opening of the first United Nations Conference on the Environment, the United Nations Conference on Environment and Development began with a call by UN Secretary-General Boutros-Ghali for two minutes of silence in which delegates from 178 countries, representatives of some 1,500 non-governmental organizations accredited to the conference and a press corps around 7,000 strong were invited to contemplate the parlous state of the planet.

Gathered together in the Rio Centre, a heavily guarded Conference complex some 25 miles to the south of Rio de Janeiro, for an event which for some months already had been popularly billed as the Earth Summit, both participants and observers were acutely aware that this

opening day of Rio 92 was unique and probably unrepeatable (if only in terms of the number of cellular telephones rented out by the Rio de Janeiro telephone company to avid communicators.)

In fact, of course, it was special for much more than technological wizardry. The Summit segment, scheduled to take place on the last two days of the Conference, was expected to be attended by over 100 Heads of State or Government whereas only the Indian Prime Minister, Indira Gandhi, had been present at Stockholm (apart from the Swedish Prime Minister, Olaf Palme).¹⁹¹ Moreover, many countries had made sure that their ministers or senior officials (of development or environment or sometimes both) would be present not just for the fun and games of the Summit segment, but throughout the whole two weeks of the Conference.

Major question marks still hung over parts of the Rio agenda. Though, by the time the Conference opened, few people expected it to explode in disarray or otherwise end in disorder and confusion, the 'solution' of some of the thornier problems, such as finance, was by no means obvious. Some experienced diplomats expected the negotiations to go 'right down to the wire'. Perhaps delegates would even be asked to stay on for a post-Summit segment, with a view to dotting the final i's and crossing the final t's once the Captains, Kings and Queens had departed.

Holdgate, who attended the Earth Summit as Director-General of IUCN, has given us his own personal take on UNCED:¹⁹² then one of the key figures on the environment, at national as well as international level, he managed to combine penetrating insights into substantive matters with a welcome lightness of touch.

"The Brazilians made a huge effort to ensure the success of the Rio Summit. One manifestation was a security clampdown such as that dynamic and rather lawless city had never seen before. There were soldiers everywhere. There were tanks guarding the tunnels that pierce the fingers of mountain that fan out and divide the city. The tunnels, we were told, were a favoured spot for robbers, who would block the traffic and circulate revolvers in hand, to collect the loot much as Dick Turpin did in England centuries ago.

"They did not get a look in while UNCED was in town. The 'street children' — homeless gangs that slept where they could and had developed many advanced skills when it came to getting money from the pockets of tourists — vanished.

"We were assured that they were being taken care of by the army, out of town, but many consciences twitched none the less. Crime in Rio was reported to have dropped to one tenth of its normal level.

"Things were even stricter in the hotel-land where delegates congregated. There were helicopter patrols along the coasts, and when President George Bush (senior) was in residence at the Sheraton I noticed two warships zigzagging offshore. There was a triple security barrier around the Rio Centro buildings where the Governments met — a check on the gates, a check and screening to enter the building and a third check to get into the main Ministerial conference halls. When the Heads of State and Government rolled in for the final two days an extra-special layer of security was superimposed.

"All this upset the Non-Governmental Organizations. Only some of them were let into Rio Centro (which some dubbed *Rio Perifero* as it was miles away from the heart of the city). Their main Forum — a kind of environmental bazaar and festival attended by some 10,000 people — was much nearer the real centre of Rio, in Flamengo Park on the shores of Guanabara Bay, looking across to the Sugar Loaf. One or two activists tried to gate-crash Rio Centro. They got thumped by guards. Those of us with a foot in both camps spent a lot of time commuting — or had simply to decide which was to be our venue for the day.

"But it was memorable. It was fascinating to see George Bush, Fidel Castro, John Major and Francois Mitterand — plus many more notables — in the same room. Castro's speech stunned everyone. The Brazilian President, Fernando Collor, who chaired the event with a charm and competence that gave no hint of his impending fall from power and exit to jail, had announced that as over 100 Top People had to speak in two days, they would get eight minutes each. Nobody expected Fidel Castro, renowned for two hour orations, to manage it. Maurice Strong was deputed to break the news. "Mr. President," he said "when you speak, you

are very eloquent. But you are also very long. This time you need to be very eloquent and very brief.” Castro twinkled. “You’ll see,” he promised.

“We did. He strode to the rostrum, a hefty figure in immaculate uniform, great grey beard a-jutting, and raised a hand, gesturing with five fingers at Collor. He completed a fiery oration in 4 minutes, 58 seconds. In total contrast, President Museveni of Uganda leaned gently on the rostrum, pretended to have forgotten his notes, and spoke sincerely about how his country was being rebuilt after years of strife, and of the special place of the environment in the hearts of his people. John Major had clearly concluded that he had to announce some practical actions (his advisers, I suspect, were told to write something that sounded good and would not cost too much). He announced three initiatives: the UK would convene a conference for non-governmental organizations to discuss how sustainable development could really be made to work; there would be a Darwin Initiative to make the scientific knowledge of British institutions available around the world; and there would be a UK national strategy for sustainable development. When these chickens had to find subsequent roosts, I found myself chairing the Conference, while Crispin Tickell¹⁹³ presided over the Panel that guided the sustainable development strategy.

“George Bush was the real dark horse. During the Reagan Presidency, the USA had earned an unenviable reputation for anti-environmentalism and a negative attitude to things like the Law of the Sea and the United Nations itself. When Bush became President, there was a sign of hope because he appointed Bill Reilly, head of WWF in the United States and an IUCN Vice President, as Administrator of the Environment Protection Agency. Bill was respected as an environmentalist, and we had reason to believe that he would press for a more positive US approach at Rio, where he led their delegation. But the vibrations were not good. There were rumours that he had asked for a flexible negotiating position and been rebuffed. George Bush was known to be refusing to sign the Convention on Biological Diversity. But why? What would he say?

“Three days before he was due to speak, my hotel telephone rang. An American voice. ‘President Bush is giving a small luncheon party before

he speaks, and is inviting some key people from the Non-Governmental world. He would be most appreciative if you would be one of his guests.’ I thought at first that someone was pulling my leg. No, it was for real. About 40 of us gathered and sat down, Captain Jacques Cousteau on the President’s left. Bill Reilly and the other senior members of the United States delegation were scattered about. After lunch, Mr. Bush tapped the table. “I’d very much like to hear your views on what we should do to make the world environmental system more effective after Rio,” he said. “Oh — but please don’t go banging on about why I should sign the Convention on Biological Diversity. Captain Cousteau is a good friend of America, and he’s already told me off for not doing it. I respect his views, but I am advised that it could be contrary to America’s interests, so I am not going to, at least at this stage...

“He went round the table. I’m not sure that anything all that profound emerged. I tried to point the contrast between the early 1970s, when the United States was undoubtedly a world leader in environmental action, creating the first Environment Protection Agency and enacting pioneering laws, and the late 1980s when they seemed to have taken deregulation to the point of disintegration. Many of us argued that there should be no conflict between caring for the environment and national prosperity, because they were interdependent. Ashok Khosla of Development Alternatives in India talked about the need for genuine support for Third World activities, and the value of the United Nations system. And so on. Then we trooped back to hear the President’s speech — which disappointed many. The USA was clearly not in the mainstream of thought or action — but equally clearly, the world had changed since 1970, and the action would go ahead even if the United States opted out.

“What did Rio achieve? The developing countries felt that they got rather little out of it. The barriers and pitfalls that they saw on the path to sustainable development remained in place. Nothing much was done to persuade the richer countries to invest in the poorer ones or to transfer less polluting and more efficient technology. The debt burden remained. The world trading system was full of barriers to the sale of developing country products in the wealthier world.

“And Rio did not do much to curb the wasteful misuse of resources and excessive generation of pollution in the developed countries. Agenda 21 was, indeed, a good document but Maurice Strong calculated it needed 125 billion US dollars a year to make it work, and there was only \$3 billion of new money on the Rio table. In fact, at the time we all went home there was an annual flow of \$50 billion in the wrong direction — from the poor to the rich countries — and this was a taboo subject among governments.

“The oil-rich countries, led by Saudi Arabia, but with the United States clapping discreetly on the touch-line, did their best to block any mention of targets for reducing greenhouse gas emissions. Nothing material was said about population pressures, even though it was clear that these could lead to famine and international migration on a massive scale. And there was a lot of linguistic duplicity. As I said afterwards at the Royal Geographical Society, the fact is that in these contexts some plain, ordinary, honest English words are not held to be plain or honest. You must not, for example, speak of tropical forests as ‘the world’s biological heritage’ because this infringes national sovereignty, or demand ‘new and additional resources’ to pay for new actions, because this upsets finance ministers in the richer countries.

“Yet there were positive results. Agenda 21 and the new Conventions on Biological Diversity and Climate Change were important documents. Never before had well over a hundred Heads of State or Government sat down together to discuss the links between environment and development. Never before had two environmental conventions attracted over 150 signatures each within a few days of their being opened for signature. The United States, true to George Bush’s word, did not sign the CBD, but it did accept the Convention on Climate Change (this was before targets for action that would cost money were added to it at Kyoto). Governments also adopted what was infelicitously termed the Authoritative Non-Binding Statement of Principles for the Conservation, Management and Sustainable Use of All Types of Forest.¹⁹⁴ This was a compromise: many developed countries wanted a Convention that would protect dwindling rain forests while most developing countries, led by our Brazilian hosts, wanted nothing of the sort. Deserts had

more friends and a Convention to Combat Desertification and Drought Especially in Africa emerged not long after Rio.”

Strong made a Closing Speech to the Plenary Session of UNCED on 14 June 1992.¹⁹⁵ In his memoir, published eight years later, he wrote: “I knew I could use my closing speech to declare the conference a failure. This would make me a popular hero among environmentalists, but it would be an awesome responsibility to take on. And would it be right?”

He decided otherwise.

“Firstly, Mr. President, of course, you have carried out successfully the largest high-level intergovernmental conference ever held on our planet. And clearly the most important. Nothing less than the future of our planet as the home for our species and others has been the object of our work. We have had the right people here, Mr. President; the right Presidents, the right leaders of over 180 countries, more than 100 Heads of State and Government; people — NGOs, women, youth, children, indigenous people, a whole series of representatives of virtually every sector of society; the media, Mr. President, more media than have ever watched and reported on any world conference, not just as bystanders and reporters but, in a very real sense, they have been participants in this process and they have permitted hundreds of millions of people around the world to engage in this process with us. We have not been alone here in Rio. We have had the people of the planet with us, watching us, participating and wondering what we are going to do here and after we leave here. Millions of them throughout the world have, as most of you have done, evidenced their interest through the medium of the Earth Pledge.

“The world, Mr. President, will not be the same after this Conference. Diplomacy, as one leading commentator has said, will not be the same after this Conference. The United Nations, I am sure, Mr. President, Mr. Secretary-General, will not be the same after this Conference. And the prospects for our Earth cannot, must not be the same. We came here to alter those prospects — we cannot allow those prospects to have come through this process without having been decisively altered and changed to a more promising and sustainable future. Certainly the environment and development dialogue will never be the same.

People may criticize, they may be cynical, they may say that what we are asking is unrealistic, but they have to talk today about the problems of the developing countries, about poverty, about inequity, about terms of trade, about flows of resources to developing countries.

“Today you can’t talk about environment without putting all those issues into the equation. That itself, I think, Mr. President, is one of the most important results of the Conference and one of the most important reasons for hope — that the people of the world will be behind the leaders of the world, and indeed may be ahead of the leaders of the world, in ensuring the implementation of these results.

“In specific terms, Mr. President, Governments have agreed on the Declaration of Rio, Agenda 21, including, of course, measures on financing its implementation, technology transfer, institutions, forestry principles, and a negotiating process has been mandated for a convention on desertification. Each of the conventions, on climate change and biodiversity, has been signed by more than 150 nations.

“But, Mr. President, Distinguished Delegates, if we have reason for satisfaction at this, we certainly do not have reason for complacency. The real measure of our success will be in what happens when we leave here, in our own countries, in our own organizations, in our own lives. Will this Summit merely be a high point in our expressions of good intentions and enthusiasm and excitement, or will it really be the start of the process of fundamental change that we absolutely need?”

In spite of the fact that the UN General Assembly had, as we have seen, turned down UNEP’s bid to run the Conference, UNCED was in some ways a good result for UNEP. For a start, Boutros Boutros-Ghali, Secretary-General of the United Nations, had paid the organization a special compliment in his speech at the start of the Conference.¹⁹⁶

“The United Nations has come a long way. In the time since Stockholm, where at least some of the issues that we will deal with today were discussed, the United Nations has acquired experience and produced unparalleled talent, studies and assessments which have had an impact in virtually every part of the world. Remember,

in 1972 we were pioneers. Let us continue to be pioneers by building on the achievements and lessons we have learned from our earlier efforts. I am thinking in particular of those undertaken by the United Nations Environment Programme, but also of those coming from a great many organizations within the United Nations system, which have endeavoured to cooperate closely, and from non-governmental organizations and independent commissions, often bringing together eminent persons, and the unprecedented amount of preparatory work, conferences of regional or linguistic groups, seminars, reports, articles and books which have paved the way for our efforts throughout the world. All this energy has converged on Rio.”

UNEP’s role in promoting both the Biodiversity and the Climate Change Conventions was widely recognized, though the refusal of the US to sign the biodiversity treaty cast a long shadow over the Conference. Perhaps most importantly, the vast majority of Agenda 21’s 40 chapters were of relevance to UNEP and many called for specific UNEP activity, whether on its own account or as part of a wider international effort.

The crucial paragraph, dealing with UNEP’s mandate and responsibilities in the follow-up to the Conference was positive and supportive. Because UNCED’s conclusions as regards UNEP’s future rank in importance besides UNEP’s original terms of reference as set out in UNGA Resolution 2997 (XXVII) of December 15, 1972,¹⁹⁷ the full text of Agenda 21, paragraphs 38.21-38.23 is printed here.

AGENDA 21, ROLE OF UNEP

38.21. In the follow-up to the Conference, there will be a need for an enhanced and strengthened role for UNEP and its Governing Council. The Governing Council should, within its mandate, continue to play its role with regard to policy guidance and coordination in the field of the environment, taking into account the development perspective.

38.22. Priority areas on which UNEP should concentrate include the following:

- (a) Strengthening its catalytic role in stimulating and promoting environmental activities and considerations throughout the United Nations system;
- (b) Promoting international cooperation in the field of environment and recommending, as appropriate, policies to this end;
- (c) Developing and promoting the use of such techniques as natural resource accounting and environmental economics;
- (d) Environmental monitoring and assessment, both through improved participation by the United Nations system agencies in the Earthwatch programme and expanded relations with private scientific and non-governmental research institutes; strengthening and making operational its early-warning function;
- (e) Coordination and promotion of relevant scientific research with a view to providing a consolidated basis for decision-making;
- (f) Dissemination of environmental information and data to Governments and to organs, programmes and organizations of the United Nations system;
- (g) Raising general awareness and action in the area of environmental protection through collaboration with the general public, non-governmental entities and intergovernmental institutions;
- (h) Further development of international environmental law, in particular conventions and guidelines, promotion of its implementation, and coordinating functions

arising from an increasing number of international legal agreements, the functioning of the secretariats of the Conventions, taking into account the need for the most efficient use of resources, including possible co-location of secretariats established in the future;

- (i) Further development and promotion of the widest possible use of environmental impact assessments, including activities carried out under the auspices of specialized agencies of the United Nations system, and in connection with every significant economic development project or activity;
- (j) Facilitation of information exchange on environmentally sound technologies, including legal aspects, and provision of training;
- (k) Promotion of subregional and regional cooperation and support to relevant initiatives and programmes for environmental protection, including playing a major contributing and coordinating role in the regional mechanisms in the field of environment identified for the follow-up to the Conference;
- (l) Provision of technical, legal and institutional advice to Governments, upon request, in establishing and enhancing their national legal and institutional frameworks, in particular, in cooperation with UNDP capacity-building efforts;
- (m) Support to Governments, upon request, and development agencies and organs in the integration of environmental aspects into their development policies and programmes, in particular through provision of environmental, technical and policy advice during programme formulation and implementation;

(n) Further developing assessment and assistance in cases of environmental emergencies.

38.23. In order to perform all of these functions, while retaining its role as the principal body within the United Nations system in the field of environment and taking into account the development aspects of environmental questions, UNEP would require access to greater expertise and provision of adequate financial resources and it would require closer cooperation and collaboration with development organs and other relevant organs of the United Nations system. Furthermore, the regional offices of UNEP should be strengthened without weakening its headquarters in Nairobi, and UNEP should take steps to reinforce and intensify its liaison and interaction with UNDP and the World Bank.

Given the solidly useful nature of UNCED's conclusions as regards the future role and programme of work of UNEP, why didn't Tolba and the UNEP high command simply declare a victory and catch the plane back to Nairobi? The reason lies not in the decisions UNCED took as far as UNEP was concerned. The real challenge UNCED posed for UNEP related to the wider institutional framework UNCED proposed, particularly the setting up of the Commission on Sustainable Development.

The Commission on Sustainable Development was also to have a High-Level interagency co-ordination mechanism, a High-Level Advisory Body, and a 'highly qualified and competent support structure within the United Nations Secretariat.' That phrase "within the United Nations Secretariat" is important. UNCED is not proposing a transformation of UNEP's Governing Body into the CSD, with UNEP still performing the secretariat structure. On the contrary UNCED was proposing a new 'over-arching' structure with its own secretariat, which was not, definitely not, going to be UNEP.

Many members of the non-governmental community present in Rio were ready to applaud the actions of governments in agreeing to the setting up of the CSD. CAPE '92, a grouping of influential American NGO's consisting of the National Audubon Society, the Environmental Defense Fund, Friends of the Earth, the Natural Resources Defense Council, the National Wildlife Federation and the Sierra Club, had in particular lobbied hard for such an outcome to the 'UNCED institutional debate' and they were therefore delighted that governments had appeared ready to listen to them. On the substance of the matter, too, they seemed to believe that the creation of the CSD would mark a genuine step forward in the ability of the UN system to achieve a genuine integration of environmental and development issues.

Others took a more sceptical view. It was all very well for NGOs to push for a new UN body (hoping, incidentally, that such a body would prove more accessible to them than existing structures), but where was the evidence that a new Commission was needed and that it would work?

The sceptics (admittedly fewer in number and in influence than the true believers, otherwise UNCED's conclusion would have been different) suspected that the pressure to bring the Commission on Sustainable Development into being had resulted as much from the desire to be seen to do something, anything, at Rio ('if in doubt about the real outcome, create a new institution!'), as from any deep consideration as to precisely how the new Commission would operate and what it would do.

Chapter 38 of Agenda 21, paragraph 13, for example, provided that the Commission would monitor the performance of international organizations, such as UN agencies and the multilateral development banks. It was hard to see how this would work. Over the last 20 or 30 years there had been many reports about the working of the United Nations system in the field of social and economic development (the most famous being the so-called UN Capacity Study produced in 1969 by Sir Robert Jackson, husband of Barbara Ward, the co-author of *'Only One Earth'*¹⁹⁸).

Most of these reports had called for greater central ‘coordination’, not only of the ‘great independent baronies’ — the UN Specialized Agencies, such as the World Health Organization (WHO) and the Food and Agriculture Organization of the United Nations (FAO) — but also of the Bretton Woods institutions, the International Monetary Fund (IMF) and the World Bank Group (IBRD, IFC and IDA).

In practice, and notwithstanding the ‘power of the purse’ which was supposedly to be wielded by UNDP, the specialized agencies had continued to pay far more attention to the edicts of their own governing bodies than to any New York-based coordinating machinery. And the major development finance institutions, particularly the World Bank group, had been even more reluctant to allow the United Nations any kind of supervisory role in their affairs. It was hard to see how the decisions of UNCED, or any subsequent resolutions of the General Assembly, could change this state of affairs. Realistically, the World Bank was never going to change its Articles of Agreement to give the UN any kind of influence in its management.

The Bank’s major donors would never agree. Genuine coordination of the United Nations’ efforts in the field of development could theoretically take place through the World Bank itself, which had both the financial and the intellectual clout. But in this case, the objections of the G77 would be insuperable. This impasse was not likely to be resolved by any sleight of hand (such as the creation of the Commission for Sustainable Development), or by any new edict from the UN Secretary-General, however motivated he might be to ‘get a grip on things’. The difficulties were inherent in the system and, at least as long as real money was flowing in and out of national exchequers, seemingly insoluble.

Failing to get any kind of a grip on development questions, the odds were that the new Commission for Sustainable Development would increasingly turn its attention to the softer option, namely the coordination of United Nations activities in the field of environment. The World Bank might agree pro forma to participate in various UN-led coordination exercises, though it would always reserve the right to ‘do its own thing’ at the end of the day.

The (other) specialized agencies, having cooperated more or less enthusiastically in the UNCED preparatory process, particularly in the UNCED working groups, might be ready to continue the process with UNCED’s de facto successor in title, the Commission for Sustainable Development. But as far as the environmental activities of the United Nations system were concerned, though conceivably the new Commission could carve out a role for itself, it was hard to see how this could avoid being at the expense of the United Nations Environment Programme (UNEP), the body set up 20 years earlier (after the first United Nations Conference on the Human Environment) with — on the environment side at least — much the same aims and objectives as those now proposed for the Commission on Sustainable Development.

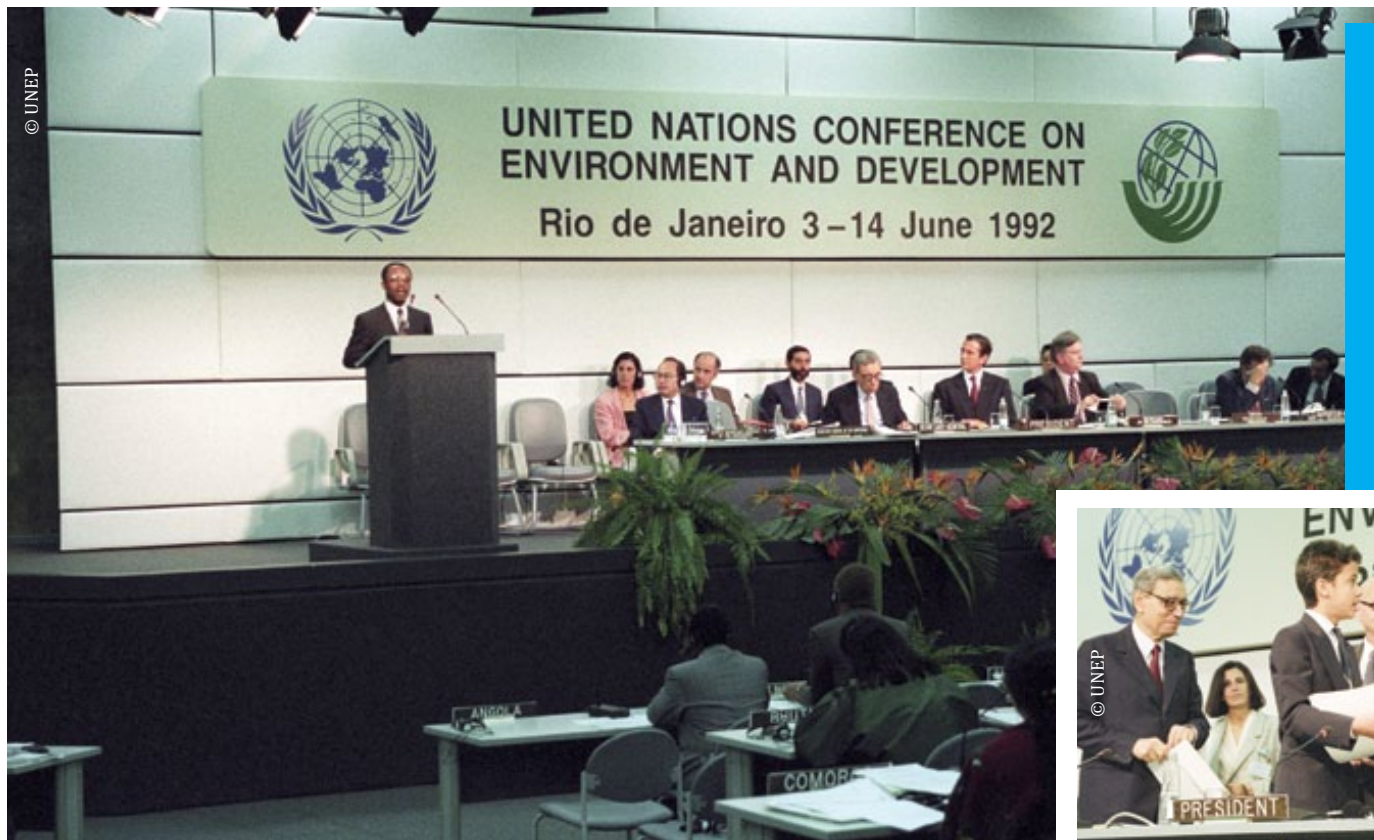
Thus the net outcome of all the institutional debate at Rio might be, to put it in crude but simple terms, to undermine fatally the institutional achievements of Stockholm. At the very least, the scarce intellectual energies and scarcer financial resources which would now be devoted to ‘getting the CSD off the ground’ would not be available to strengthen those other bodies in the UN system, particularly UNEP, whose ‘strengthening and enhancement’ was also called for in Chapter 38.

Behind all these manoeuvres, some of UNEP’s more ardent supporters — as they packed up their bags to fly home from Rio — detected a still darker purpose. If the CSD became the main coordinating body on environment, UNEP might be allowed to wither quietly on the vine. Nairobi (as the early chapters of this book should have made clear) was never the first option of the ‘donor countries’ as the headquarters of UNEP. The CSD-idea could present a plausible and diplomatic way of revisiting that crucial UN General Assembly decision to locate UNEP in Nairobi.

The G77 would be happy because they would have a brand new Commission with a wider mandate (on paper at least) to cover social and economic as well as environmental matters. The donors would be happy because they never wanted UNEP to go to Africa in the first place. The new CSD body would begin, of course, with a ‘small high-calibre staff’. That is the way they all began, but five years, 10 years, 20 years from UNCED’s closing gavel, we might *de facto* have a new United Nations Environment

Agency located not in Africa but in Europe or North America. Even if this were not necessarily a good thing for Kenya, or for the future chances of developing countries to be considered as serious candidates for the site of UN institutions, might it not be presented as a 'good thing' in the long run

for the world's environment? In the short term, therefore, UNEP after UNCED faced a very real challenge. It had to demonstrate that it could do the job it was set up to do, as well as the new tasks defined at UNCED, both efficiently and effectively. If it did not, its future was bleak.



Top Left to Right: Jean-Bertrand Aristide, President of Haiti (at podium), addresses the United Nations Conference on Environment and Development (UNCED), or Earth Summit; Children from around the world deliver a message and posters addressing their environmental concerns to President Collor de Mello (right) during a special presentation on 14 June. Also participating in the presentation are Secretary-General Boutros-Ghali (left) and Mr. Strong (centre background).



Convention on
Biological Diversity



© UNEP

Nomads pause to give their camels water in the Nyala, Sudan region.

11

DESERTIFICATION, POPS, GEO-1, UNEP FINANCE INITIATIVE

UNEP is an unusual organization. In its 40-year history, it has had only five Executive Directors. One of them, Mostafa Tolba, held the post of Executive Director for over 17 years. He was always going to be ‘a hard act to follow.’ He left his mark on UNEP not merely through length of service but, as we have seen, through knowledge, dedication and the sheer force of his personality.

Elizabeth Dowdeswell, who succeeded Tolba in 1993, had other problems to deal with besides those involved in being Tolba’s immediate successor. The first and probably the greatest was having to deal with the aftermath of the Rio Conference.

The ‘international institutional arrangements’ agreed in Rio in June 1992, as we have seen in the previous chapter, however desirable they might have seemed to those who approved them, posed considerable difficulties to UNEP, both psychological and practical. UNEP’s ‘co-ordinating and catalytic’ mandate, as devised in Stockholm in 1972 and endorsed that same year by the United Nations General Assembly, was

— post UNCED — no longer as clear as it had been. The arrival on the scene of the Commission for Sustainable Development had muddied the waters considerably.

Ms. Dowdeswell, in short, took over the reins at UNEP at a critical moment in its history.

Ms. Dowdeswell was not, of course, new to the United Nations. She had been the Assistant Deputy Minister of Environment of Canada from 1989 to 1992, responsible for the national weather and atmospheric agency. During that time, as noted in Chapter Seven,¹⁹⁹ she had been a Vice-Chair of the IPCC Response Strategies Working Group, which was charged with suggesting the key elements of the climate change convention and possible protocols. So she was linked to UNEP and WMO via their sponsorship of the IPCC. And she was also Canada’s permanent representative to the WMO.

Nonetheless, as she herself has admitted, her nomination as UNEP Executive Director took her by surprise:²⁰⁰

“I was working with Environment Canada as an Assistant Deputy Minister responsible for the atmospheric issues in the department including managing Canada’s weather service. I became involved in the climate change negotiations, the Framework Convention leading up to Rio. During that time I unexpectedly heard that my name had been put forward for the position of Executive Director of UNEP by certain countries. Apparently they had approached our ministry of foreign affairs and I was obviously very honoured to even be considered. Surprised as well. I found out by listening to the radio that I had been elected unanimously by the General Assembly. A very interesting way of managing human resources!”

Her own nomination as Executive Director was not the only thing which took Ms. Dowdeswell by surprise. The second shock was the discovery that UNEP’s financial situation post-Rio was not robust. Lars-Göran Engfeldt was Sweden’s Ambassador in Nairobi and Permanent Representative to UNEP in 1993-1998 and was therefore able to observe at close quarters the post-Rio scene.

“The effects of the reduced political support for UNEP hit the organization with full force in the years after the Rio Conference. UNEP also suffered politically from the negative atmosphere resulting from falling ODA²⁰¹ levels. This increased uncertainties within the Organization at a time when it was also troubled by management and governance issues, a precarious financial situation that worsened as confidence in UNEP and its overall role in the international system diminished, and problems with the host country. During these years, UNEP also had difficulties showing concrete results, such as the earlier recognized achievements in international environmental law.

“These factors, together with a lack of clarity in UNEP’s relationship with CSD, made the task of the new ED, Elizabeth Dowdeswell, very trying. Under these circumstances, it was difficult for UNEP to live up to its post-UNCED role as the principal UN body in the field of environment. This problem was to last until the end of the 1990s.

“As a result, UNEP went through an inward-looking phase that lasted until mid-1998. Ultimately, progress was made during the final

phase of Dowdeswell’s tenure that enabled UNEP to emerge with a new sense of purpose.²⁰²

“The overall budget was reduced from \$150 million for the 1992-1993 biennium to \$90 million for the 1996-1997 biennium. During 1996-1997, there also was a \$23 million shortfall between the contributions promised and those actually paid. For 1998/1999, the budget was further reduced to \$75 million.

“This brought UNEP’s reliance on voluntary contributions and its dependence on 10-12 donors into sharp focus. This was a huge handicap for an organization with such an important global mandate.

“The seriousness of the crisis can be illustrated by the fact that, despite accomplishments after 1998, the financial contributions to the Environment Fund at the start of the new millennium stagnated at around \$40 million a year, of which some \$30 million were contributed by the 10 top donors. This — and also the resources available to the MEAs — did not stand in any realistic proportion to the formidable problems they were mandated to solve. While the economic and social sectors of the UN shared this predicament with UNEP, the environment pillar was by far the weakest of the three.

“The top donors also made the largest donations to earmarked trust funds that were established for particular projects. This part of UNEP financing was growing in relation to the stagnating contributions to the Environment Fund and the shrinking contributions from the regular budget of the UN.

“In 2001, the top 11 donors in order of the size of their financial contributions were: US, UK, Japan, Germany, Netherlands, Finland, Switzerland, Sweden, Denmark, Norway and Italy. Of these, US, Japan and Italy contributed well below the UN scale of assessment for obligatory contributions to the UN and most of the others well above. Most developing countries contributed less than their share of the assessed scale. Major countries such as India and China paid \$100,000 and \$180,000 respectively.

“A gradual development occurred that signified a radical, and not very healthy, change. In the 1980s, the financing proportions were: regular budget at 10 per cent, Environment Fund at 75 per cent and earmarked contributions at 15 per cent. By the time of the 2002-2003 biennium, projected proportions were: regular budget at 3.4 per cent, Environment Fund at 56.2 per cent, and trust funds and counterpart contributions at 40.4 per cent.

“Even if the trust funds were welcome additions in the difficult resource situation, this big increase in relative proportions created a problem of legitimacy over time. It also involved the risk of distorting the priorities of UNEP.

“It can be recalled that when UNEP was founded, its regular budget was intended to finance policy functions, the secretariat and coordination within the UN system. The Environment Fund was meant to finance projects and new environmental initiatives within the UN system. Trust funds and counterpart contributions were meant to supplement the work programme. However, by the time of the Johannesburg Summit and continuing to the present, the Environment Fund has financed staff costs and trust funds finance programmes and projects. Apart from the legitimacy issue involved, this situation has created serious problems for long-term planning of UNEP’s programme of work”

The resources of UNEP’s Environment Fund had actually plummeted in real terms by 44 per cent from 1977 to 1987. In the run-up to the Rio Earth Summit, the situation had improved, but by the time Ms. Dowdeswell took over, another decline had set in. UNEP’s donor base was, moreover, a narrow one, which meant — as Maria Ivanova²⁰³ has commented — that “fluctuations in government priorities and attention can be particularly impactful.”

The Soviet Union, the fifth-largest donor to the Environment Fund, was a case in point. Ivanova writes:

“The country had been a significant contributor to UNEP in financial terms as well as through political, technical, and human resources support until it ceased to exist in 1991. On average, the Soviet Union

contributed approximately \$7.3 million a year to UNEP’s Environment Fund from 1975 to 1991. Soviet contributions accounted for 12.1 per cent of the Environment Fund during that period. By comparison, the United States contributed 28.6 per cent of the Environment Fund during the same time, the United Kingdom 5.7 per cent, and France 4.0 per cent. From 1992 to 2009, the Soviet Union’s successor, the Russian Federation, oversaw a decline in contributions to \$0.47 million a year (0.8 per cent of the Environment Fund). UNEP thus lost one of its most significant donor countries, and the downward trend in the Environment Fund can be explained partly by the disappearance of the Soviet Union.”

Why, post-UNCED did voluntary contributions to UNEP (taking ‘earmarked’ contributions as well as contributions to the Environment Fund) fail to live up to expectations?

Part of the reason seems to lie in the institutional fragmentation that had resulted, ironically, from UNEP and others’ successful efforts in establishing multilateral environmental agreements (MEAs). These MEAs had their own mandates and governing bodies. Even where UNEP had officially a role in providing the secretariat, the MEAs inevitably developed their own personalities and loyalties. If ‘implementation’ of agreements was the priority (and many, if not most, thought it was), it wasn’t clear what UNEP’s role was. UNEP wasn’t an implementing agency in the traditional UN sense (though it had that role in respect of GEF projects). UNEP did not have ‘country’ offices or fund, as UNDP and the World Bank did, country programmes and projects.

So the donors weren’t always giving less, if you took into account all the letter-boxes through they posted their cheques. In constant dollars, they just weren’t putting as much as they used to through UNEP. The Montreal Protocol was a good example of the new trend. Ivanova comments: “the significant financial resources devoted to the treaty can be seen both as a reason for and an indicator of the treaty’s effectiveness.”

One of the reasons that ‘significant financial resources’ had been devoted to the ozone issue through the Montreal Protocol lay in the Terms of Reference of the Executive Committee of the Montreal Protocol’s Multilateral Fund, which guaranteed donors that they would

not be outvoted. The Executive Committee, as set up at the second meeting of the parties to the Montreal Protocol in London in 1990,²⁰⁴ consisted of 14 members, seven from 'developing' countries, seven from other countries. The Terms of Reference provide that: "Decisions by the Executive Committee shall be taken by consensus whenever possible. If all efforts at consensus have been exhausted and no agreement reached, decisions shall be taken by a two-thirds majority of the Parties present and voting, representing a majority of the Parties operating under paragraph 1 of Article 5 and a majority of the Parties not so operating present and voting."²⁰⁵

At the same time as this innovative solution to the financing problem was being devised for the Montreal Protocol, an alternative model was being adopted for the Global Environment Facility, a new arrival among international environmental players and one which, in terms of the resources available to it, would soon outgun all other bodies with a specifically environmental mandate.²⁰⁶

The Global Environment Facility was established in October 1991 as a \$1 billion pilot programme in the World Bank to assist in the protection of the global environment and to promote environmental sustainable development. As part of the 1994 restructuring, the GEF was officially confirmed as the financial mechanism for both the UN Convention on Biological Diversity and the UN Framework Convention on Climate Change.²⁰⁷

In partnership with the Montreal Protocol of the Vienna Convention on Ozone Layer Depleting Substances, the GEF started funding projects that enabled the Russian Federation and nations in Eastern Europe and Central Asia to phase out their use of ozone-destroying chemicals. The GEF subsequently was also selected to serve as financial mechanism for two more international conventions: The Stockholm Convention on Persistent Organic Pollutants (2001)²⁰⁸ and the United Nations Convention to Combat Desertification (2003).²⁰⁹

After the 1994 restructuring, GEF increasingly evolved into a powerful independent agency, operating in its own right and reporting to its own governing body.²¹⁰

Zoe Young, in her book *A New Green Order: The World Bank and the Politics of the Global Environment Facility* somewhat acidly comments:²¹¹

"...for all its consequently limited appeal to those with more immediate problems, the GEF was the only new source of multilateral aid on offer at Rio, and, in response to its many critics, the donor governments promised to review and restructure the GEF to operate more openly, accountably and participatorily. It was made nominally independent of the World Bank and charged with supporting the 'national development priorities' of recipient governments, while making global 'partnerships' — not least with green NGOs and the private sector. A sufficient number of Southern governments and international environmental interests therefore accepted the promise of funds, innovation and access, for the GEF to be refinanced in 1994 and designated 'interim financial mechanism' to implement the Conventions on Climate Change and Biodiversity.

"Nevertheless, despite the fact that the UNEP and the UN Development Programme (UNDP) were brought in to help the World Bank implement GEF projects, the Bank remained institutional parent and trustee of GEF funds. Publishing a 'GEF glossary', it literally defined the terms under which experimental global environmental aid was made available in the 1990s. Through its effective control of the GEF, the World Bank has been able to bring its economic vision of development into what was previously UN territory of global environmental protection."

In February 2012, 14 years after she stepped down as UNEP Executive Director, Dowdeswell participated in a special event held at UNEP's Nairobi offices to celebrate UNEP's fortieth year.²¹² She took the opportunity to reflect on her time at the helm and to highlight some of UNEP's achievements, as well as some of the shortcomings.

"What a genuine pleasure it is to be reconnected with so many of you who played such an important part in the evolving story of this unique organization over the last forty years. It's a tribute to those like former and current Executive Directors²¹³ who were so visionary during their respective tenures. It is also a result of the dedication and commitment of secretariat staff over the years. They work under challenging situations

and may not be given the recognition that is due and well deserved. And of course one must acknowledge the guidance of diplomats and public servants around the world.”

“For me it was a real privilege to have been a part of this organization for a brief period of time. Executive Director Steiner²¹⁴ asked us today to be personal and to be very honest about UNEP’s past, present and future. So let me make a few observations about the past. I wonder if you can imagine what it was like to be in this facility right after Rio. We heard, and some had experienced first hand, the immense exhilaration, the excitement of Rio and all that it promised. We had before us a frighteningly large agenda — Agenda 21. We had a totally new concept: ‘sustainable development’; we didn’t know fully what it meant. We had a new institution to work with, the Commission on Sustainable Development. The world community had negotiated two brand new treaties on important issues of climate change and biodiversity. We had a new set of principles to guide us. And we were experiencing a moment in time that allowed political space for civil society. The latter is in my view is one of the real legacies of Rio — a genuine opportunity for stakeholders of all kinds and for citizens to actually be heard as legitimate actors in the U.N. system.”

“That was the context for UNEP in 1993. I am reminded of an old Zen saying — “after enlightenment, the laundry”. That is exactly how we felt. We had all become enlightened through the Rio process and then all of a sudden we had to actually do something about it. What I learned very quickly was that there was no common definition of the relationship between environment and sustainable development and furthermore there was no agreement on the role of UNEP. Every agency in the system was now expected to embrace sustainable development, yet at the same time there was a call for UNEP to be strengthened.

“Apparently there had been little thought given to or agreement reached about implementation. There was a huge gap between rhetoric and action. We all spoke about change, but ‘don’t touch my favorite programme!’ We talked about reducing fragmentation but ‘don’t you dare try and coordinate me if I’m not in UNEP’ and we

wanted a vibrant effective world class UNEP but ‘don’t give us the tools to do it!’ Ambiguity reigned.

“And those quite frankly are my honest reflections about what happens when you actually try to deliver on a very important agenda and bring about a change in the comfortable status quo.

“But let me rush to make a second observation and that has to do with moments of real pride. This morning the Executive Director observed that we needed to be reminded of what UNEP has been able to achieve. In those five short years following Rio, notwithstanding not having answers to all of those questions I just raised, we were able to deliver a significant agenda. While there are easily recognizable events and outcomes on that list, I think what is equally important is that it was a time when the foundation was being built for, we hoped, a very different future. We paved the way for actual delivery and realization of some of the promise of Rio, twenty years later. That speaks to the frustrating period of time that seems to be required to bring about change.

“We broke new ground, for example, in dealing with environment and trade, environment and financial institutions which were never part of UNEP’s traditional agenda. We broadened considerably the chemicals agenda to persistent organic pollutants and prior informed consent. We developed the first GEO, a new way of looking at state of the environment reporting and you heard earlier today just how that initiative has matured.

“We extended our reach, from developing environmental guidelines for the Olympics to catalyzing global environmental citizenship programmes. We focused on the regions because that’s where we knew we would reach local people, local problems, and local environment ministers who needed our help. The list of accomplishments included: the Lusaka agreement; sixty one cleaner production centers around the world; *Tierra America* — a wonderful newspaper in Latin America that has received numerous awards; the preliminary discussions in North America about lead and children; and not least in West-Asia rehabilitation following the Gulf war. And we did all of this in collaboration with our sister organizations in the U.N.”

“UNEP was also active supporting the implementation of multilateral environmental agreements. We assumed responsibility for shepherding the creation of the secretariat for the biodiversity convention.

“We promoted further consideration and inclusion of ozone-depleting substances in the Montreal Protocol. We developed a world atlas on desertification and a global plan of action on the protection of the marine environment from land-based sources of pollution. The GEF was created with UNEP as one of the three key founders. We designed sustainable cities programmes with our fellow colleagues in Habitat.

“Courtesy of assistance from the European Space Agency we developed Mercure, a communications system that would provide more a predictable communications systems here at headquarters. We received from the Secretary General a new and strengthened mandate, developed the Nairobi declaration and supported the initiation of a high level committee of ministers of environment and officials to assist in meeting the needs that they perceived within their own countries.

“We spent time looking inward as well. The change implied by the Rio agenda and our commitment to delivering real results demanded nothing less. We began to develop a culture of accountability and a results orientation. Today you may take these ideas for granted, but at the time I was told that these were simply concepts of Western management that were not appropriate and wouldn’t work in the U.N. system. It was a time when we were trying to up our game in terms of attracting financial resources and also in the management and development of our human resources — learning to work as multidisciplinary teams, having real performance appraisals, holding people to account.

“So my views of the future have really been shaped by a past of learning together with countries around the world about what daily problems they encounter; about embracing a most challenging and ambitious agenda; and about contributing to a better world through harnessing the resources to do so by working collaboratively with others. But my view of the potential of this organization is also tempered by the experience of a deep frustration and disappointment at the lack of urgency and no sustained momentum to do the things that really matter.

“This is an organization in which I take pride. It was a real privilege to have served.”

One item not specifically mentioned by Dowdeswell in her summary of key events and achievements during her time as Executive Director was the UN Desertification Convention, adopted in 1994 (the year after Dowdeswell took over).

The question of soil degradation had been addressed in the Stockholm Action Plan (Recommendation 20) back in 1972. Maurice Strong, in his first address to the Governing Council in 1973, had signalled ‘soil degradation’ as being one of four top priority ‘threats’ to be addressed.²¹⁵ The term desertification seems to have been coined by the United Nations General Assembly when it decided to convene a conference on the subject in the wake of several years of harsh drought and famine in Africa, particularly in the Sahel region. Mohamed Kassas, Professor of Botany in the University of Cairo and one of Mostafa Tolba’s scientific mentors, played a leading part in UNEP’s efforts in this area.

The UN Conference on Desertification (UNCOD), held in 1977 in Nairobi adopted the UN Plan of Action to Combat Desertification (UN/PACD) and identified the financial resources needed to implement the plan (UN, 1977). At that time, it was estimated that 60,000 square kilometres of land was being lost to deserts annually, while a staggering 650,000 square kilometres of productive land had been lost along the southern border of the Sahara alone in the preceding fifty years.²¹⁶ UNEP also established a Consultative Group on Desertification Control which met in May 1978, March 1980 and August 1981, while UNEP and UNDP joined in establishing the UN Sudano-Sahelian Office spearheading action across 16 countries in this region. In 1984, the Executive Director of UNEP reported to the Governing Council on the assessment of the status of desertification and the implementation of the PACD. The assessment showed very little progress in implementation; the estimated rate of desertification remained the same (six million hectares/year). In 1991, UNEP again reviewed the current status of desertification and implementation of the PACD and its financing.²¹⁷ It found that desertification was the main environmental problem of arid

lands, which occupied more than 40 per cent of the total global land area. Desertification threatened about 3.6 billion hectares — 70 per cent of potentially productive drylands, or nearly one-quarter of the total land area of the world. About one-sixth of the world's population was affected. The PACD was admitted to have had 'limited success'.

Maurice Strong, under whose aegis UNEP's first efforts to tackle this massive subject had been undertaken, describes the somewhat disappointing progress of those early years.

"The issue generally, but somewhat inappropriately, known as "desertification" was a particular concern of a number of developing countries, notably those of northern Africa, vulnerable to recurrent, devastating droughts, large-scale degradation of arable land and loss of soil, as we've seen. To spearhead this issue in our secretariat and to act as my special representative for Africa, I was fortunate in enlisting the services of an exceptionally skilled African, Arba Diallo. The former foreign minister of Burkina Faso and permanent representative of his country to the UN, he had also had extensive field experience with the United Nations Development Programme Unit dealing with the Sahel region, where desertification was a major issue. He was well known in the region, and his knowledge of its problems was encyclopaedic. Diallo's efforts were reinforced by the work of another key secretariat member from the region, Alemneh Dejene, who made an important contribution to the process, as well as to the chapter on the subject in Agenda 21.

"Having put this issue on UNEP's agenda during my tenure as executive director, I had been disappointed that despite the vigorous efforts of my successor, Mostafa Tolba, UNEP had only been able to make modest progress toward mobilizing action on this issue. I felt that UNCED provided the best opportunity of giving the process strong impetus and lent it my full support. But our most effective support came from Swedish ambassador Bo Kjellén, who in his capacity as chairman of Working Group I of the Preparatory Committee, used his formidable influence and diplomatic skills to engineer a compromise. The United States and a number of other industrialized countries had strongly resisted the proposal, arguing that desertification was a regional problem that need

not be addressed at a global conference. But Kjellén was finally able to get them to sign on, however reluctantly, to a proposal by the Preparatory Committee that UNCED recommend to the UN General Assembly that it mandate an intergovernmental negotiating process to seek agreement on a desertification convention. Again, not as much as we had hoped, but nevertheless a major step forward. On this basis the team of Bo Kjellén and Arba Diallo were able to lead the drive that resulted in completion of the Convention to Combat Desertification in June 1994."

The Rio Conference called on the United Nations General Assembly to establish an Intergovernmental Negotiating Committee (INCDC) to prepare, by June 1994, a Convention to Combat Desertification, particularly in Africa. In December 1992, the General Assembly agreed and adopted resolution 47/188 on this matter.²¹⁸ Working to a tight schedule, the Committee completed its negotiations in five sessions. The Convention was adopted in Paris on 17 June 1994 and entered into force on 26 December 1996, 90 days after the 50th ratification was received. As at January 2012 193 countries and the European Union are Parties .

The Conference of the Parties (COP), which is the Convention's supreme governing body, held its first session in October 1997 in Rome, Italy. At the Eighth COP in Madrid in September 2007, the UNCCD entered a new phase with the adoption of the 10-year strategic plan and framework to enhance the implementation of the Convention (The Strategy). This new development has taken the Convention to new ground. Most importantly, Parties have laid out a clear vision for a period of ten years in The Strategy, which is to forge global partnerships to reverse and prevent desertification and land degradation. These partnerships are also meant to mitigate the effects of drought in affected areas. Coupled with the vision is a Strategy mission: To provide a global framework to support the development and implementation of national and regional policies that are to contribute to the reduction of poverty.

In May 2010, the Fourth GEF Assembly amended the GEF Instrument to list UNCCD among the treaties for which the facility is playing the role of financial mechanism. This latest development, viz. the inclusion of the Desertification Convention among the list of the instruments eligible for

GEF support, is of immense importance. Of²¹⁹ particular interest is the deliberate targeting of 'poverty reduction' as a goal of the Convention, a target which — with new resources available from GEF — may be within reach.

Admittedly, UNEP was not invited by the UN General Assembly to host the original negotiating process which led to the adoption of the UNCCD in 1994. As in the case of the Climate Change Convention, the General Assembly decided to keep such matters in its own hands. Nor does UNEP supply the secretariat. But UNEP can take some credit for work done in those early years. UNEP assisted African countries in their preparations for the Convention.

Most of the African participants to the Convention held national workshops and established desertification councils or committees, with the result that many were well-placed to begin programmes when funding became available. It may be too soon to term the UNCCD a success. Progress in the fight against desertification may need to be linked to progress on other fronts, e.g. climate change and the protection of biological diversity. But 10 or 20 years from now, it may be a different story.

In her remarks to the UNEP Governing Council on the occasion of UNEP's 40th anniversary celebrations, Ms. Dowdeswell recalled that, during her time, UNEP had 'broadened the chemicals agenda.'

Growth in internationally traded chemicals during the 1960s and 1970s had led to increasing concern over pesticides and industrial chemical use, particularly in developing countries that lacked the expertise or infrastructure to ensure their safe use. UNEP had first taken action in 1976 when, in response to Stockholm Recommendation 74, it set up the International Registry of Potentially Toxic Chemicals (IRPTC). By 1992 this contained data profiles for over 800 chemicals and special files on about 8000 that were subject to national regulation. In 1980 WHO, UNEP and ILO established an International Programme on Chemical Safety.

²²⁰In 1987 UNEP developed and promulgated the London Guidelines for the Exchange of Information on Chemicals in International Trade²²¹ and FAO published an International Code of Conduct for the

Distribution and Use of Pesticides.²²² Both the Code of Conduct and the London Guidelines include procedures aimed at making information about hazardous chemicals more readily available, thereby permitting countries to assess the risks associated with their use.

By the time Ms. Dowdeswell spoke, two further initiatives had become particularly relevant. In 1989 UNEP and FAO started to implement a prior informed consent (PIC) procedure for the international trade of chemicals that have been banned or severely restricted at the national level.²²³ Under the PIC procedure, participating States undertake to:

- inform an international organisation whenever a chemical is severely restricted or banned in that State;
- advise the organisation of that State's decision on the importation of chemicals made subject to the PIC procedure;
- take measures to inform their exporters of the decisions of other States; and
- take actions within their jurisdiction to help ensure that their exporters comply with the decisions of importing States.

In 1989, both the UNEP London Guidelines and the FAO Code of Conduct on pesticides were amended to include the voluntary Prior Informed Consent (PIC) procedure to help countries make informed decisions on the import of chemicals that have been banned or severely restricted. Managed jointly by the FAO and UNEP, the PIC procedure is a means for formally obtaining and disseminating the decisions of importing countries on whether they wish to receive future shipments of such chemicals. The aim is to promote a shared responsibility between exporting and importing countries in protecting human health and the environment from the harmful effects of certain hazardous chemicals being traded internationally. The voluntary PIC procedure is designed to:

- help participating countries learn more about the characteristics of potentially hazardous chemicals that may be imported;

- initiate a decision-making process on the future import of these chemicals;
- facilitate the dissemination of these decisions to other countries.

Delegates to the 1992 UNCED recognized that the use of chemicals is essential to meet social and economic goals, but also acknowledged that a great deal remains to be done to ensure the sound management of chemicals. Chapter 19 of Agenda 21, the programme of action adopted by UNCED, contains an international strategy for action on chemical safety. Paragraph 19.38(b) calls on States to achieve by the year 2000 the full participation in and implementation of the PIC procedure, including possible mandatory applications of the voluntary procedures contained in the amended London Guidelines and the International Code of Conduct.

In November 1994, the 107th meeting of the FAO Council agreed that the FAO Secretariat should proceed with the preparation of a draft PIC Convention as part of the FAO/UNEP Programme on PIC in cooperation with other international and non-governmental organizations. In May 1995, the 18th session of the UNEP Governing Council adopted decision 18/12, which authorized the Executive Director to convene, together with the FAO, an intergovernmental negotiating committee with a mandate to prepare an international legally binding instrument for the application of the PIC procedure. Between March 1996 and March 1998, delegates met five times as an Intergovernmental Negotiating Committee (INC).

The first session of the Intergovernmental Negotiating Committee (INC-1) was held from 11-15 March 1996, in Brussels, Belgium, completing a preliminary review of a draft outline for a future instrument and establishing a working group to clarify the chemicals to be included under the instrument. INC-2 met from 16-20 September 1996, in Nairobi, Kenya, and produced a draft text of the convention. INC-3 convened in Geneva, Switzerland, from 26-30 May 1997. Delegates considered the revised text of draft articles for the instrument, with debate centering on the scope of the proposed convention. At INC-4, held from 20-24 October 1997, in Rome, Italy, delegates considered the revised text

of draft articles for the instrument. INC-5 was held from 9-14 March 1998, in Brussels, Belgium. Delegates made progress on a consolidated draft text of articles, and reached agreement on the draft text of the PIC Convention and a draft resolution on interim arrangements

- The Rotterdam Convention enables member countries to *alert each other to potential dangers*. Whenever a member Government anywhere in the world takes an action to ban or severely restrict any chemical for health or environmental reasons, this action is reported through the “PIC circular” that the Convention secretariat distributes to all member countries every six months. By ensuring that information is exchanged in this way, the Convention provides an initial warning to Governments that a particular chemical may merit a second look;
- Whenever a country bans or severely restricts a chemical or pesticide domestically but makes it available for export to another country, it must *provide the importer with an export notification* containing practical and detailed information about the chemical and the shipment;
- The Convention includes a *list of chemicals and pesticides* that are subject to the legally binding Prior Informed Consent procedure. This is not a “black list”, but rather a “watch list” of industrial chemicals, pesticides and “severely hazardous pesticide formulations” (which contain a specific percentage of one or more particular active ingredients) whose use should be carefully weighed and whose import needs to be agreed.

In 1998, Governments adopted the Rotterdam Convention,²²⁴ which makes the PIC procedure legally binding for Parties.

The second initiative related to the problem of persistent organic pollutants. These were highly toxic chemicals which resisted degradation, bioaccumulated in living tissue and were very mobile in the environment. They had been found in high levels in people and wildlife hundreds of miles from the nearest possible point of environmental release.

In 1995, UNEP's Governing Council called for action on these substances, starting with a global assessment of the problem. It also asked member countries to consider what action should be taken within the framework of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities.

By March, 1996, UNEP was in a position to present its findings to the Intergovernmental Forum on Chemical Safety (IFCS), which discussed the key issues posed by the assessment and concluded that the available scientific evidence was sufficient to demonstrate the need for international action on 12 specific substances.²²⁵

The 19th session of UNEP's Governing Council in January, 1997 heard the recommendations of the IFCS and agreed that immediate international action, including a global legally-binding instrument, was required to reduce the risks to human health and the environment arising from the 12 pollutants identified.

The Governing Council went on to call for measures to reduce and/or eliminate emissions and discharges of these 12 pollutants. The Intergovernmental Negotiating Committee began negotiations in early 1998 with a view to preparing an international legally binding instrument by the year 2000.^{226,227}

Ms. Dowdeswell also mentioned the publication of the first GEO report *Global Environment Outlook* (GEO-1) in 1997. This marked a radical departure for UNEP because it provided a detailed region-by-region assessment of the state of the world environment. The report received worldwide publicity, not just for its sombre conclusions, but also for its assessment of the policy options required. The report was the beginning of a long-term continuous assessment process, with regional and local input from all over the world, and so within weeks of its publication was referred to as GEO-1.

A product of the collaboration between UNEP and internationally renowned scientists and other United Nations agencies and experts, GEO-1 was stark in its conclusions: that despite the efforts and commitments made at the Rio Earth Summit five years previously, the

global environment had continued to deteriorate. 'Progress towards a global sustainable future is just too slow. A sense of urgency is lacking,' said the report. 'There is no longer a problem of lack of clarity of vision or institutional frameworks... what is now needed is the will to act'.

The report stressed four conclusions that pointed to priority areas for immediate action by the international community:

- Improving energy efficiency and using renewable sources of energy would result in major environmental improvements;
- Appropriate and environmentally sound technologies, applied worldwide, would greatly reduce natural resource use, waste and pollution;
- Global action on fresh water was needed to remove a major impediment to development in many regions;
- Improved benchmark data and integrated environmental assessments were essential for effective policy-making at all levels.

GEO-1 broke new ground in establishing mechanisms for continuous expert environmental assessment and in its detailed delineation of the problems facing every region in the world. The report was commended by institutions and individuals worldwide, and was acknowledged as an authoritative statement of the current environmental balance sheet.

Governments also welcomed GEO-1's establishment of priorities for global and regional action. They gave broad acceptance to the need to act on the report's unequivocal conclusion that 'significant environmental problems remain deeply embedded in the socio-economic fabric of nations in all regions'.

GEO-1 was available to both the Commission on Sustainable Development (CSD) and the special session of the United Nations General Assembly held in June 1997. During the deliberations of the fifth session of the CSD many delegations referred to the GEO-1 findings to substantiate their statements and GEO-1's main conclusions were referred to in the CSD's report which was forwarded to the special

session. As a result, the major GEO-1 findings featured in the special session's deliberations and were reiterated in its report. Plans for GEO-2 (actually GEO-2000) were already well under way; meetings with collaborating organizations and centres took place during 1997 to establish the framework for the second report which would evaluate the world environment at the start of the new millennium.²²⁸ Its production was to be a highlight of Klaus Töpfer's tenure as Executive Director, described in the next Chapter.

"Significant environmental problems remain deeply embedded in the socio-economic fabric of nations in all regions." These were sombre words indeed. As the decade of the 1990s drew to a close, it had become increasingly obvious that end-of-pipe, command-and-control solutions would never be a sufficient response to environmental problems, let alone that wider nexus of issues that sat together, sometimes uncomfortably, under the sustainable development label. As Agenda 21,²²⁹ and numerous other declarations and calls to action had recognized, what was needed was "cleaner production" and "sustainable consumption" and all available tools had to be mobilized towards those ends.

One available tool was the financial sector. In her own summary of the 'Dowdeswell years', Ms. Dowdeswell mentioned UNEP's work in this area and her remarks deserve amplification. Archimedes is reported to have said: "Give me a lever and I can move the world." Given the extraordinary dominance of the financial sector in the affairs of much of the modern world, the effort to mobilize financial institutions for sustainable development goals seemed tremendously worthwhile. The key, as always, would be to persuade those institutions that the pay-off would be in their own bottom line, quite apart from any wider benefits

UNEP's efforts to mobilize the banking sector in support of environmental objectives in fact antedated the Dowdeswell era. Scott Vaughan, now Canada's Commissioner of the Environment and Sustainable Development, writes:

"In the summer of 1991, UNEP took its first steps to engage the commercial banking sector in environmental issues. The initiative began while I was working in Dr. Tolba's office; before joining UNEP

in 1989, I had worked at the head office of a major Canadian bank, including identifying some of the main elements that comprised the first environmental policy to be adopted by a Canadian bank in the late 1980s.

"Approaching banks in 1991 made sense for different reasons. First, the big International Financial Institutions – led by the World Bank as well as the Asia Development Bank – had put in place more stringent environmental targets, which eventually became their environmental safeguards. Second, a landmark legal case from 1990 – called Fleet Factors – found that a lending bank could be held liable for the environmental damages of a borrower, in instances when the lender defaulted and the borrower assumed daily management control during the bankruptcy workout. That decision sent shock-waves throughout the banking sector not only in the United States: a major Canadian bank in the late 1980s faced similar liability exposure when it assumed management take-over of a bankrupt steel company.

"The third driver was the general engagement of many in the private sector in the roll-up to the 1992 Earth Summit, which engaged many economic actors as well as civil society.

"The initiative actually began when I called the head of the environmental branch of NatWest, asking out of the blue if they would consider beginning a dialogue with UNEP to advance environmental issues. Once they and the then Royal Bank of Canada — now RBC Financial Group – were on board, a working group comprised of Deutsche Bank, HSBC Holdings, Westpac of Australia, and a major US-based bank began its work. Tolba and I met with the CEOs of nearly all the CEAs of the small Advisory Group, so the initiative had the support of the most senior representatives of the banks, as well as UNEP.

"Negotiating what became the 'Statement by Banks on Environment and Sustainable Development' began in the fall of 1991, immediately after it became clear that the outcome had to be a formal expression of commitment. After numerous meetings and exchange in New York, Frankfurt and London, in which UNEP prepared various drafts for discussions and change, the Statement was finalized in April 1992.

Four of the five members of the Advisory Committee signed the final Statement. At a meeting held at the UN in New York in May 1992, 23 of the world's leading commercial banks, representing \$1.5 trillion in combined assets, 50 million customers and more than 500,000 employees, signed the UNEP statement. The original statement sits in the New York office of UNEP — that document made it to the event across town with about 20 minutes to spare.

“Among other things, the signatories declared that they:

- endorse the integration of environmental considerations into internal banking operations and business decisions in a manner which enhances sustainable development;
- subscribe to the precautionary approach to environmental management, which strives to anticipate and prevent potential environmental degradation;
- expect, as part of their normal business practices, that their customers comply with all applicable local, national and international environmental regulations. Beyond compliance, they regard sound environmental practices as one of the key factors demonstrating effective corporate management;
- recognize that environmental risks should be part of the normal checklist of risk assessment and management. As part of their credit risk assessment, they recommend, where appropriate, environmental impact assessments; and
- support and will develop banking products and services designed to promote environmental protection, where there is a sound business case.

“Of the contents of the Statement, the most tricky were two sentences — “Beyond compliance, they regard sound environmental practices as one of the key factors demonstrating effective corporate management;” and the recognition that “environmental risks should be part of the normal checklist of risk assessment and management.” The issues then were the extent to which credit decisions should be expected to take into account environmental risks, and in the end one of the Advisory Group members from a US bank withdrew.

“After the Statement was signed, coordination of the banking initiative moved with me from Nairobi to Geneva in early 1993; Ken McGuire ran the logistics alone for several years, while also managing all of UNEP's new international trade and environment work. Ken continues to be the institutional memory of the initiative. There were regular meetings of the Advisory Group to both expand the number of banks that endorsed the Statement, and to look at how best to monitor progress.

“In September 1994, UNEP hosted the first international round table meeting on commercial banks and the environment. The meeting was chaired by Elizabeth Dowdeswell, the Executive Director, and organized by Ken McGuire and myself. It brought together for the first time representatives of the commercial, investment and venture capital businesses, as well as senior staff from the World Bank such as Charles DiLeva, currently its Chief Legal Counsel, the International Financial Corporation, the European Development Bank and others, to share good practices in assessing the risks related to core credit lending procedures; to finding ways of leveraging public-private sector financing to advance green projects lending; and to compare approaches to greening internal operations. A follow-up meeting was hosted in 1995, by EBRD in London with even more interest, and more participants from the private sector.

“That same year, with financial support from the Solomon Brothers investment bank, we conducted the first survey of financial leaders regarding their perspectives to the environmental agenda. The results of that survey were covered in the world's press, including the *Financial Times* and *Economist*.

“In the spring of 1995, Carlos Joly, then Vice President of Oslo-based Storebrand, called me to ask if UNEP would launch a similar initiative for the insurance and reinsurance sector. Again, an Advisory Board was established — comprising General Accident, Gerling Global Re, National Provident, Storebrand, Sumitomo Marine, & Fire, Swiss Re, as well as pension funds. The second UNEP statement was based on the framework created by the first, but tailored to the insurance, re-insurance and pensions fund sectors, and reflected in the *UNEP*

Statement of Environmental Commitment by the Insurance Industry, released in the summer of 1995.

“In 1997, the Insurance Industry Initiative (III) was formed to fund research activities, and to sponsor awareness meetings and workshops and the annual regular meetings of the Initiative.

“This same year, the UNEP Statement by Banks on the Environment and Sustainable Development was redrafted to become the UNEP Statement by Financial Institutions on the Environment & Sustainable Development, in order to broaden its appeal to the wider financial services sector. At this stage, the Banking Initiative was renamed the Financial Institutions Initiative (FII).

“From 1999, both the Financial Institutions Initiative (FII) and Insurance Industry Initiative (III) started to work more closely together on issues of mutual interest, and at the 2003 Annual General Meeting in Geneva, the UNEP Financial Institutions Initiative (FII) and the UNEP Insurance Industry Initiative (III) agreed to merge, forming one Initiative to be known as the UNEP Finance Initiative.

“In 2010, so as to duly reflect the common governance grounding of the Initiative, the UNEP Statement by Financial Institutions on the Environment & Sustainable Development and the UNEP Statement of Environmental Commitment by the Insurance Industry were merged into a single Statement, the UNEP Statement of Commitment by Financial Institutions on Sustainable Development, finalized in 2011.”

At a time when the world’s financial institutions, particularly bankers, have come under a good deal of criticism for the part they have played in the world’s current economic and financial difficulties, it seems fair to chalk up the UNEP Statement by Financial Institutions on the positive side of the ledger, 1997 was the year of UNEP’s 25th anniversary.

The 19th session of UNEP’s Governing Council was held from January 27 - February 7 in that year. Looking ahead to the June 1997 Special Session of the United Nations General Assembly which had been called on to review — five years after Rio — the implementation of Agenda 21,

the Governing Council discussed and agreed a document which became known as the Nairobi Declaration on the Role and Mandate of the United Nations Environment Programme. This important declaration detailed the key elements it believed UNEP should focus on: analysis and assessment; policy advice and norm setting; the promotion of cooperation; international environmental law; and the promotion of greater awareness.

The declaration represented both a commitment by donor governments themselves and a call to the United Nations to acknowledge UNEP’s role as the lead authority in setting the global environmental agenda.

The United Nations General Assembly Special Session to review the implementation of Agenda 21 after the first five years was held in New York from June 23 to June 28, 1997. Strong commented that the event was “noteworthy more for the fact that it attracted so many world leaders than for the progress they had to report,”²³⁰ but from UNEP’s point of view at least, this was a useful meeting.

The General Assembly endorsed the Nairobi Declaration as part of the comprehensive resolution by the United Nations General Assembly on the further implementation of Agenda 21.²³¹

123. The role of United Nations Environment Programme, as the principal United Nations body in the field of the environment, should be further enhanced. Taking into account its catalytic role, and in conformity with Agenda 21 and the Nairobi Declaration on the Role and Mandate of the United Nations Environment Programme, adopted on 7 February 1997, the Programme is to be the leading global environmental authority that sets the global environmental agenda, promotes the coherent implementation of the environmental dimension of sustainable development within the United Nations system, and serves as an authoritative advocate for the global environment. In this context, decision 19/32 of 4 April 1997 of the United Nations Environment Programme Governing Council on governance of the Programme and other related

Governing Council decisions are relevant. The role of the United Nations Environment Programme in the further development of international environmental law should be strengthened, including the development of coherent interlinkages among relevant environmental conventions in cooperation with their respective conferences of the parties or governing bodies. In performing its functions related to the conventions signed at the United Nations Conference on Environment and Development or as a result of it, and other relevant conventions, the United Nations Environment Programme should strive to promote the effective implementation of those conventions in a manner consistent with the provisions of the conventions and the decisions of the conferences of the parties.

124. The United Nations Environment Programme, in the performance of its role, should focus on environmental issues, taking into account the development perspective. A revitalized Programme should be supported by adequate, stable and predictable funding. The Programme should continue providing effective support to the Commission on Sustainable Development in the form of scientific, technical and policy information and analysis of and advice on global environmental issues.

Lars-Göran Engfeldt comments:²³²

“The Nairobi Declaration reaffirmed UNEP’s original 1972 mandate and its development in Agenda 21, but with some changes of emphasis. Its policy guidance role in the UN system was adapted to meet the post-Stockholm political reality. At the same time, its role in providing institution-building services became more pronounced. Similarly, the interaction between UNEP and the non-state sector was emphasized, reflecting the important developments in this regard which had taken place since 1972.

“However, the text did not include the coordinating and advisory role of the ED relating to secretariats and intergovernmental bodies of the UN system as was done in 1972. This confirmed that this special role, which was so important in the Stockholm considerations, had never

been backed up by governments and, thus, was not recognized in the UN system.

“In substance, the Declaration represented a fair compromise between the search for excellence in the environmental field, which was a general northern interest, and the desire to strengthen UNEP’s operational capabilities in the area of capacity-building, which was a developing country interest.

“With the UNGASS endorsement of the Nairobi Declaration in June 1997, clarity was reached on the role and mandate issues. This placed UNEP in a better position to assert its central position in multilateral environmental cooperation.”

As Elizabeth Dowdeswell’s term as Executive Director of UNEP came to an end, UNEP’s prospects were perhaps brighter than they had been on her arrival in Nairobi in the immediate aftermath of Rio. One last positive indication came in July 1997 when United Nations Secretary-General Kofi Annan sent his ‘Proposals for Reform’ Report to the 51st Session of the General Assembly. With Strong acting as his principal adviser and Executive Coordinator of United Nations reform, it is perhaps not surprising some of these reforms were radical and far-reaching, including – for example – enlargement of the Security Council and a reassessment of various countries financial obligations.²³³ As far as UNEP was concerned, the Secretary-General wrote:²³⁴

“UNEP is the environmental voice of the United Nations and the principal source of the environmental input into the work of the CSD. High priority must be given to according to it the status, strength and access to resources it requires to function effectively as the environmental agency of the world community. This has been confirmed by the Nairobi Declaration, adopted by the UNEP Governing Council, at its session, in February 1997. UNEP’s role as the focal point for harmonization and coordination of environment-related activities must be strengthened, and the Secretary-General intends to lend his full support to this process.

“The important experience and capacities that UNEP has developed in the areas of monitoring and assessment, through its GEMS and GRID

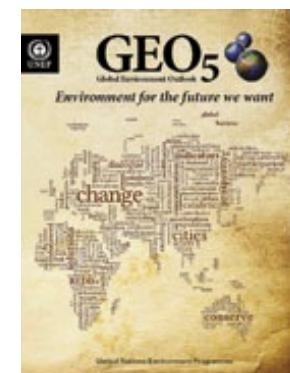
programmes constitute an invaluable resource which must be further developed and enhanced in the period ahead. So too its key functions as the forum for development of international policy, law and negotiation and implementation of cooperative arrangements to deal with environmental issues, as a bridge between science and policy-making as well as its interacting relationships with national environmental organizations and agencies. One of the most notable achievements of UNEP has been its contribution to the initiation, negotiation and support of some of the most important treaties that have been agreed in the international field. Many of these continue to depend on continued

support by UNEP. The operational projects at country level that have been financed by the Fund of UNEP can now be more appropriately funded by UNDP and other sources. Accordingly, UNEP will discontinue implementation of such projects."

With the General Assembly's endorsement of the Nairobi Declaration and with the United Nations' Secretary-General's positive view. The prospects facing the new Executive-Director, Klaus Töpfer, were arguably brighter than those that had greeted Ms. Dowdeswell five years earlier.



Top Left to Right: One of the 22 spraying squads working with the WHO-UNICEF Malaria Control Team in the jungle villages of Orissa State (India) weighing out DDT powder before spraying the village; Barrels of toxic waste on an African beach; The latest report on the Global Environmental Outlook (GEO-5).



UNEP's fourth Executive Director, Klaus Töpfer, shares a word with the late Nobel peace laureate Wangari Maathai on the occasion of his farewell party after just over two four-year terms at the helm.



12

THE TÖPFER TASK FORCE, ENVIRONMENT AND TRADE, SEATTLE AND THE CARTAGENA BIOSAFETY PROTOCOL

Klaus Töpfer was already well-acquainted with UNEP when he took over from Elizabeth Dowdeswell as Executive Director in February 1998. From 1987 to 1994 he had been Federal Minister for the Environment, Nature Conservation and Nuclear Safety in the German Government and, in that capacity, had been closely involved in UNEP's affairs. He played a major role during the 1992 Rio Conference in rescuing the Forest Principles from a near car-crash as the supporters of a 'global forest convention' found themselves bitterly opposed by countries who saw any international meddling in the way they managed their forests as a direct challenge to their 'sovereignty'. And in May 1994, he had chaired the second session of the newly-established Commission for Sustainable Development.

A man of restless, almost explosive energy, Töpfer was determined to confront the problems which, in recent years, seemed to have prevented UNEP from fulfilling its full potential. A key priority was to

regain the support of donors. If that meant frequent absences from Nairobi and hard political graft in national capitals, then that — in Töpfer's view — was a price that had to be paid.

"When I first came to Nairobi," he explained, "they told me this joke about Dr. Tolba. 'What is the difference between Dr. Tolba and God the Father?' And the answer? 'God the Father is everywhere. Dr. Tolba is everywhere except Nairobi!' Well, now you can cross out Tolba and put Töpfer there instead."²³⁵

Apart from fund-raising, Töpfer was determined to deal with the problems caused by the proliferation of bodies in the international environmental field, an issue which — post-UNCED — had become even more complex since the agencies involved in 'sustainable development' were not necessarily the same as those involved in the environment. One of the key issues was that different agencies had their own governing structures.

In the case of the ‘big beasts’, the United Nations Specialized Agencies, like UNESCO, WHO, FAO, WMO, the agency and its governing body had been set up by separate international treaties, which had been adopted by states in plenipotentiary conferences and subsequently ratified by national parliaments. Even where agencies were created, as UNEP had been, by decision of the United Nations General Assembly, the resulting bodies could be very different as far as mandate, structure and programmes were concerned.

Töpfer frequently spoke in terms of UNEP having ‘given birth to all these children.’ That no doubt was a good thing. But then the children had grown up and had a life of their own. They did not always do what UNEP told them to do. They might not be as grand as the ‘big beasts’, but they still had their own constituency of Contracting Parties with regular Conferences of the Parties (COPs) and subsidiary bodies and so on. Some, such as the Convention on Migratory Species, had themselves given birth to other treaties, such as the African-Eurasian Waterfowl Agreement (AEWA) which had its own structures, legally separate from those of the parent body.²³⁶

In a perfect world, of course, the necessary coordination would take place at the level of individual national administrations. ‘Joined-up’ government, in theory at least, meant that delegates would put forward coherent views in whatever forum they happened to be, even if they represented different branches of government. In practice, things didn’t always work out so smoothly. Rivalries and tensions between one ministry and another at the national level (or even different parts of the same ministry) could be replicated on the international stage. There were logistical considerations. One of the great prizes, diplomatically speaking, is the ‘brand-name’ of any particular convention (e.g. the ‘Montreal’ Convention, the ‘Kyoto’ Protocol). Linked to that is the location of the secretariat. Sometimes the city which gets to ‘name’ the convention hosts the secretariat as well. The practical consequence of this process is that ministers and officials find themselves criss-crossing the globe from one city to another, as they try to deal with a congested international calendar. So the argument was increasingly being advanced, as the 1990s came to an end, that if matters could be

better arranged — ‘rationalized’ was the favourite word — ministers and officials might be able to spend more time at home, actually implementing the agreements they had signed up to.

When Kofi Annan became Secretary-General of the United Nations in 1997, he had set in progress a wide-ranging review of the United Nations and its complicated and wide-ranging bureaucracy. He was helped in this task by Strong who, in 1996, had agreed to act as Under-Secretary General and a Senior Adviser to Annan’s predecessor, Boutros Boutros-Ghali, and who stayed on to work with the new incumbent. Annan established a blue-ribbon UN Task Force on Environment and Human Settlements.²³⁷

Strong writes:

“In December 1997, when the secretary-general appointed Dr. Klaus Töpfer, formerly Germany’s minister of the environment and chairman of the UN’s Commission on Sustainable Development, to succeed Elizabeth Dowdeswell as executive director of UNEP, he also gave him broad responsibilities for oversight of Habitat, the human settlements organization of the UN, and made him chairman of the task force.

“Kofi Annan had entrusted me with the preliminary discussions with Klaus, one of the most respected and influential leaders of the world environment movement. I was convinced he was the right person for the job and worked with him in developing the terms of reference and recruiting the membership of the task force, then stepped back to serve as an ex officio member of it.”

Töpfer lived up to Strong’s expectations. Though detailed discussions of ‘international environmental governance’ frequently have a deadening, almost mind-numbing effect, on all save those most intimately concerned, the report of the ‘Töpfer task-force’ was in fact quite forthright and outspoken. The Task Force recommended that the Secretary-General should establish an Environmental Management Group (EMG). The EMG would be chaired by the Executive Director of UNEP, supported by a secretariat.

The Chair would report to the Secretary-General. The EMG would include as core members the main UN entities concerned with environment and human settlements. Particular meetings would involve additional UN entities, financial institutions, and organizations outside the UN system which have experience and expertise relevant to the issues on the agenda. The Task force recommended that the EMG should include convention secretariats among its participants when needed.

As well as recommending the EMG as a co-coordinating mechanism with UNEP in the chair (following the original Stockholm model), the Task Force went on to address the proliferation of environmental organizations and bodies.

“The creation of a large number of legally binding instruments in areas of environmental concern has been a major success of the international community. However, as a result of decisions by Governments, the secretariats of environmental and environment-related conventions have been located in diverse geographic locations, with little regard to the functional relationships among conventions. That dispersal has resulted in loss of efficiency because of inability to take advantage of synergies among conventions and substantial costs through loss of economies of scale and fragmentation of administrative, conference, and infrastructure services. The period after UNCED led to a significant increase in activities related to environmental and environment-related conventions, and the number of international meetings of relevant treaty bodies has increased significantly. This has created additional burdens, especially for Ministers.”

In these egalitarian days, the Task Force’s special concern for the welfare of ‘Ministers’ sounds rather quaint, but the report was not, of course, destined for wide circulation.

The Task Force put forward several proposals by way of addressing this problem. The first related to UNEP’s own ability to exercise intellectual leadership in what was an ever-growing field. One of the ironies of successfully bringing into being an MEA or similar instrument was that the vital centre of competence within UNEP itself was often hollowed out, while intellectual and administrative competence was

built up elsewhere. How could UNEP make a useful contribution, let alone ‘play a leading role’ in, say, the climate change field when, in terms of its own staff and resources, its efforts had been pared to the bone?

The Task Force recommended that UNEP’s substantive support to global and regional conventions should be founded on its capacities for information, monitoring, and assessment, which needed to be strengthened substantially and urgently for this purpose. “UNEP should build its capacity and its networks of support in order to ensure the scientific underpinning of conventions, to respond to their requests for specialized analysis and technological assessments, and to facilitate their implementation.”

There is no doubt that the Task Force’s insistence on the need to retain and strengthen UNEP as a ‘centre of excellence’ reflected Töpfer’s own point of view. This was a man with a strong academic as well as political background. He was quite used to being addressed as “Herr Professor Doktor”.

Speaking in Nairobi on the occasion of UNEP’s 40th birthday celebrations, Töpfer said:

“Yes, if you stick to this wonderful picture that these — the conventions — are the children and they grow up and make their own way, and that is good and don’t be too close as a father or a mother to pamper them too long — all this is fine, but at the end of the day you have to add a little bit, because you must also be aware that there should be something like a circular structure, integrating also the ideas and the knowledge and the overall responsibility of UNEP in the development of the agendas there, so I am fairly convinced, yes, let them do what they want, but at the end of the day, they must have a nucleus of intelligence here and the nucleus shouldn’t be too small, because otherwise you are sidelined very soon. ... This is my main concern, you see, that if you go out once, or your nucleus is too small, you cannot expect the others to take you seriously.”²³⁸

As for the actual mechanics of ensuring better coordination, the Task Force introduced some new term into the UN’s already jargon-laden lexicon: ‘co-location’ and ‘cluster’.

“The Executive Director of UNEP should continue to sponsor joint meetings of heads of secretariats of global and regional conventions. Every effort should be made to co-locate new conventions with other conventions in the same functional cluster (for example, biological resources, chemicals/waste, marine pollution) and with institutions with which they have a particular affinity. With respect to existing conventions, approaches should include promoting cooperation among the secretariats within each cluster, with a view to their eventual co-location and possible fusion into a single secretariat; and, in the longer term, the negotiation of umbrella conventions covering each cluster.”

As far as new conventions were concerned, the Task Force’s recommendations might have seemed reasonable enough. But the proposal to ‘fuse’ existing conventions together, particularly those which were not already labeled as ‘UNEP’ conventions, was decidedly radical.

The Task Force also had to deal, post-Rio, with the *de facto* demotion of UNEP’s own Governing Council. In theory, the newly-created Commission for Sustainable Development, sitting on top of all three pillars of the sustainable development edifice, should have attracted finance ministers, or development ministers, or social affairs ministers, as well as environment ministers. In practice, environment ministers and environment officials were probably the most regular participants in CSD.

Faced with this situation, the Task Force affirmed that the Commission on Sustainable Development and the Governing Council of UNEP had necessary and distinctive roles. The CSD provided a forum for high-level debate, including ministerial debate, that bridged and related environmental, developmental, and socioeconomic elements. “The UNEP Governing Council is and should remain the primary forum within which Ministers and senior officials of Governments can review the environmental performance of the UN system as a whole and define priorities for new action.”

Fighting back, the Task Force also recommended that there should be “an annual, ministerial-level, global environmental forum where environment ministers can gather to review and revise the environmental

agenda of the United Nations in the context of sustainable development” The Forum should “oversee and evaluate the implementation of that agenda; discuss key issues in depth; identify challenges requiring international environmental cooperation and develop plans of action for meeting them; review the role of UNEP in relation to the GEF; and engage in a variety of discussions with their peers, with representatives of international institutions, and with major groups.”

Since the UNEP Governing Council was at that time meeting on a biennial basis, the Task Force recommended that, in the years when it meets, the UNEP Governing Council should be that intergovernmental global environmental forum. “In alternate years, the forum should be a special session of the Governing Council which would focus on issues of high priority. The venue of these special sessions should move from region to region, and regional issues should feature prominently on their agenda.”

The task force also recommended that the membership of the UNEP Governing Council should be made “universal,” in other words instead of being a 58-member body elected by the General Assembly, the membership of UNEP’s Governing Council would be co-terminous with that of the UN General Assembly itself.

This last proposal, that the membership of UNEP’s Governing Council should be ‘universal’ would, as we shall see, resurface in the run-up to Rio+20 in the context of further discussions on ‘international environmental governance’ or, as it came to be known, the ‘institutional framework for sustainable development.’

Not surprisingly, it took the United Nations General Assembly some time to absorb and react to the proposals of the Töpfer Task Force. When finally it did so, in July 1999, more than a year after the Task Force had reported, its decisions were not uniformly helpful to UNEP.

As Lars-Göran Engfeldt, himself a member of the Task Force, would later write: “The proposals on increased coordination and coherence with regard to the MEAs met with resistance from parts of the international bureaucracy.

The final result, in terms of the institutional geometry of the UN system, was ambiguous. On the one hand, the General Assembly 'supported the proposals for the facilitation of and support for enhancing linkages and coordination within and among environmental and environment-related conventions, including by the United Nations Environment Programme' but on the other hand it insisted on this being done, if it was to be done, 'with full respect for the status of the respective convention secretariats and the autonomous decision-making prerogatives of the conferences of the parties to the conventions concerned'

In deliberately including language about the 'conferences of the parties' of the various MEAs having 'autonomous decision-making prerogatives', the UN General Assembly was of course reflecting legal and constitutional realities. But, at a time when the 'environmental' pillar was trying to regain coherence and credibility, the language and the intention behind it was not especially helpful.

The General Assembly also failed to endorse the Task Force's proposal that the membership of the UNEP Governing Council should be made universal. Engfeldt comments that this proposal had 'met major resistance from many quarters.'

In other respects, the General Assembly was supportive. The UNGA,²³⁹ for example, emphasized the importance of strengthening the capacity of the United Nations Environment Programme and the United Nations Centre for Human Settlements (Habitat) in their Nairobi location and of ensuring the provision of requisite support and "stable, adequate and predictable financial resources necessary to both organizations for the fulfilment of their mandates"

It also supported the establishment of an environmental management group (EMG) for the purpose of enhancing inter-agency coordination, and strengthening UNEP's capacity to fulfil its mandate.

Another area where the General Assembly Resolution was helpful was 'capacity building' in the developing countries. The issue of implementation was increasingly crucial. Treaties had been adopted and put into force. Countries needed help to implement those treaties.

The GEF was available in some cases, as we have seen. But what about the non-GEF treaties without any specific financial mechanism? And what about non-treaty-based programmes, such as the UNEP's Global Plan of Action to Protect the Marine Environment against Land-Based Sources of Pollution (GPA). How much 'technical assistance' could UNEP provide and through what mechanisms? Could it call on GEF to help the GPA?²⁴⁰

Over the years since Stockholm, the pressure from the developing countries for UNEP to actually deliver on the 'technical assistance' part of its mandate had been steadily growing. Though UNEP was already implementing GEF projects in a number of countries, there was clearly a large and unsatisfied demand for 'capacity building' at both regional and national level.

The Nairobi Declaration, adopted in February 1997 by UNEP's Governing Council, less than a year before Töpfer's arrival as UNEP Executive Director, clearly specified that one of 'core elements of the focused mandate of the revitalized United Nations Environment Programme should be to provide policy and advisory services in key areas of institution-building to Governments and other relevant institutions.' Now, two years later, the General Assembly reiterated that 'capacity-building' was to be a priority. It stressed:

"the need to ensure that capacity-building and technical assistance, in particular with respect to institutional strengthening in developing countries, as well as research and scientific studies in the field of environment and human settlements, must remain important components of the work programmes of both the United Nations Environment Programme and the United Nations Centre for Human Settlements (Habitat), within their existing mandates, and also stresses, in this regard, the need for adequate financial resources as well as the need to avoid duplication of efforts"

Finally, and importantly, the General Assembly endorsed the idea of an annual, ministerial-level, global environmental forum. The General Assembly's terms of reference for such a forum were, however, more restricted than those proposed by the Task Force.

The Task Force had proposed that the forum should:

“review and revise the environmental agenda of the United Nations in the context of sustainable development; oversee and evaluate the implementation of that agenda; discuss key issues in depth; identify challenges requiring international environmental cooperation and develop plans of action for meeting them; review the role of UNEP in relation to the GEF; and engage in a variety of discussions with their peers, with representatives of international institutions, and with major groups.”

The General Assembly had a less ambitious view of the functions of the forum, while being anxious to preserve the “high-level” status of the Commission on Sustainable Development. It decided that the forum would:

“take the form of a special session of the Governing Council, in which participants can gather to review important and emerging policy issues in the field of the environment, with due consideration for the need to ensure the effective and efficient functioning of the governance mechanisms of the United Nations Environment Programme, as well as possible financial implications, and the need to maintain the role of the Commission on Sustainable Development as the main forum for high-level policy debate on sustainable development.”

The first meeting of UNEP’s Global Ministerial Environment Forum would take place in Malmö, Sweden²⁴¹ at the end of May, 2000, less than a year after the General Assembly resolution welcoming the proposal of the Töpfer task force. In the meantime, before the millennium came to an end, there were a number of other crucial issues on UNEP’s table.

One of these issues had a fairly slow-burning fuse but the explosion, if it came, might be a big one. It could be summed up in three words: trade versus environment. When World Trade Organization Ministers approved the results of the Uruguay Round negotiations in Marrakesh in April 1994, they took a decision to begin a comprehensive work programme on trade and environment in the WTO.

For the next five years, this work programme had provided the focus of discussions in the WTO’s Committee on Trade and Environment (CTE). The CTE had a two-fold mandate:

“to identify the relationship between trade measures and environmental measures in order to promote sustainable development”;

“to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system.”

For many environmentalists, this bureaucratic language was fraught with menace right from the start and as the decade progressed their fears seemed to be justified. Time after time WTO decisions appeared to confirm the rights of the big fish over the little fish and ignore basic social and environmental considerations. The litany of cases was a long one. Bananas, hormones, gasoline, shrimp-turtle; panel reports or appellate body decisions relating to these and other issues had created or compounded the general atmosphere of alarm and disillusion with the WTO and its workings.

Nor was it simply a question of the interpretation of existing rules and regulations. The mere threat of a WTO challenge, or a rumoured WTO-incompatibility, might be enough to torpedo seemingly worthwhile initiatives.

In many ways, of course, the WTO was paying the price for the failure of the Uruguay Round negotiators adequately to address the issues of sustainable development, the environment and animal welfare.²⁴² Admittedly much of the Uruguay Round discussions had been concluded before the Rio de Janeiro Earth Summit in June 1992 and weary negotiators were reluctant to see complicated dossiers reopened. The establishment of the WTO’s Trade and Environment Committee, notwithstanding the useful technical work it has done on the issues over the last few years, was never more than a hasty add-on designed to avoid last-minute hitches in the ratification process.

UNEP was not immune to such concerns. Anyone who had followed the history of the ozone negotiations was well aware that the early unilateral action of the United States in banning CFC-containing propellants²⁴³ had been one of the key factors leading to later multilateral agreements. Much of the European Community's environmental legislation had been built on the back of 'harmonization' measures under Article 100 of the Treaty of Rome. (Most often, unilateral action in one EC state served as an incentive to the others to bring their own environmental measures into line with, hopefully, more than a 'lowest common denominator' approach).

UNEP certainly could not afford to set its face against unilateral measures, just because they were unilateral. Admittedly, Principle 12 of the Rio Declaration on Environment and Development, as agreed in Rio on June 13, 1992, stated that: "Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided." But there was definitely some wriggle room there. "Avoiding" unilateral measures didn't necessarily mean ruling them out altogether.

But the issue for UNEP was even more important than that. As the trade versus environment debate progressed, it became obvious that some of the MEAs themselves might be vulnerable to attack under WTO rules in so far as they provided for restrictions on trade.

Hussein Abaza, who headed UNEP's 'Economics and Environment Programme' writes:²⁴⁴

"The second challenging phase of my tenure with UNEP was under the direction of Elizabeth Dowdeswell, who wanted a clear role for UNEP on trade-related issues. In spite of scepticism initially on the part of some governments on whether UNEP should be involved in this area, UNEP managed to put together a solid programme on the interface between trade and the environment, and became a prominent player in this field. Apart from becoming a permanent observer at the WTO Committee on Trade and Environment, UNEP facilitated the participation and contribution of MEAs in the WTO discussions. The UNEP *"Trade and Environment"* series, which provided expert analysis

on critical trade and environmental issues, was also launched during this period."²⁴⁵

The 'expert analysis' to which Hussein Abaza referred revealed that, of the 200 or so MEAs then in existence, over 20 incorporated trade measures to achieve their goals. This meant that the agreements used restraints on trade in particular substances or products, either between parties to the treaty or between parties and non-parties, or both. Although this was a relatively small number of MEAs, as far as UNEP was concerned, they were some of the most important because they were considered to be 'UNEP' MEAs so a challenge to them was in a sense a challenge to UNEP itself.

UNEP, for example, as we have seen,²⁴⁶ provided the secretariat for the Convention on International Trade in Endangered Species of Flora and Fauna (CITES) which was adopted in 1973 and entered into force two years later. CITES sought to control trade in endangered species and their parts, as well as products made from such species. Three annexes listed species identified by the Conference of Parties (on scientific advice) as being endangered to various extents. It established trade controls, ranging from a complete ban to a partial licensing system. CITES had long been known for the unusually active participation of non-governmental organizations — scientific and advocacy organizations in particular — in its deliberations, so a threat to CITES might have wide implications in terms of public relations, going far beyond governmental circles.

Another potentially vulnerable MEA was the (1985) Vienna Convention on Substances that Deplete the Stratospheric Ozone Layer and its (1987) Montreal Protocol. The Protocol established a regime of control for several classes of industrial chemicals known to harm the stratospheric ozone layer. The result had been a ban on the production and use of several of them, together with severe limitations on others. It had successfully implemented the principle of precaution, by acting before the availability of clear scientific evidence, and that of common and differentiated responsibility, by establishing a fund to assist developing countries in their transition away from dependency on controlled substances.

Its principal enforcement tool, apart from continuing public pressure, was the control of trade in ozone-depleting substances and trade in products containing controlled substances. It included the possibility of imposing controls on trade in products produced with (but no longer containing) controlled substances, but the parties had not considered it necessary to implement such controls. (This last provision might, in particular, have been challenged under WTO rules which, under the so-called 'like product' doctrine - did not allow for 'process and production methods' — PPMs — to be used as a justification for discriminatory trade measures.)²⁴⁷

Another vulnerable MEA was the (1989) Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal. The Basel Convention — as we have seen — resulted from the concern of developing countries, particularly in Africa, that they could become the dumping ground for hazardous wastes that could no longer be disposed of in the developed world. Developing countries and non-governmental organizations had continued to play a significant role in developing the regime. The Basel Convention had been marked by disputes over the most appropriate strategy for controlling the movement of hazardous waste (regional bans versus prior informed consent) and the technical difficulty in establishing unambiguous distinctions between wastes and materials for recycling. Parties had adopted the so-called 'BAN' amendments banning the export of hazardous waste from mainly OECD to non-OECD countries, though that had not yet been ratified.²⁴⁸

Measures taken under the (1992) Framework Convention on Climate Change (FCCC) and its Kyoto Protocol, adopted in December 1997, might also be open to attack. The FCCC was grappling with the most complex of all environmental issues, and the one with greatest potential for economic impacts. Since greenhouse gas emissions could rarely be limited with technical, "end-of-pipe" technologies, the principal strategy of the FCCC must be to change the pattern of future investment in favour of activities that generate less greenhouse gases. The Kyoto Protocol created two classes of countries — those with greenhouse gas limitation commitments and those without — and several institutions governing their relations. Although neither the FCCC nor the Kyoto Protocol

included trade measures, it was highly likely that the parties, in fulfilling their Kyoto obligations, might seek to adopt trade-restrictive policies and measures (e.g. *'we won't buy your gas-guzzling cars because of climate-change reasons'*).

One other MEA was of concern to UNEP. As we saw in the previous chapter, in 1998, the UNEP-sponsored Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade had been adopted. Many domestically banned or severely limited goods were traded internationally. For years there had been a controversy over the procedures to ensure that the appropriate authorities in the importing country were informed promptly. Indeed, a GATT working group devoted several years of negotiation to this topic, without achieving a generally acceptable result. UNEP (responsible for arrangements for managing potentially toxic substances) and the Food and Agriculture Organization (concerned with pesticide use) had a strong interest in developing a uniform system of notification. This needed to offer adequate assurance that information would be provided quickly, but also that it would reach the necessary authorities when needed. And it needed to create a system that permitted developing countries to stop the import of certain substances if they felt a need to do so. This goal had — hopefully — been served by the Rotterdam Convention.

The list of MEAs potentially vulnerable to a WTO challenge was, as can be seen from the recital above, a long one. There was little doubt that the inclusion of deliberately discriminatory trade-related measures was an important asset and that without such measures the MEAs would be weakened or, in the case of CITES, for example, rendered largely meaningless.

Of more immediate significance, in the second half of 1999, was the impact that trade issues were having on the progress of negotiations in respect of a Biosafety Protocol to the 1993 Convention on Biological Diversity. The underlying idea was that parties to the protocol might restrict the import of some living genetically modified organisms (GMOs) as part of a carefully specified risk management procedure. Living GMOs that were going to be intentionally released to the environment

would be subject to an advance informed agreement procedure, and those destined for use as food, feed or processing would have to be accompanied by documents identifying them.

The negotiating body — the Open-ended *Ad Hoc* Working Group on Biosafety (BSWG) — was established by the Conference of the Parties to the Convention on Biological Diversity at its second session in 1995. This group held its first meeting in July 1996 and was to have completed its deliberations in time for a ceremonial adoption session in Cartagena in February 1999. However, these talks had stalled, the most contentious being interconnected concerns related to environment, trade, and agriculture. Instead of the Protocol being agreed in Cartagena, two extra week-long negotiating sessions had to be scheduled.

Juan Mayr, the Colombian Minister of Environment, described the confused situation.²⁴⁹

“As Colombia’s Minister for the Environment, I was host for the event and also Chair for the ExCOP, held in the last two days of the BSWG meeting for the Protocol. However, as the meeting progressed it was evident that the positions of the different delegations were increasingly disparate — almost 600 brackets inserted to the text — consensus for the Protocol was far from sight.

“Time was running out, but the differences remained. So, in the absence of any agreement, Veit Koester, Chair of the BSWG since its inception in 1996, took the decision to present a Chairman’s text as a way to achieve a balanced Protocol in response to the divergent positions. The text was consulted with the Chair’s Group of Friends and presented to the other delegations as a definitive version, with no further brackets to be included and consensus required for any further changes. This led to discontent among the many delegations whose basic concerns were not taken into account in the text. It was at this moment, and at the request of Koester himself, that I took the negotiations into my own hands. The impossible had to be done.

“It was no secret that these were one of the most difficult and complex negotiations between trade and environment, with numerous interests

in play and varying positions of countries towards the development of biotechnology industries, their capacity to produce and commercialise living modified organisms (LMOs), capacity to manage safety, and developments in national legislations. Furthermore, the Protocol being the first legally-binding instrument under the Convention on Biological Diversity, its successful negotiation was vital.

“There were three main groups of countries namely: (1) the Miami Group, which included the main producers and traders of LMOs namely USA, Canada, Australia, Argentina, Chile and Uruguay; (2) the Like-Minded Group, which comprised the majority of G-77 countries; and (3) the European Union. In a series of informal consultations with all three groups during the weekend prior to the start of the ExCOP, I asked each group to nominate a spokesperson, to be accompanied by no more than three advisors.

“Many factors — such as the legal dispute brought to the WTO by the US against the European Union for its moratorium on GMOs; the new biosafety legislation in Europe; the imposition in bi-lateral trade negotiations on developing countries that have limited scientific capacity to establish possible risks, to accept GM products; and the growing public awareness about the issue — all make the Protocol one of the most important legal instruments of our times in the protection of environment and human health.

“As Chair of the ExCOP, I immediately established a group of 10 negotiators who could be accompanied by all the delegations that they represented

“There was tremendous effort by all the negotiators to reach agreement on the text, and all but the Miami Group had made concessions in order to reach consensus. This led, understandably, to considerable frustration, and we took the decision to suspend the ExCOP and give ourselves more time for the negotiations to mature.

“Looking back, the attitude of the Miami Group was in fact a blessing in disguise. Aside from having the burden of a failed negotiation on their shoulders, public opinion began to question why it had not been possible

to reach agreement on the regulation of trans-boundary movement of LMOs²⁵⁰ in order to minimize risks of any possible environmental damage. The international media and interest groups began to question the risks associated with biotechnology products, and the need to exercise precaution over their use and commerce. In many ways the Cartagena negotiations caused a domino effect: faced by increasing critics, Monsanto, one of the major companies involved in biotechnology development, announced the suspension of trade of the “terminator” seed; Japan began labelling of transgenic products; another company, Gerber, announced that it would not use transgenic ingredients in their baby food products, and a multitude of European consumers took to the streets in protest against genetically modified (GM) foods.

“Prior to the finalisation of negotiations, however, two other important meetings took place, even though they were of an informal nature. In Montreal in July 1999, all delegations expressed their desire to reach a successful end to the negotiations within one year. Another preparatory meeting was planned, to agree an agenda on the controversial points, and it was decided to use the same format as in Cartagena to facilitate dialogue.

“At the second meeting, held in Vienna in September 1999, aside from the governments, NGO and private sector there was also participation by the media to guarantee transparency and understanding about the negotiations. The meeting in Vienna concentrated on clarifying concepts on the controversial issues and finding shared criteria. There was some change to the format of the negotiations, such as the reduction of spokespersons for the groups to five. Also, like in a lottery, we invited the spokespersons to take from a bag one of the five coloured balls that would define the order for interventions, in order to promote participation and a certain rhythm during the negotiation process.

“Prior to re-starting the ExCOP, an event of considerable international importance took place at the World Trade Organisation (WTO) Ministerial meeting in Seattle. The agenda of that meeting included a proposal to establish a group on biotechnology under the Committee for Trade and Environment (CTE) and to recommend legal developments

within the WTO agreements, which in other words, meant that any discussion about biotechnology would be subordinate to WTO rules. To great surprise, that Ministerial meeting collapsed due to massive protests and the demand for transparency in multilateral negotiations.”

As Mayr has indicated, the ‘game-changer’ as far as concluding the negotiations on the Biosafety Protocol was concerned, was the collapse of the WTO Ministerial meeting which was held in Seattle in the first week of December 1999.

Lined up alongside the environmentalists, whose concerns have been outlined above, were the consumer and human-rights groups who also argued that the application of world-trade rules diminished the ability of governments to enforce, for example, high standards of health, consumer protection and labour relations. These groups, too, had their own list of case histories. There was the Guatemalan breast-milk decision where the powdered-milk companies insisted on overturning Guatemala’s plans to protect nursing mothers and infants. The WTO findings against the EU ban on growth-promoting hormones in beef were another *cause célèbre*, and one which could cost the EU some hundreds of million dollars a year in penalties. Underlying all these complaints was the subtext that, whatever the rights and wrongs of the case, these national (or EU) measures were themselves an expression of ‘sovereignty’, and this sovereignty had been rudely violated.

The ‘process’ and ‘transparency’ issues, i.e. the way the WTO actually arrived at its decisions was — in the eyes of many of the Seattle demonstrators — as important as the substantive issues themselves. WTO procedures were regarded as undemocratic and largely inscrutable.

To be specific, the real achievement of Seattle — in the eyes of many demonstrators — would be if the conference agreed to re-examine the dispute-settlement mechanism (the distinctive feature of the WTO as compared with the old GATT — General Agreement on Tariffs and Trade). Ministers could go further and instruct their negotiators to find ways of opening the dispute-settlement panels and appellate meetings to the public, and of putting the proceedings on the public record. They could also welcome ‘friends of the court’ submissions.

In the run-up to Seattle, there were signs that the American delegation at least, led by Charlene Barshefsky, was waking up to the realisation that it was on this issue of transparency and public accountability that the real challenge of Seattle lay. On October 13, 1999, a few weeks before the WTO meeting was due to start, US President Clinton, addressing an audience in Washington DC's Omni Shoreham Hotel, said: "The WTO has got to become more open and more accessible. ... The WTO has been treated for too long like some private priesthood for experts... We have got to allow every legitimate group with any kind of beef, whether they're right or wrong, to have some access to the deliberative process of the WTO."

There are always swings and roundabouts in international negotiations. If the collapse of the Seattle Ministerial Meeting was a massive set-back for WTO, it was conversely, a tremendous boost for UNEP, in the sense that it provided a seismic impulse to the Cartagena negotiations.

Mayr writes:²⁵¹

"Consequently, the atmosphere in Montreal in January 2000 was very different from that of Cartagena in February 1999. The general public was aware of what could happen in the negotiations, and more than 100 journalists from around the world were present, along with a large number of protestors who remained day and night outside the building to pressure for a successful Protocol. To guarantee the highest level of political decision-making, I invited Environment Ministers to accompany the negotiations, and their participation in the final hours of the negotiations was fundamental for a successful agreement. It was an open and transparent meeting, and a participatory setting.

"Five teddy bears of different colours — Justice, Testaverde, Brown, Rodriguez and Smith — showed the order for the interventions, helped to alleviate tension, and put a touch of humour and human warmth into the negotiations. Despite moments of despair in the early hours of the last morning of negotiations, what we all achieved in Montreal was the product of the trust and credibility, which we all shared in our involvement with the Protocol. The final result is not perfect. But I do

believe that its content is a balanced reflection of all that we were sure of and not so sure of at that time. The implementation of the Protocol will undoubtedly be the best test of whether we were right.

"Successful completion of the negotiations was due to many factors and events. One of the most important was the change from the traditional United Nations (UN) scheme of negotiation to a more realistic format, which can be referred to as "The Vienna-Setting". This has already been adopted in some UN negotiations such as the Rio +10 preparatory process in Bali and the Johannesburg World Summit on Sustainable Development. However for the Vienna-Setting to work it is essential to take into account that the dynamics of discussions of the basic issues of the world today such as technology, trade, biosafety, food or climate change do not necessarily follow the North-South split or the UN traditional regional groups.

"Many factors — such as the legal dispute brought to the WTO by the US against the European Union for its moratorium on GMOs; the new biosafety legislation in Europe; the imposition in bi-lateral trade negotiations on developing countries that have limited scientific capacity to establish possible risks, to accept GM products; and the growing public awareness about the issue — all make the Protocol one of the most important legal instruments of our times in the protection of environment and human health."

The collapse of the WTO Ministerial was in some respects a vital, if unanticipated, success for UNEP. The danger that WTO might ride rough-shod over environmental concerns was now postponed, though not eliminated. Events in Seattle had, unexpectedly, helped deliver a successful outcome in Cartagena.

Töpfer had at all points kept in close touch with the negotiations of the Biosafety Protocol, including participating in the first of the 'extra' negotiating sessions held in Vienna in September 1999. He was there at the coal-face in Montreal when Colombian Environment Minister Mayr brought the final gavel down as agreement was reached at 4.50 a.m. on Saturday 29 January 2000.

Taking the floor after Mayr, Töpfer highlighted the historical significance of the moment. He noted his deep admiration for Mayr and his dedicated staff. He thanked all the “mothers and fathers” of the Protocol, especially the ministers, BSWG Chair Veit Koester and the international cadre of experts.

Töpfer summarized his view thus: “The Cartagena Protocol on Biosafety is very important, particularly for developing countries. It is an international agreement that specifically focuses on the transboundary movement of genetically modified organisms (GMOs). Although GMOs are neither inherently risky nor safe, it is generally recognised that the potential to create new genetic combinations and the relatively limited experience with GMOs warrant national and international regulation. Countries always had the sovereign right to regulate GMOs and their products at the national level, and they typically do this by reviewing certain technical information to determine safety. The Protocol now establishes an international, legally binding framework that allows countries, in particular, those that do not yet have in place a regulatory regime for biosafety, to make informed decisions on the import of GMOs into their country.”²⁵²

The Protocol also established a Biosafety Clearing-House (BCH) to facilitate information exchange, and contained provisions on capacity building and financial resources, with special attention to developing countries and those with domestic regulatory systems.

The Protocol entered into force on 11 September 2003, 90 days from the submission of the 50th instrument of ratification. At the date of entry into force, certain provisions took effect immediately, including: the obligation for prior notification of the first shipment to an importing country that is Party to the Protocol under the Advanced Informed Agreement (AIA) procedure; the obligation for Parties to the Protocol to use the BCH; and the identification in the accompanying documentation of all shipments containing Living Modified Organisms (LMOs.) As of September 2008, there were 148 Parties to the Protocol.

Did the adoption of the Biosafety Protocol change the ground-rules under which the trade versus environment debate was conducted?

As far as the general atmosphere surrounding the discussions was concerned, the answer is certainly ‘yes.’ Pre-Seattle, pre-Montreal, the WTO juggernaut seemed set to sweep aside every obstacle. Post-Seattle, post-Montreal the situation changed.

Always quick off the mark, the International Institute for Sustainable Development published a thoughtful analysis in its *Earth Negotiations Bulletin*, February 2000.²⁵³

“The success of the Cartagena Protocol took many people by surprise, but perhaps in retrospect the odds makers should not have been so certain. Scant months before the meetings in Montreal the WTO had shocked the world by failing to launch a new round of trade negotiations in Seattle. Among the causes for Seattle’s failure was powerful concerted public protest against the elevation of commercial interests over other social-policy concerns, including the environment. Also responsible was a negotiating process that did not take serious account of the interests of most of the WTO’s developing country members. So soon after Seattle, and in the glare of public attention generated by activist NGOs, key governments clearly had no desire to undermine progress on a treaty that so directly aimed to protect the environment and build capacity in developing countries — and certainly not in the name of trade interests.

“From an environmental perspective, one of the highlights of this Protocol must be its treatment of the precautionary principle. Even though the strong provisions in the Protocol are limited by the strictures of the WTO SPS Agreement, it is an important precedent to have the principle so fully elaborated in an international agreement. The text makes it clear that there are times when restricting trade is appropriate for the public good, even when there is a “lack of scientific certainty.” As well, the precautionary principle’s treatment in the Protocol will make it much harder to argue that it is not a principle of customary international law. And it is noteworthy that the burden of proof is put on the Party of export and notifier, who can be required to conduct and/or finance a risk assessment. Perhaps most interesting is the way in which the Protocol’s precautionary provisions actually inform and supplement those of a trade agreement.

“The Cartagena Protocol overall is a mixed package. Some of the tougher issues have been postponed until a later date, and others remain unsettled through ambiguity. But the progressive elements of this agreement — the strong elaboration of the precautionary principle prime among them — make it a strong addition to the body of international environmental law. It is also welcome as a signpost on the road to more enlightened trade policy-making.

“The failure in Seattle, the denial of fast-track negotiating authority in the U.S., the death of the OECD efforts to conclude an investment agreement, and now the Cartagena Protocol — these are all about making trade and investment policy reflect a better balance between

commercial interests and other public policy objectives. But while most of these events were roadblocks against undesirable outcomes, what happened in Montreal was an exercise in road-*building*. Though we have far to go, the Cartagena Protocol may be the closest we have come yet to reconciling trade and environmental objectives.”

For Töpfer, for UNEP, for the future of environmentalism as a whole, the successful adoption of the CBD Biosafety Protocol in Montreal in January 2000 was an immensely important moment.

With only half a year to go before UNEP’s first Global Ministerial Environmental Forum, in Malmö, Sweden in June 2000, it was precisely what was needed.



Top Left to Right: The Cartagena World Summit 2002; Klaus Töpfer (right), Executive Director of the United Nations Environment Programme, addressing the Institutional Investors Summit on Climate Risk; Violent protests at the Seattle World Trade Organization meeting in 1999; Genetically Modified maize.



The Oresund Bridge, Malmö, Sweden.



13

MALMÖ, GEO 2000 AND THE MILLENNIUM SUMMIT

The first meeting of the Global Ministerial Environment Forum (GMEF) was held in Malmö, Sweden, at the end of May, 2000. Though the United Nations General Assembly, as we have seen in the previous chapter, had been concerned to “maintain the role of the Commission on Sustainable Development as the main forum for high-level policy debate on sustainable development,” the GMEF got off to a good start as a place for discussing and reviewing the ‘environmental pillar’ of sustainable development. No fewer than 100 environment ministers attended out of over 600 delegates.

The Forum adopted the ‘Malmö Declaration’ as a concluding act. Observers unfamiliar with the ways of the United Nations and its various bodies might have wondered whether quite so many grandiloquent statements needed to be adopted at the end of meetings and conferences of various kinds, particularly when quite often a large part of the relevant text was taken up by ‘recalling’ previous Declarations, Resolutions, Decisions. But the political realities argued against any abrupt changes

to the practice. Ministers who had gone to the trouble of attending a ‘high-level’ event usually felt the need to go home with a piece of paper in their pockets. *See Annex 5*

But did UNEP really need the Malmö Declaration so soon (barely three years) after its Governing Council had adopted the Nairobi Declaration? If Malmö had merely restated Nairobi the answer would probably have been ‘NO’. The 1997 Nairobi Declaration had mainly concentrated on reaffirming UNEP’s own mandate in the light of the post-UNCED wobble in confidence. It would have been counterproductive for the Malmö Declaration to revisit that territory in detail. Agencies which are constantly ‘reaffirming’ or ‘restating’ their own competence have, arguably, already lost it. But the first Global Ministerial Environment Forum, though it called for UNEP’s role to be “strengthened and its financial base broadened and made more predictable,” wisely avoided a detailed reassertion of UNEP’s ‘leading role’, concentrating instead on the substantive challenges ahead.

There were three important aspects to the Malmö Declaration.

The first was the recognition that dealing with the symptoms of the world's environmental problems could never be enough. You had to deal with the root causes. That was not to say that the previous thirty years efforts had been wasted. It simply meant that different and possibly more radical approaches had to be tried as well.

As they looked ahead to the "Rio+10" Conference, otherwise known as the World Summit on Sustainable Development (WSSD) already scheduled to be held in Johannesburg in June 2002, Ministers meeting at Malmö, proclaimed:

"The 2002 conference should aim at addressing the major challenges to sustainable development, and in particular the pervasive effects of the burden of poverty on a large proportion of the Earth's inhabitants, counterposed against excessive and wasteful consumption and inefficient resource use that perpetuate the vicious circle of environmental degradation and increasing poverty."

In his own statement after the meeting, Klaus Töpfer, UNEP's Executive Director, expanded on that theme.

"Unsustainable production and consumption patterns in developed countries combined with poverty in the developing world are the two main global environmental threats facing the world today...Here in Malmö, the largest gathering of environment ministers in the history of UNEP have placed these two issues at the top of the agenda for Rio-plus-10 and have engaged in frank and open discussions on the major environmental challenges and opportunities facing the world today."

As far as the fight against poverty was concerned, UNEP's principal contribution would lie in its efforts to help conserve and manage the vital natural resources which underpinned all economic development. Töpfer coined the phrase 'environment for development' which has endured ever since as UNEP's watch-word and masthead slogan. As for the other main global environmental threat: "Unsustainable production and consumption patterns in developed countries" — that would become

a continuing future preoccupation for UNEP. Though the emphasis might be placed on 'developed countries', it was clear that 'wasteful consumption and inefficient resource use' could occur anywhere in the world.

The second important aspect of the Malmö Declaration was the emphasis placed on the role of the private sector. Point 11 of the Declaration stressed the contribution the private sector could make.

"The private sector has emerged as a global actor that has a significant impact on environmental trends through its investment and technology decisions. In this regard, Governments have a crucial role in creating an enabling environment. The institutional and regulatory capacities of Governments to interact with the private sector should be enhanced. A greater commitment by the private sector should be pursued to engender a new culture of environmental accountability through the application of the polluter-pays principle, environmental performance indicators and reporting, and the establishment of a precautionary approach in investment and technology decisions. This approach must be linked to the development of cleaner and more resource efficient technologies for a life-cycle economy and efforts to facilitate the transfer of environmentally sound technologies".

This paragraph may well reach back to UNCED and beyond. For in 1999 Strong had invited a Swiss businessman, Stephan Schmidheiny, to serve as his principal adviser for business and industry. Schmidheiny was asked «to present a global business perspective on sustainable development and to stimulate the interest and involvement of the international business community.» Not wanting to be a lone voice, he invited 50 business leaders from all over the world to join him in a Business Council for Sustainable Development. They prepared a report²⁵⁴ which appeared in January 1992. It emphasised the need for «clean, equitable economic growth» and for companies to win the respect and trust of the wider community. «Sustainable development,» it argued, «is also about redefining the rules of the economic game in order to move from a situation of wasteful consumption and pollution to one of conservation, from one of privilege and protectionism to one of fair and equitable chances open to all».

It emphasised the need for partnership between government and industry to those ends.

After Rio, Schmidheiny became a member of the High Level Advisory Board on Sustainable Development (HLAB), established to give direct advice to the Secretary-General of the United Nations. Boutros Boutros-Ghali was Secretary-General at the time, but some of the thinking in the HLAB undoubtedly percolated widely in the Secretary-General's office and may well have influenced his successor. Ministers present in Malmö who had also attended the World Economic Forum in Davos, Switzerland, at the end of January 2000, will have recalled UN Secretary-General Kofi Annan's appeal to the private sector. "Many of you are big investors, employers and producers in dozens of different countries across the world. That power brings with it great opportunities — and great responsibilities. You can uphold human rights and decent labour and environmental standards directly, by your own conduct of your own business."²⁵⁵

At the end of July 2000, the United Nations Secretary-General's Global Compact was officially launched to encourage businesses worldwide to adopt sustainable and socially responsible policies, and to report on their implementation. The Global Compact was to be a principle-based framework for businesses, stating ten principles in the areas of human rights, labour, the environment and anti-corruption. Under the Global Compact, companies were to be brought together with UN agencies, labour groups and civil society.

As far as environmental standards were concerned, the Global Compact included three principles:

Principle 7: [Businesses should] support a precautionary approach to environmental challenges;

Principle 8: undertake initiatives to promote greater environmental responsibility; and

Principle 9: encourage the development and diffusion of environmentally friendly technologies.

UNEP was one of the original sponsoring agencies of the Global Compact. The GMEF's Malmö Declaration endorsed this role by describing the Global Compact "an excellent vehicle for the development of a constructive engagement with the private sector."

The third important aspect of the Malmö Declaration was the emphasis it placed — in Point 16 — on the need to work with civil society:

"The role of civil society at all levels should be strengthened through freedom of access to environmental information to all, broad participation in environmental decision-making, as well as access to justice on environmental issues. Governments should promote conditions to facilitate the ability of all parts of society to have a voice and to play an active role in creating a sustainable future."

This particular paragraph in the Malmö Declaration was a clear echo of UNEP's Governing Council decision 20/4 of Feb 4, 1999 on 'Promotion of access to information, public participation in decision-making and access to justice in environmental matters' which requested the Executive Director, "in consultation with Governments and relevant international organizations, to seek appropriate ways of building capacity in and enhancing access to environmental information, public participation in decision-making and access to justice in environmental matters".

It also echoed the Governing Council's further decision (20/5) of the same date which "[Underscored] the importance of the public-right-to-know principle, a role which is inextricably linked with public participation in environmental decision-making" and "[noted] the new role of INFOTERRA²⁵⁶ as the United Nations Environment Programme's global advocate of the public-right-to-know principle to be carried out through a new structure governing the future operations of INFOTERRA."

These two Governing Council's decisions reflected the Governing Council's determination that UNEP should help to progress the recently-adopted Aarhus Convention. The full and somewhat ponderous title of the Convention was the "United Nations Economic Commission for Europe (ECE) Convention on Access to Information, Public Participation

in Decision-making and Access to Justice in Environmental Matters.” It was usually known as the Aarhus Convention because it had been signed on June 25, 1998, in the Danish City of Aarhus.

The Convention had a three-pillar structure that, specifically, aimed to:

- Allow members of the public greater access to environmental information held by public authorities, thereby increasing the transparency and accountability of government;
- Provide an opportunity for people to express their opinions and concerns on environmental matters and ensure that decision-makers take due account of these;
- Provide the public with access to review procedures when their rights to information and participation have been breached, and in some cases to challenge more general violations of environmental law.

These underlying principles were derived from Principle 10 of the Rio Declaration on Environment and Development.²⁵⁷

The decisions of UNEP’s Governing Council, mentioned above, were reinforced by the conclusions of the first Global Ministerial Environmental Forum. The Malmö Declaration stressed the role UNEP could and should play in promoting the three goals of Aarhus: access to environmental information, public participation in decision-making, and access to justice.

UNEP, with its global reach, was also well-positioned to help in broadening the ‘membership base’ of the Aarhus Convention. Though the Convention was open to all members of the United Nations, the original signatories had been mainly drawn from European and Central Asian countries. One future challenge, as we shall see,²⁵⁸ would be the true globalization of the Aarhus Convention in the sense of drawing in contracting states, not just from Europe and Central Asia, but from other regions as well.

When the Aarhus Convention entered into force in November 2001, a year and a half after the Malmö GMEF, United Nations Secretary-

General, Kofi Annan, described it as “the most ambitious venture in environmental democracy undertaken under the auspices of the United Nations” and “a remarkable step forward in the development of international law”. He went on to say that “environmental rights are not a luxury reserved for rich countries” and called on the international community to “use next year’s World Summit on Sustainable Development to strengthen our commitment to environmental rights - not only in Europe but throughout the world.”

No sooner had the Malmö first Global Ministerial Environmental Forum ended, than another summit — indeed a ‘summit to end all summits’ - loomed into view.

As a matter of fact, even as ministers were getting ready to leave for Malmö, UN Secretary General Annan was charting the path to the Millennium Summit. In New York, on April 30th, 2000, he presented his Report: “We the Peoples: the role of the United Nations in the 21st Century”.²⁵⁹ He spoke of three fundamental human freedoms.

The first was freedom from want.

“How can we call human beings free and equal in dignity when over a billion of them are struggling to survive on less than one dollar a day, without safe drinking water, and when half of all humanity lacks adequate sanitation? Some of us are worrying about whether the stock market will crash, or struggling to master our latest computer, while more than half our fellow men and women have much more basic worries, such as where their children’s next meal is coming from.

“Within the next fifteen years, I believe we can halve the population of people living in extreme poverty; ensure that all children — girls and boys alike, particularly the girls — receive a full primary education; and halt the spread of HIV/AIDS. In twenty years, we can also transform the lives of one hundred million slum dwellers around the world. And I believe we should be able to offer all young people between 15 and 24 the chance of decent work.”

The second fundamental freedom was freedom from fear.

“We must do more to prevent conflicts happening at all. Most conflicts happen in poor countries, especially those which are badly governed or where power and wealth are very unfairly distributed between ethnic or religious groups. So the best way to prevent conflict is to promote political arrangements in which all groups are fairly represented, combined with human rights, minority rights, and broad-based economic development.”

The third fundamental freedom which the UN Secretary-General, Kofi Annan, wished to bring to the attention of the Millennium Summit was “the freedom of future generations to sustain their lives on the planet.”

“The third fundamental freedom my Report addresses is one that is not clearly identified in the Charter, because in 1945 our founders could scarcely imagine that it would ever be threatened. I mean the freedom of future generations to sustain their lives on this planet.

“Even now, many of us have not understood how seriously that freedom is threatened. I am told that, in all your deliberations and all your preparatory work for the Millennium Assembly over the last 18 months, the environment was never seriously considered. And in preparing this section of my Report I found many fewer policy prescriptions ready to be put into practice than I did in the other areas I have mentioned.

“Yet the facts set out in that section are deeply troubling. I beseech you to read it with at least as much attention as the rest of the Report. If I could sum it up in one sentence, I should say we are plundering our children’s heritage to pay for our present unsustainable practices.

“This must stop. We must reduce emissions of carbon and other ‘greenhouse gases’, to put a stop to global warming. Implementing the Kyoto Protocol is a vital first step.

“The ‘Green Revolution’, which brought dramatic increases in agricultural productivity in the 1970s and 80s has slowed down. We need to follow it with a “Blue Revolution”, focused on increasing productivity per unit of water, and on managing our watersheds and flood plains more carefully.

“We must face the implications of a steadily shrinking surface of cultivable land, at a time when every year brings many millions of new mouths to feed. Biotechnology may offer the best hope, but only if we can resolve the controversies and allay the fears surrounding it. I am convening a global policy network to consider these issues urgently, so that the poor and hungry do not lose out.

“We must preserve our forests, fisheries, and the diversity of living species, all of which are close to collapsing under the pressure of human consumption and destruction.

“In short, we need a new ethic of stewardship. We need a much better informed public, and we need to take environmental costs and benefits fully into account in our economic policy decisions. We need regulations and incentives to discourage pollution and over-consumption of non-renewable resources, and to encourage environment-friendly practices. And we need more accurate scientific data.

“Above all we need to remember the old African wisdom which I learned as a child — that the earth is not ours. It is a treasure we hold in trust for our descendants.”

Annan ended his remarks that morning by looking at the role of the United Nations:

“Let us not forget why the United Nations matters. It matters only to the extent that it can make a useful contribution to solving the problems and accomplishing the tasks I have just outlined.

“Those are the problems and the tasks which affect the everyday lives of our peoples. It is on how we handle them that the utility of the United Nations will be judged. If we lose sight of that point, the United Nations will have little or no role to play in the twenty-first century.

“Let us never forget, Mr. President, that our Organisation was founded in the name of “We, the Peoples” — the words I have chosen as the title of my Report. We are at the service of the world’s peoples, and we must listen to them.

“They are telling us that our past achievements are not enough. They are telling us we must do more, and do it better.”

Section V of the UN Secretary-General’s Millennium Report “We, the Peoples” was called ‘Sustaining the Future.’ It covered in more detail some of the themes Kofi Anan had touched on in his remarks about the ‘third freedom’: the freedom of future generations to sustain their lives on the planet.

“We have made progress since 1972, when the United Nations convened the first global conference ever to address environmental issues. That conference stimulated the creation of environmental ministries throughout the world, established the United Nations Environment Programme and led to a vast increase in the number of civil society organizations promoting environmental concerns.

“Twenty years later, the United Nations Conference on Environment and Development provided the foundations for agreements on climate change, forests and biodiversity. It adopted an indicative policy framework intended to help achieve the goal of sustainable development — in rich and poor countries alike.

“Perhaps the single most successful international environmental agreement to date has been the Montreal Protocol, in which states accepted the need to phase out the use of ozone-depleting substances. Nevertheless, we must face up to an inescapable reality: the challenges of sustainability simply overwhelm the adequacy of our responses. With some honourable exceptions, our responses are too few, too little and too late.”²⁶⁰

Too little, too late! Was this four-word summary of the now 30-year old global effort to deal with the world’s environmental problems appropriate? Was it fair?

In the run-up to the Millennium Summit UNEP published *Global Environment Outlook 2000 (GEO-2000)*.²⁶¹ In his Foreword, Töpfer, UNEP’s Executive-Director, described it as a ‘unique product of a unique process’. Arguably, the most authoritative assessment ever of the

environmental crisis facing humanity in the new millennium, GEO-2000 was based on contributions from UN agencies, 850 individuals and more than 30 environmental institutes. The Report outlined progress in tackling existing problems and pointed to serious new threats.

According to GEO-2000, “two over-riding trends characterise the beginning of the third millennium. First, the global human ecosystem is threatened by grave imbalances in productivity and in the distribution of goods and services. This unsustainable progression of extremes of wealth and poverty threatens the stability of the whole human system, and with it the global environment. Secondly, the world is undergoing accelerating change, with internationally-coordinated environmental stewardship lagging behind economic and social development.”

Among the underlying causes, GEO-2000 identified unsustainable consumption patterns, high population densities placing impossible demands on the environmental resources available and armed conflicts causing environmental stress and degradation. The world water cycle seemed unlikely to be able to cope with demands in the coming decades, land degradation had negated many advances made by increased agricultural productivity, air pollution was at crisis point in many major cities and global warming now seemed inevitable.

Tropical forests and marine fisheries had been over-exploited while numerous plant and animal species and extensive stretches of coral reefs would be lost for ever — due to inadequate policy responses.

In a survey conducted by the Scientific Committee on Problems of the Environment (SCOPE) for GEO-2000, 200 scientists in 50 countries identified water shortage and global warming as the two most worrying problems for the new millennium. Desertification and deforestation at national and regional levels were also frequently cited concerns.

While most issues raised by the survey were well-known, GEO-2000 also identified new threats such as:

- nitrogen’s harmful impact on ecosystems;
- increased severity of natural disasters;

- species invasion as a result of globalization;
- increased environmental pressures caused by urbanization;
- decline in the quality of governance in some countries;
- new wars which impact on both the immediate environment and neighbouring States;
- the impact of refugees on the natural environment.

At the core of GEO-2000's recommendations was a reinforcement of the Earth Summit Agenda 21's call for environmental integration. The report stated that: "The environment remains largely outside the mainstream of everyday human consciousness and is still considered an add-on to the fabric of life."

Institutions such as treasuries, central banks, planning departments and trade bodies frequently ignored sustainability questions in favour of short-term economic options. The Report said that: "Integration of environmental thinking into the mainstream of decision-making relating to agriculture, trade, investment, research and development, infrastructure and finance is now the best chance for effective action".

National Governments, international organizations, the private sector, community groups, NGOs and ordinary citizens all had a role to play in putting the environment at the forefront of the political agenda. "Environmental education, like mathematics, (should be) part of the standard educational curriculum", said GEO-2000, adding that the media must be encouraged "to devote as much attention to environmental issues as they do to crime, politics, sport and finance".

It is not clear whether all the Heads of State and Heads of Government, and other dignitaries, who made their way to New York in September 2000 for the Millennium Summit had actually read the full text of the Secretary-General's Report: "We, the People" or the bulky (400 page) GEO-2000. But many of them may have read a summary of these documents.

Over 150 world leaders participated in the discussion, including 100 heads of state, 47 heads of government, three crown princes, five Vice Presidents, three Deputy Prime Ministers, and 8,000 other delegates.

The Millennium Declaration was adopted during the Millennium Summit by the world leaders who attended, striving to "free all men, women, and children from the abject and dehumanizing conditions of extreme poverty." At the end of the Summit, the delegates agreed on the following eight chapters:

- 1) Values and Principles;
- 2) Peace, Security and Disarmament;
- 3) Development and Poverty Eradication;
- 4) Protecting our Common Environment;
- 5) Human Rights, Democracy and Good Governance;
- 6) Protecting the Vulnerable;
- 7) Meeting the Special Needs of Africa;
- 8) Strengthening the United Nations.

In the context of this account of UNEP's first 40 years, the Millennium Declaration's fourth chapter on "Protecting our common environment"²⁶² is of obvious interest. It read as follows:

- We must spare no effort to free all of humanity, and above all our children and grandchildren, from the threat of living on a planet irredeemably spoilt by human activities, and whose resources would no longer be sufficient for their needs;
- We reaffirm our support for the principles of sustainable development, including those set out in Agenda 21, agreed upon at the United Nations Conference on Environment and Development;
- We resolve therefore to adopt in all our environmental actions a new ethic of conservation and stewardship and, as first steps, we resolve:

To make every effort to ensure the entry into force of the Kyoto Protocol, preferably by the tenth anniversary of the United Nations Conference on Environment and Development in 2002, and to embark on the required reduction in emissions of greenhouse gases:

- To intensify our collective efforts for the management, conservation and sustainable development of all types of forests;
- To press for the full implementation of the Convention on Biological Diversity and the Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa;
- To stop the unsustainable exploitation of water resources by developing water management strategies at the regional, national and local levels, which promote both equitable access and adequate supplies;
- To intensify cooperation to reduce the number and effects of natural and manmade disasters;
- To ensure free access to information on the human genome sequence.

The enduring importance of the Millennium Summit probably lay not so much in the Millennium Declaration but in the eight Millennium Development Goals (MDGs), with their associated 12 Targets. These were derived from the commitments in the Millennium Declaration, and widely promoted in the years following the summit. They were:

1. eradicating extreme poverty and hunger: Halve, between 1990 and 2015, the proportion of people whose income is less than \$1 a day. Halve, between 1990 and 2015, the proportion of people who suffer from hunger;
2. achieving universal primary education: Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling;
3. promoting gender equality and empowering women: Ensure

that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling;

4. reducing child mortality rates: Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate;
5. improving maternal health: Reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio;
6. combating HIV/AIDS, malaria, and other diseases: Have halted by 2015 and begun to reverse the spread of HIV/AIDS. Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases;
7. ensuring environmental sustainability: Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources; Halve, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation; Have achieved by 2020 a significant improvement in the lives of at least 100 million slum dwellers;
8. developing a global partnership for development. Develop further an open, rule-based, predictable, nondiscriminatory trading and financial system (includes a commitment to good governance, development, and poverty reduction (both nationally and internationally); Address the special needs of the Least Developed Countries (includes tariff — and quota-free access for Least Developed Countries) exports, enhanced programme of debt relief for heavily indebted poor countries [HIPC] and cancellation of official bilateral debt, and more generous official development assistance for countries committed to poverty reduction); Address the special needs of landlocked developing countries and small island developing states (through the Programme of Action for the Sustainable Development of Small Island States).

For UNEP, MDG 7 “Ensure Environmental Sustainability” was of obvious relevance. The adoption of that goal could be seen as an endorsement at the highest possible level of its work.

“Integrating the principles of sustainable development into country policies and programmes and reversing the loss of environmental resources” was basically what UNEP was all about. Over the previous almost three decades it had been helping countries develop environmental legislation or incorporate environmental considerations into national programmes and policies. Within the UN system, UNEP had been assigned special responsibilities for ‘fresh-water’ which related directly to the designated target of “halving, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation issues”. Many other UNEP programmes, e.g. the Global Programme for the Prevention of Marine Pollution from Land-Based Sources (GPA) with its potentially beneficial impact on fisheries, could be said to be in the front-line as far as actions to achieve MDG 7 were concerned.

But the relevance of the Millennium Declaration and the Millennium Development Goals for UNEP’s future programme went far beyond MDG 7.²⁶³

MDG 1, for example, aimed at *Halving the proportion of people living on less than a dollar a day and reduce by half the proportion of people who suffer from hunger*.

There was a clear link here between eradicating extreme poverty and hunger and environmental policy. Agriculture productivity had strong links to conversion of forests to agricultural land, soil degradation from desertification, dilapidation of water quality, decreased water supply from dams and diversion, nutrient mining, overgrazing and over fishing. Declines in agricultural productivity as a result of any or all of these factors were inherently connected with eradicating hunger.

Or again, **MDG 2** aimed at achieving: *Universal primary education: Ensure that all boys and girls complete a full course of primary schooling*.

MDG 3 aimed at attaining *Gender equality: Eliminate gender disparity in primary and secondary education preferably by 2005, and at all levels by 2015*. These (MDGs 2 and 3) were both areas where there was an obvious link with sound environmental management.

Time spent collecting water and fuelwood by women could reduce the time for schooling, for undertaking income-generating activities, and for participating in a community’s decision-making activities. Unequal access to land and other natural resources limited possibilities for decision making and empowerment.

MDG 4 focussed on *Reducing child mortality: Reduce by two thirds the mortality rate among children under five*.

Children were more vulnerable to environmental-related health problems because their immune systems were not fully developed and their metabolisms were different from those of adults. Environmental-related diseases (diarrhea, acute respiratory infection, leukemia, childhood cancer) were primary causes of child mortality.

MDG 5 focussed on *Improving maternal health: Reduce by three quarters the maternal mortality ratio*.

Indoor air pollution and carrying heavy loads of water and fuelwood negatively affected women’s health, could make women less fit for childbirth, and make them at greater risk of complications during pregnancy.

MDG 6 aimed to *Combat HIV/AIDS, malaria and other diseases: Halt and begin to reverse the spread of HIV/AIDS; Halt and begin to reverse the incidence of malaria and other major diseases*.

The impact of vector-borne diseases, such as malaria, African sleeping sickness, and yellow fever, on entire developing nations was overwhelming. Vector-borne diseases caused approximately 1.4 million deaths a year, mainly from malaria in Africa. In 2000, the World Health Organization estimated that the rough costs of Malaria to Africa in the last 35 years had been \$100 billion dollars.

Poor health and HIV/AIDS also have impacts on the ability to grow crops and manage agricultural resources, and thus are one example of the plethora of indirect feedbacks to Goal One. Climate change, biodiversity loss, freshwater supply, over-use of fertilizers, and many

other environmental issues all have indirect feedback loops to increasing the pathogens that spread tick-borne diseases like encephalitis, and waterborne diseases such as malaria.

Hazardous waste and chemical pollutants were also implicated for spreading carcinogens and thus linked to the increase in non-communicable diseases.

Roughly 75 per cent of the world's population depended primarily on traditional medicines; most of these people could not afford expensive pharmaceuticals and lived in developing countries where basic health care systems are severely lacking. They have no choice but to depend on traditional medicines. Here the maintenance of these resources was crucial and there could be a direct impact from biodiversity loss as well as the loss of traditional knowledge from globalization.

UNEP's potential contribution to the achievement of the MDGs had also to be seen in the context of the work of the MEAs with which UNEP was associated, for example the Desertification Convention or the Basel Convention on the Transboundary Movement of Hazardous Wastes. 'Capacity-building', in the sense of helping countries actually implement the agreements they had signed up to, was an increasingly important aspect not only of UNEP's own work programme but of the ever-growing family of environmental entities which could, in one sense or another, be seen, in Töpfer's words, as "UNEP's children."

The challenge which now lay ahead would be to ensure that the nations and peoples of the world really did come to see that sound environmental management was not a constraint on development but the essential basis for it. And the converse was also true. "Bad" or "unsustainable" development might achieve a short-term boost, say, in per capita income or drinking-water availability or even the prevention of malaria but the long run effects, in terms of pollution and destruction or degradation of natural resources, might soon negate such gains.

"Mainstreaming the environment" was a catchy phrase much used by the cognoscenti as the new millennium dawned.²⁶⁴ But there was still a long way to go before the catchy phrase became the day-to-day reality.

The Brundtland Commission, as we have seen, introduced the notion of 'inter-generational equity' as a guiding principle in the management of human affairs. The Millennium Declaration spoke of "children of the world, to whom the future belongs."

These were powerful and persuasive ideas and they brought an extra moral dimension to the argument. But, even without the appeal to future generations, the case for more and more effective action was overwhelmingly strong. Current generations were already paying the price for the failure to achieve 'sustainable development'.

Would the Johannesburg World Summit on Sustainable Development (WSSD), to take place in June 2002 on the tenth anniversary of Rio, help to steer the ship away from the rocks?

THE WORLD CONSERVATION MONITORING CENTRE

From the beginning 'earthwatch' — monitoring the state of the planet — was a principal function of UNEP. It found outlets in regular reports to the Governing Council, and the two massive volumes on *The World Environment* which UNEP produced for the Session of Special Character in 1982 and the Rio Conference in 1992. But it was not until 2000 that the World Conservation Monitoring Centre became closely linked to UNEP and greatly enhanced its capacity.

WCMC began in 1979 when the Species Survival Commission of IUCN — then chaired by the well-known naturalist and broadcaster Sir Peter Scott — established a Species Conservation Monitoring Unit in the UK. This supported the preparation of Red Data Books on threatened species, a threatened plants Committee and the collection of data on trade in species listed under CITES. A Protected Areas Data Unit was added soon afterwards, and it soon created a computerised database on over 2000 national parks and other protected areas around

the world. By 1981 the Unit had grown into a Conservation Monitoring Centre, located partly at the Royal Botanic Gardens in Kew and partly in Cambridge¹.

By the late 1980s it was clear that the Centre needed substantial investment if it was to be given up to date computers in a modern building, and enabled to support the increasing number of bodies around the world that needed biodiversity and conservation data. Prompted by Prince Philip, then President of WWF International, it was agreed that the CMC should be reconstituted as an independent entity, financed equally by UNEP, IUCN and WWF. By 1992 it was up and running as the World Conservation Monitoring Centre under an independent Board, and in that year it produced a compendium on the status of the Earth's living resources, as a database for the Biodiversity Convention and an input to UNEP's massive Global Biodiversity Assessment. But by 1997 the tripartite agreement was breaking down, putting the Centre itself at risk.

The UK Government supported a major review by consultants² and in 1998 Klaus Töpfer of UNEP, Maritta Koch-Weser, Director General of IUCN and Michael Meacher, the UK Minister for Environment, agreed that the best option was for

WCMC to become an outposted office of UNEP. Klaus Töpfer invited Martin Holdgate to chair a Task Force that would evaluate how this could best be achieved. Reporting on 12 November 1999³, the group emphasised that there was a substantial and growing demand for biodiversity-related data and information, which WCMC was well equipped to provide. It could also give enhanced support to the secretariats of the international conventions, facilitate a much-needed synergy between them, help developing countries to create their own databases and build closer partnerships with other UN organizations and with governments. The Ecosystems Conservation Group of UNEP was well equipped to act as a core forum while a Scientific Advisory Council should oversee how data were gathered, safeguarded, evaluated and used.

These recommendations were accepted. Since 2000 UNEP-WCMC has been a collaboration between UNEP and WCMC, the latter having the status of a UK-based charity⁴. UNEP-WCMC is UNEP's specialist biodiversity assessment arm. It provides authoritative, relevant and timely information to countries, Multilateral Environmental Agreements (notably the Conventions relating to biodiversity), other organizations and private sector companies.

¹ Martin Holdgate *The Green Web* Earthscan, 1999

² Review of the Future of the World Conservation Monitoring Centre. Report by Environmental Resources Management for Department of Environment, Transport and the Regions, November 1998

³ UNEP-WCMC Transition Task Force. Report to Dr Klaus Töpfer, Executive Director, UNEP on the transition of WCMC to UNEP, 12 November 1999

⁴ See UNEP-WCMC website.

Lake Chad which — according to the United Nations — lost 95 per cent of its volume from 1963 to 1998.



WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT

JOHANNESBURG, SOUTH AFRICA • 26 AUGUST 2002

World Summit on Sustainable Development
Conference Johannesburg, South Africa.



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THE WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT

Johannesburg, 2002

On 24 June 1995, in the Rugby World Cup final, held at Ellis Park, Johannesburg, South Africa defeated New Zealand 15 – 12, with Joel Stransky scoring a drop goal in extra time. It was an extraordinary occasion, the spirit of which was brilliantly caught 14 years later in the film *Invictus*, directed by Clint Eastwood. Following South Africa's victory, Nelson Mandela, the newly-elected President of South Africa presented the Webb Ellis Cup to the South African captain François Pienaar. Mandela wore a Springbok cap and sported a Springbok shirt with Pienaar's own number 6 on the back. This was widely seen as a major step in the reconciliation of white and black South Africans.

South Africa's successful staging of the Rugby World Cup was certainly one of the factors taken into consideration when the United Nations General Assembly, on 20 December 2000 accepted "with gratitude"

South Africa's offer to host a conference in Johannesburg to review the progress achieved in implementing the decisions of the Rio Conference of June 1992. The General Assembly also decided that the Conference should take place 'at the summit level' and be called the 'World Summit on Sustainable Development' (WSSD).

Though this event was sometimes referred to as Rio+10, the 'outputs' were very different from those which had been 'clocked up' at Rio in June 1992. Whereas, for example, Rio had seen the signatures by scores of heads of state or government of two important treaties — the United Nations Framework Convention on Climate Change (UNFCCC) and the Convention on Biological Diversity (BCD), no such documents lay on the table at Johannesburg awaiting the autograph of high-level dignitaries.

In the immediate run-up to Johannesburg, some important measures had been added to the international statute book, including the

Stockholm Convention on Persistent Organic Pollutants, the Agreement on the Conservation of Albatrosses and Petrels, the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, and the International Treaty on Plant Genetic Resources for Food and Agriculture. Each and every one of these documents would certainly have merited inclusion on the Summit's agenda, but the timing was out. Negotiations on all these instruments were completed by 2001 and the signing ceremonies could not reasonably be delayed for more than a year just to boost the WSSD tally of successful 'outcomes.'

In any case, there was an important difference of emphasis between Johannesburg and Rio. Whereas Rio had been a scene-setting conference, with Agenda 21 its massive centrepiece, and the two major environmental treaties as flanking ornaments, Johannesburg was above all to do with implementation, actually delivering on commitments. The Johannesburg Plan of Implementation was meant to be hard-hitting and to the point. It was only 60-pages in length, as compared with Agenda 21's 400 pages.

Thabo Mbeki, who in June 1999 had succeeded Nelson Mandela, as President of the Republic of South Africa, stressed the 'implementation' point in his opening speech to the Conference on August 26, 2002.

"Sadly, we have not made much progress in realising the grand vision contained in Agenda 21 and other international agreements. It is no secret that the global community has, as yet, not demonstrated the will to implement the decisions it has freely adopted...

"As we deliberate and work on a way forward, we need to take stock of the inertia of the past decade and agree on very clear and practical measures that will help us to deal decisively with all the challenges that we face. This is the central task of this Summit".

"The Johannesburg Plan of Implementation we must discuss and negotiate must be a real Plan of Implementation, a credible and meaningful global plan of action for the realisation of the goals that humanity has already set itself."

Nitin Desai took the floor immediately after President Mbeki. Desai had served as Deputy Secretary-General to UNCED Secretary-General, Maurice Strong in the preparations for the Rio Conference. Since 1993, he had been involved at the level of Under-Secretary-General in running the United Nations Department of Economic and Social Affairs. In that capacity he had organized and managed the great cycle of conferences which had taken place in the decade of the 1990s, such as the Copenhagen Summit on Social Development (1995) and the Monterrey Summit on Finance and Development (2002).

Desai's institutional memory went back further than Rio 1992. From September 1985 to March 1987, he served as Senior Economic Adviser for the World Commission on Environment and Development (the Brundtland Commission) where he was responsible for drafting the key chapters dealing with this aspect in the report of the Commission "Our Common Future".²⁶⁵

Desai, in his speech as WSSD Secretary-General, did not shrink from the intellectual challenge of explaining what had gone wrong since Rio.

"Many assessments have been made, Mr. President, in preparation for this conference on how much progress has been made in meeting the Rio challenges. They have been the subject of many reports and extensive discussions over the past year. We know that there have been some successes - that there is heightened awareness, and that there have been many concrete achievements, particularly in communities which have established local Agenda 21. NGOs have managed to do some very creative things especially at the local level. But, in spite of improvements in social conditions and progress in enacting environmental legislation, overall, the record card is very poor. Extreme poverty and avoidable diseases persist, environmental deterioration of soil, water, oceans and forests continues. Risks accumulate as in the case of global climate change as well as in other areas. But rather than dwelling on the problems, what we must ask ourselves is why they persist. The purpose of this Summit is to tackle what has stood in the way of us making progress, and what can we do in order to get action, to get results."

No-one knew better than Desai what the 'price-tag' of Rio had been.

The figures must have been engraved upon the tablets of his mind. As noted earlier,²⁶⁶ the UNCED secretariat, under his leadership, had estimated the average annual costs (1993-2000) of implementing in developing countries the activities in Agenda 21 to be over \$600 billion, including about \$125 billion on grant or concessional terms from the international community.²⁶⁷

And no-one knew better than Desai how large the short-fall had been in terms of delivering on that target. Of course, he expressed himself diplomatically:

“The Rio agreements presumed an improvement in the macro-economic climate for development. This decade has not witnessed that. This has been a decade of declining ODA. And the measures that have a potential for improvements in market access and debt relief have come only at the end of the decade and are still quite modest. We must, therefore, accept that the expectations that we had in Rio about an improvement in the macro-economic prospects for developing countries have not, by and large, been fulfilled.”

But there was another important reason for the failure to meet the expectations raised by Rio and that was the failure to understand the vital linkages between poverty and environmental degradation on the one hand, and over-consumption and environmental degradation on the other. Desai addressed himself in particular to the first of these issues: the environment/poverty linkage.

“The reason is that we have, so far, been working along sectoral lines. And that, simply, does not work. I could give you lots of illustrations but let me give you only one very telling example: getting girls into school – girls’ education. In many parts of the world, one of the most useful things you can do for this is to improve water supply. Quite simply, if you improve water supply, you reduce the time the girls take to go to collect water for their house, and that improves their attendance in school. Now, imagine an education department going to a finance minister and saying that, for the education programme, they need money for water supply. Of course, if you have a finance minister who is as bold and as far seeing as yours he would probably say “yes’. But I suspect that a lot

of other finance ministers would not be so happy to do that. But this is only an example. What we need to do is to connect. But we do not have in place the processes which will allow us to do so, at the national level or the global level”

Desai coined the acronym which came to define the Johannesburg Summit: WEHAB, which stood for Water and sanitation, Energy, Health, Agriculture and Bio-diversity. “It is important that we focus here on key, current challenges in the areas of water and sanitation, energy, health, agriculture and bio-diversity, in ways that will give us a sense of concrete commitment that will give us something which is both achievable and monitor able.”

He also spoke upon one of the distinctive features of the WSSD process, the emphasis on ‘partnerships’ as a means of implementing agreed goals. By the time WSSD opened, scores of so-called Type 2 partnerships had been registered with the Secretariat so that, after appropriate screening, they could in a broad sense be ‘endorsed’ by the gathering.

“In addition, we need to connect what governments are going to agree on with what can be done by scaling up the wonderful initiatives that we have had at the local level and by NGOs, and, in many cases, in the business sector. This is where the notion of “partnerships” comes in. Partnerships come in basically to connect the dynamism that we see at the local level with the commitments which the governments need to make. We need both. Not one or the other. Both. Partnerships without the commitments of governments will not work. The commitments of governments are important. But partnerships add credibility to the commitments, and enhance our capacity to implement them in practice.”

These partnerships would also mark a new stage in the involvement of civil society in the United Nations. “Where Rio marked a critical phase of the engagement of civil society with the United Nations in advocacy and policy development, let us see to it that this Conference marks the stage at which we complete this engagement not just in the processes of advocacy and policy development, but also in the process of actual implementation.”

The third of the triumvirate to speak at that Plenary Opening Session of WSSD in the morning of 26 August 2002 (after Mbeki and Desai), was UNEP Executive Director Klaus Töpfer. Only a few weeks earlier, UNEP had published the third of the *Global Environmental Outlook* (GEO) reports. Like GEO 1 and GEO 2, GEO 3²⁶⁸ was the product of wide collaboration between UNEP and scientific institutions around the world (some 1,000 individuals and 40 institutions).

It set out to provide a global and regional perspective on the state of the environment. Poverty and excessive consumption — the twin evils of humankind that were highlighted in the previous two GEO reports — continued to put enormous pressure on the environment. Sustainable development remained largely theoretical for the majority of the world's population of more than 6000 million people. The level of awareness and action had not been commensurate with the state of the global environment today; it continued to deteriorate.

Töpfer had time to read, mark, learn and inwardly digest the conclusions of GEO 3 before he took the floor that morning in Johannesburg.

“Your Excellency President Mbeki, Mr. Nitin Desai, Secretary-General of the Conference, Honourable Ministers, distinguished delegates,

“The World Summit on Sustainable Development in the city of Johannesburg represents a defining moment in the efforts of the international community to put our planet on a sustainable path for the future. It is a defining moment for many reasons, but above all, as your Excellency reminded us, ten years ago when we met in Rio to embark on our journey as an international community on the path of sustainable development, South Africa was not among us. At that time the vision of a free South Africa was still a dream. Ten years later we are meeting to chart a new course under the leadership of a freely elected South African president, in this great country that has emerged as a strong and vibrant member of the international community.

“You have called the victory over apartheid and the emergence of a free, democratic and inclusive South Africa a “triumph of the human spirit” and indeed it is. The eyes of the world are upon us here waiting for signs that we are able to bridge our differences. That we are able to find the political will to achieve a meaningful agreement. The transformation of our societies to achieve sustainability will be that very triumph of the human spirit that must be our beacon.

“Since Rio we have achieved much. New international legal instruments have been developed. Awareness has increased and progress has been made at the national and international level in confronting environmental challenges and achieving sustainability. At the same time new scientific evidence of the planetary dimensions of global environmental change has raised the need for a quantum increase in our efforts. We have all agreed that this is the Summit of implementation, the Summit of accountability and of partnership. We have all agreed that concrete implementation must be the focus of our work. The time has come to translate our political commitment into action. Implementation must be our target to fight poverty, for responsible prosperity for all human beings.”

Implementation, implementation, implementation! These were WSSD's three key priorities!

The Plan of Implementation also contained a section on ‘the role of international institutions.’ This was an issue which UNEP had taken very seriously in the run-up to Johannesburg. Between April 2001 and February 2002 UNEP had conducted a thorough-going review of “International Environmental Governance”, the results of which were reflected in a consensus decision of the UNEP Governing Council [GMEF 3] when it met in its seventh Special Session in Cartagena in February 2002.²⁶⁹ The IEG process, as it became known, was complex and long-winded. The issues considered included the role of the Global Ministerial Environmental Forum, the financing of UNEP, coordination and effectiveness of MEAs, UNEP's role in capacity-building and training,

and the relationship between the newly-established Environmental Management Group and the GMEF. Lars-Göran Engfeldt comments: “The IEG process resulted in limited progress, but fell far short of the original objective agreed in Malmö.”²⁷⁰

It is not hard to see the underlying justification for Engfeldt’s ‘limited progress’ verdict. The results of the IEG process had been fed into the WSSD negotiations, directly via the UNEP Governing Council, or indirectly via national delegations. But the result, at least as far as UNEP was concerned, was definitely disappointing.

The Johannesburg Plan of Implementation devoted five substantial paragraphs²⁷¹ to the role of the Commission for Sustainable Development, which “should continue to be the high-level commission on sustainable development within the United Nations system and serve as a forum for consideration of issues related to integration of the three dimensions of sustainable development”. “An enhanced role of the Commission should include reviewing and monitoring progress in the implementation of Agenda 21 and fostering coherence of implementation, initiatives and partnerships.”

If the CSD was singled out in the Johannesburg Plan of Implementation for special mention, the same can hardly be said of UNEP.

Paragraph 133 of the Plan of Implementation, invited “international institutions both within and outside the United Nations system” to “promote effective and collective support to the implementation of Agenda 21 at all levels” and paragraph 137 stated that “UNEP, UN-Habitat, UNDP and UNCTAD, within their mandates, should strengthen their contribution to sustainable development programmes and the implementation of Agenda 21 at all levels, particularly in the area of promoting capacity-building.”

It would be hard to argue that the very substantial investment of time and energy that UNEP, through the Governing Council process, had devoted to the issue of “International Environmental Governance (IEG)” had paid off in any meaningful sense. No light was shed in Johannesburg on some of the key issues of burning concern to UNEP, such as how

to ensure stable and predictable financing, or better coordination of convention secretariats. In fact there was no substantive consideration of IEG during the Summit.²⁷²

That said, on substantive issues apart from ‘governance’, most of the Johannesburg “outcomes” were of direct relevance to UNEP. At the end of the Conference, Töpfer summarized the achievements as ‘satisfactory’. Not, perhaps, the highest mark on the score-card, but not a negligible result either.

“At various moments during these negotiations we were facing a much weaker prospect for the environment and thus for sustainable development. I am satisfied that what has been delivered is a step forward. While there will be disappointment that nations failed to agree global time tables and targets for boosting the level of renewable energy, it has been agreed that there is a need for regional and national targets for renewable energy. We also have a commitment to halve the number of people without access to sanitation”

Töpfer highlighted some other areas of success. There had been important agreements in the area of chemicals. Governments had, for example, accepted the need for a new, international, approach for the management of chemicals and the harmonization of labelling and classification of chemicals which would be operational by 2008. Governments also aimed, by 2020, to produce and use chemicals in such a way that they do not adversely affect human health.

“This should benefit all people and especially those in developing countries and regions like the Arctic where chemical pollution is a real threat to the health of humans and wildlife.”

Töpfer also welcomed world leaders’ endorsement of the NEPAD²⁷³, the sustainable development initiative for Africa, and their support to regenerate agriculture and fisheries and to implement food security strategies on the Continent by 2005. In the field of biodiversity, the commitment to reverse the trend of losses by 2010 was also welcome, as was the decision to cease destructive fishing practices and establish marine protected areas and networks by 2012.

Töpfer pointed to the action plan for small island states where governments had agreed to reduce and prevent waste and pollution by undertaking, before 2004, initiatives aimed at implementing the Global Plan of Action for the Protection of the Marine Environment from Land Based Activities (GPA).

As far as the question of trade versus environment was concerned, the issue which had dominated the international agenda at the end of the previous decade, leading to the collapse of the WTO Ministerial meeting in Seattle in December 1999, WSSD more or less confirmed the existing stand-off. That by itself was good news. The underlying concerns of those who protested at Seattle had been that in all circumstances considerations of trade, not environment, would be considered paramount in the new rule-based trading system. The WSSD left the question of paramountcy to one side — at least for the time being, though negotiations would continue within the framework of WTO's Committee on Trade and Environment.²⁷⁴

Para 92 of the Plan of Implementation called for actions to: "Promote mutual supportiveness between the multilateral trading system and the multilateral environmental agreements, consistent with sustainable development goals, in support of the work programme agreed through WTO, while recognizing the importance of maintaining the integrity of both sets of instruments

One area where Johannesburg did mark a significant advance was in the way it dealt with the second of the 'twin evils' responsible for the degradation of the world's environment: namely, excessive consumption and the wasteful use of resources.

Ten years earlier, Agenda 21 (Chap. 4.3) had stated that: "The major cause of the continued deterioration of the global environment is the unsustainable pattern of consumption and production, particularly in industrialised countries, which is a matter of grave concern, aggravating poverty and imbalances." GEO-2000 had re-iterated that assertion.

Now Paragraph 14 of the Johannesburg Plan of Implementation stated that action was required at all levels to:

"Encourage and promote the development of a 10-year framework of programmes in support of regional and national initiatives to accelerate the shift towards sustainable consumption and production to promote social and economic development within the carrying capacity of ecosystems by addressing and, where appropriate, delinking economic growth and environmental degradation through improving efficiency and sustainability in the use of resources and production processes, and reducing resource degradation, pollution and waste. All countries should take action, with developed countries taking the lead, taking into account the development needs and capabilities of developing countries through mobilization, from all sources, of financial and technical assistance and capacity-building for developing countries."

Töpfer's comment on this aspect of the Plan of Implementation was very positive.

"The development of a 10-year framework with programmes in support of sustainable consumption and production patterns, based on science-based approaches and life-cycle analysis, has been agreed. We now also have an initiative to encourage industry to improve their social and environmental performance, taking into account the International Organization for Standardization (ISO) standards and the Global Reporting Initiative in which UNEP has been involved"

In welcoming the second main thrust of the WSSD, namely its emphasis on curbing excessive consumption and the wasteful use of resources, Töpfer was — to use a card-player's analogy — leading from a strong hand, notably UNEP's own pioneering efforts in this field.

In the run-up to Johannesburg, UNEP's Division of Technology, Industry and Economics, based in Paris, had published no fewer than 22 reports covering different sectors of industry.²⁷⁵ Each report, written by industry representatives in cooperation with the UN, labour and non-governmental organizations, looked at achievements, unfinished business and future challenges with respect to implementing Agenda 21.

Jacqueline Aloisi de Larderel, UNEP's Assistant Executive Director and director of the team that helped produced the reports, commented:

"Since Rio, more than 2,000 companies have issued reports on their environmental performance, but corporate sustainability reporting is still a minority practice in many industries and countries, particularly where legal frameworks or public pressure is weak."

She went on to stress the growing disparity among world regions and the need to make corporate environmental and social responsibility a reality.

"There is a growing awareness among business and industry that the social side of global sustainable development needs to be taken into account alongside environmental and economic aspects. The industry reports need to be seen as part of a long-term process of dialogue and what matters is not so much the past, but the direction in which we are heading."

Significant efforts had been made by participating industries in reducing their ecological footprint. But it was in industry's own self-interest to do more to spread best practice and raise the performance levels of all its members everywhere. Not enough companies, particularly small and medium-sized ones, were leading the way and there was insufficient monitoring.

On the positive side, the reports revealed an increased awareness by industry of environmental and social issues. In many cases this was reflected by more environmental reporting and the development and use of tools like ISO 14000²⁷⁶, life-cycle management and voluntary commitments to integrate sustainability into business strategies and activities. In some cases, this awareness could be seen in improved environmental performance.

This was especially true in areas like cleaner production and waste minimization where there had been significant advances over the last ten years driven largely by business self-interest in reducing treatment costs and increasing competitiveness.

For example, the aluminium industry reported that recycled metal now satisfied about a third of world demand for aluminium. Total recycling of aluminium in the form of beverage cans showed rates that ranged from 79 per cent in Japan and 78 per cent in Brazil to 62 per cent in the US and 41 per cent in Europe.

In another example, the iron and steel industry reported that by recycling nearly 300 million tonnes of scrap each year, they did not have to extract 475 million tonnes of natural iron bearing ore. They estimated that this saved the energy equivalent of 160 million tonnes of hard coal.

On the down side increased economic activity and the associated rise in consumption meant waste generation rates per capita continued to increase around the world. New "throw-away" products continued to be introduced by industry to meet changing consumer needs and expectations, with little or no consideration of sustainable development beyond short-term economic gain.

The waste industry example was repeated in other reports and the clear message emerged: growing consumption levels were overtaking environmental gains.

In their reports, some industry sectors had outlined specific targets to reduce their impact on the environment and support sustainable development. For example, the refrigeration industry wanted, "to develop more environmentally friendly, energy efficient vapour compression systems with ambitious objectives: reduction of energy consumption by 30 to 50 per cent and reduction of refrigerant leakage by 50 per cent."

The chemicals industry said it would: "Develop and implement a core set of quantitative indicators of performance towards achievement of sustainable development." And the Advertising sector wanted to "Find brand champions for sustainability." Some reports put the emphasis on "best practice." The Electricity report said "electric power companies should implement Guidelines for Best Practices to improve their operations and reduce environmental impacts." And the Food and Drink sector called for "better global co-ordination... in order to share best

practices and to facilitate progress on sustainability” with full support of “sustainable agricultural practices.”

Others sectors kept their future challenges and commitments more general. The automotive sector said it would “further enhance the ecological efficiency of vehicles throughout the entire lifecycle.”

The Aluminium report was “committed to increasing global recycling rates.” The coal industry highlighted “furthering the development and deployment of cleaner coal and carbon sequestration technologies worldwide” and the construction report called for “further reducing CO₂ emissions in the built environment through the development and integration of renewable energy technologies.”

The Johannesburg Plan of Implementation (JPOI) of the WSSD in 2002 recognised that Sustainable Consumption and Production (SCP) was an ‘overarching objective of and an essential requirement for sustainable development’, and — as noted above — for the 10-year framework

of programmes (10YFP) in support of sustainable consumption and production (SCP). The “Marrakech Process” was launched in response to this challenge at the first international expert meeting on the 10-year framework held in Marrakech, Morocco, 16-19 June 2003, organized by UN DESA’s Division for Sustainable Development and UNEP. The Marrakech Process included regular global and regional meetings, informal expert task forces and other activities to promote progress on the 10-year framework on sustainable consumption and production. UNEP and UN DESA’s Division for Sustainable Development were identified as the leading agencies in promoting and developing the 10-year Framework of Programmes at the global and regional level.

Such actions can be seen in the context of an even broader challenge: to promote the ‘green economy’ and its pathways to sustainable development and the eradication of poverty. Over the next decade – 2002-2012 - the effort to build the ‘green economy’ would become one of UNEP’s major preoccupations.



Top Left to Right:
Children perform at
the "South African
Welcoming Ceremony"
for the World Summit
on Sustainable
Development at
Ubuntu Village,
Johannesburg; Recycled
Paper briquettes;
Former South African
President Nelson
Mandela presents the
Rugby World Cup to
Springboks skipper
Francois Pienaar,
during Rugby World
Cup Final, Ellis Park,
Johannesburg, 1995.



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An aerial view of the tsunami-ravaged village of Kolhuvaariyaafushi, in the southwestern Mulaaku Atoll, Maldives.

15

POST-CONFLICT ASSESSMENT, ASIAN TSUNAMI, BALI STRATEGIC PLAN FOR TECHNOLOGY TRANSFER AND CAPACITY BUILDING

Klaus Töpfer, during his time as Executive Director of UNEP, was never afraid to draw on the experience he had gained in a long political career in Germany, including a distinguished term of office as Environment Minister. He was impatient of bureaucratic constraints. If he saw there was a problem, his first instinct was to try to do something about it. Eric Blencowe, who worked closely with Töpfer at the beginning of the new millennium, recalls the fateful events of September 11, 2001.

“I was on secondment to UNEP from the UK Department of the Environment²⁷⁷, working with Dr. Töpfer as a Special Assistant. We were on an official visit to London, in the course of which we had a lunch scheduled with John Gummer²⁷⁸ in a restaurant near the House of Commons. There was a TV screen on the wall, but the sound was turned down. I can remember watching the first plane fly into one of the Twin Towers in New York, so I assumed they were just showing some action-thriller movie. Then the second plane hit the building and we realized what was happening.

“Töpfer went very quiet. You could see he was shocked as we all were. But he was also thinking politically. What were the implications of what was happening the other side of the Atlantic? What should he, what should UNEP, be doing? He took me aside. ‘Get on to Nairobi’ he said, ‘tell them to fly the flags at half-mast outside the UNEP headquarters in Gigiri.’ ”

The point that Töpfer had immediately seized on, Blencowe explained, was the need for UNEP in Nairobi to show its sympathy, not just for the United States but for Kenya too. “Töpfer was remembering that Kenya a few years earlier had also been the victim of a terrorist outrage. Hundreds of Kenyans had been killed in the course of the attack on the US Embassy in Nairobi. That’s how Töpfer’s mind works. He was always thinking politically and usually one step ahead of anyone else.”

One area where Töpfer’s political acumen, as illustrated by Blencowe, proved particularly useful was that of ‘post-conflict assessment’ where UNEP, under Töpfer’s leadership, played a significant role.

Henrik Slotte, still working for UNEP as head of the post-conflict unit, recalled his experience working with Töpfer at the end of the 1990s:

“I did appreciate working for him, because he had the political expertise. If something went wrong, he took the heat. His main task, when he came to Nairobi, was to get UNEP back on its feet. To make it more relevant to the issues of the day. One of those issues was Kosovo. In March 1999, when the Rambouillet accord failed, the NATO air strikes started. There were some alarming reports about the environmental damage caused by the bombing. And it wasn’t just Kosovo and the Danube; there were worries about the whole Balkan environment.

“Töpfer decided to establish the Balkan task force. This was a bold step. UNEP didn’t have the people or the logistics. That was not surprising. UNEP wasn’t a field agency. It was a normative agency. But that didn’t deter Töpfer. He didn’t want to ask the Ambassadors, the Committee of Permanent Representatives. He took the view that if you ask a question, you may get the wrong answer. But he got Kofi Annan’s approval anyway. He hand-picked the former Finnish Environment Minister, Pekka Haavisto, to head the Task-Force.²⁷⁹ Haavisto came to Geneva in the summer of 1999. By mid-October the report was ready. And it was well-received, not just for the science which underpinned it but also for the political neutrality it demonstrated.”²⁸⁰

The results of this work were presented in a report entitled *The Kosovo Conflict: Consequences for the Environment and Human Settlements* in October 1999. The report highlighted a number of important conclusions on the post-conflict situation in the area, and in particular singled out four heavily polluted environmental hot spots (Pancevo, Kragujevac, Novi Sad and Bor) for immediate humanitarian assistance. The work was financed by 12 European Governments and conducted in cooperation with other United Nations organizations and the European Commission.²⁸¹

Reactions from a number of Governments, the European Union and international organizations were encouraging. UNEP was asked to carry out a detailed feasibility study to define clearly the exact scientific and

associated financial requirements for the clean-up of the hot spots. The feasibility study was completed in April 2000.

At the regional funding conference of the Stability Pact for South-Eastern Europe in March 2000, the environmental clean-up project of four hot spots was the only project in the Federal Republic of Yugoslavia to be included in the list of Stability Pact projects for the region. Initial responses from governments were positive, and financial support for further activities was pledged by several European countries. In 2000, UNEP was thus put in charge of the sole quick-start project in the Federal Republic of Yugoslavia. The project received \$12.5 million in financial support from donors.

In the autumn of 2000, UNEP carried out activities in The Former Yugoslav Republic of Macedonia and in Albania, being thus able to present in December 2000 the reports entitled *Post-Conflict Environmental Assessment — The Former Yugoslav Republic of Macedonia* and *Post-Conflict Environmental Assessment — Albania*. During field missions to these two countries, teams of UNEP experts investigated three core issues: environmental hot spots; the impacts of refugee influxes; and institutional capacities for environmental protection.

In each country, UNEP found that decades of industrial development, combined with weak environmental management practices, had created legacies of pollution and environmental hazard. Each country being in the midst of a difficult economic transition, the need for international environmental investments was emphasized.

As part of the post-conflict assessments conducted in the Balkans, the first-ever assessment of the environmental impact of depleted uranium when used in a real conflict situation was carried out in 2000-2001 resulting in a UNEP report entitled *Depleted Uranium in Kosovo — A Post-Conflict Assessment* of March 2001. The report stated that analyses of the samples collected showed only low levels of radioactivity. Furthermore, the results suggested that there was no immediate cause for concern regarding toxicity. However, major scientific uncertainties persisted over the long-term environmental impacts of depleted uranium, especially in terms of groundwater.

As a result of these scientific uncertainties, UNEP called for precautionary measures and recommended action to be taken to clean-up and decontaminate the polluted sites, to raise awareness of the local population, and to monitor the situation in the future. UNEP made an effort to inform both the United Nations Interim Administration Mission in Kosovo and the North Atlantic Treaty Organization Kosovo Force, in order to ensure that they had all the relevant information and recommendations to take necessary steps on the ground.

The work on depleted uranium in the Balkans was, however, not finished. During the Kosovo conflict, a few sites outside Kosovo, in Serbia and Montenegro, had also been targeted with ordnance containing depleted uranium. Following the precautionary approach advocated by UNEP and to reduce uncertainties about the environmental impacts of depleted uranium, it was evident that a second phase of scientific work would be needed.

This second phase started in September 2001 and was concluded in March 2002 with the publication of the report *Depleted Uranium in Serbia and Montenegro — Post-Conflict Environmental Assessment in the Federal Republic of Yugoslavia*. The report provided additional information and reveals important new discoveries in terms of the environmental behaviour of depleted uranium.

The recommendations by UNEP remained the same as in the previous year and UNEP still called for precautionary measures. In particular, major scientific uncertainties persisted over the long-term environmental impacts of depleted uranium, especially regarding groundwater.

Bearing in mind that depleted uranium was used in Bosnia and Herzegovina during bombings in the mid-1990s, UNEP accepted a request by the local authorities to start an assessment in September 2002, studying the impacts of those bombings, making it the third phase of depleted uranium related work in the Balkans.

With work already under way, as indicated above, the Post-Conflict Assessment Unit of UNEP was established in December 2001. The role

of the new Unit was to extend UNEP's work in the Balkans to other areas of the world where the natural and human environment had been damaged as a consequence of conflict.

The unit worked within the Division of Environmental Policy Implementation²⁸² to investigate the environmental consequences of conflicts, determine the environmental impacts of refugee influxes, and propose solutions for environmental clean-up.

The approach to post-conflict assessments included the vital step of working with donors to secure funds for follow-up activities, such as clean-up or remediation. In addition, it aimed to keep environmental priorities on the agenda throughout the post-conflict reconstruction, support longer-term goals for managing natural resources, address environmental management practices and promote regional environmental cooperation.

At the beginning of 2003, post-conflict assessment activities by UNEP's Post-Conflict Assessment Unit extended beyond the Balkans to a strategic environmental assessment of Afghanistan to analyse the country's environmental conditions following more than two decades of conflict and to recommend projects to improve the environmental situation.

The unit provided environmental database services for the United Nations Compensation Commission, which the Panel of Commissioners for the environmental claims of the Gulf War in 1991 used to analyse and evaluate the progress and results of ongoing monitoring and assessment projects in the region. The unit's activities also included a desk study outlining the state of the environment in the Occupied Palestinian Territories, with the aim of identifying major areas of environmental damage requiring urgent attention and proposing remedial measures.

In respect of the latter, Slotte commented: "Töpfer met Sharon and Arafat. We had to work with both sides. One night in East Jerusalem, one night in West Jerusalem. We wrote the final draft in Geneva. It was published in 2003. Both sides said they could live with it."

UNEP's Governing Council clearly took a positive view of these developments. On 7 February 2003, at its 22nd session, it adopted

a resolution giving UNEP a clear role in post conflict environmental assessments.

Less than two years later, UNEP would be confronted with another kind of human and environmental catastrophe — and on a far larger scale than anything the organization had to deal with so far.

The earthquake and tsunami of 26 December 2004, and the events that followed, will be remembered as among the worst human tragedies in history. The loss and devastation caused by this disaster brought incalculable suffering to millions of people around the Indian Ocean.

From Banda Aceh, to the tourist resorts of south Thailand, to the fishing villages of Sri Lanka, and onward to the coasts of Africa, communities were overwhelmed by the damage and loss.

Given the sheer numbers involved, the challenge of recovering from the earthquake and tsunami appeared nearly insurmountable. Approximately 250,000 lives had been lost. Millions of people had been displaced and were struggling to restore their homes and regain their livelihoods. The UN Humanitarian Flash appeal estimated immediate needs at \$1 billion, but the overall damage was thought to exceed \$10 billion.

A snapshot of the region, however, showed a more complex and more hopeful picture. In the weeks since 26 December, the people and the governments of the impacted countries had demonstrated remarkable resilience and determination. Their efforts to alleviate the suffering of affected communities and to put their countries on the road to recovery had been heartening. Even in areas affected by decades-long conflicts, positive signs of cooperation could be observed. At the same time, there had been a remarkable outpouring of concern and assistance from the world community. Together, these efforts had begun to replace despair with a sense of possibility. So far, international public and private pledges of assistance had totalled more than \$4 billion.

In response to requests from tsunami-impacted governments, the United Nations system, under the leadership of Secretary-General

Kofi Annan and the Under-Secretary-General for Humanitarian Affairs, Jan Egeland, had swiftly mobilized emergency humanitarian assistance. Housing, health care, education, transportation, water and sanitation services had all been rapidly deployed to the region. In all of these efforts, the UN had worked side by side with scores of public and private international relief agencies to address the urgent daily needs of the tsunami victims.

The United Nations Environment Programme had played a vital role in this process. The tsunami was an unprecedented natural disaster with enormous consequences for the region's environment. In the immediate aftermath of the tsunami, on 28 December, Töpfer created the Asian Tsunami Disaster Task Force, which was charged with responsibility for assisting governments to assess and respond to the environmental impacts of the tsunami.

In response to requests from governments, UNEP immediately deployed experts to Indonesia, Sri Lanka, Thailand and the Maldives, and later to the Seychelles and Yemen. These teams remained in the region to conduct and facilitate rapid assessments and help coordinate environmental recovery programmes in partnership with national authorities, UN colleagues and the international community.

No government could have been prepared for the events of 26 December 2004. Overburdened environment ministries now had to cope with innumerable urgent tasks. UNEP attempted to support government efforts in every way possible: conducting spot assessments of urgent issues; providing specific technical advice; training national counterparts; and identifying priority concerns for international attention.

Working together with governments and other partners, UNEP included a number of priority environmental concerns in the UN Humanitarian Flash Appeal, and contributed environmental inputs to a number of short-term assessments. At the same time, UNEP began preparations for more thorough cross-sectoral assessments of the tsunami's impacts on the environment in the region.

UNEP's goal in all of this work was to extract meaningful lessons from the tsunami experience so that governments, donors and international agencies would be able to implement environmentally sound reconstruction programmes in the affected countries.

The report of the UNEP Asian Tsunami Task Force²⁸³ was produced in close partnership with national environmental authorities in the affected countries. It summarized the interim findings from on-going environmental assessments in Indonesia, the Maldives, the Seychelles, Somalia, Sri Lanka, Thailand and Yemen, which were the countries that specifically requested cooperation and assistance from UNEP.²⁸⁴

The assessments gave evidence of environmental concerns that required serious attention and immediate action. The short-term clean-up programme had to be coupled with policy development and strengthened institutions. The recovery agenda required an 'environmental reconstruction programme', which would immediately clean up contamination hotspots, start rehabilitation of critical livelihoods and ecosystems and strengthen environmental policies and institutions.

Healthy coastal ecosystems protected people and property. The preliminary environmental assessment showed extensive, but uneven, damage to the natural resources that acted as the first line of defence from the tsunami, such as coral reefs, mangroves, sand dunes and other coastal ecosystems.

Anecdotal evidence and satellite photography before and after the tsunami event seemed to corroborate claims that coral reefs, mangrove forests and other coastal vegetation, as well as peat swamps, provided protection from the impacts of the tsunami. Vegetated sand dunes appeared to have provided an excellent first line of defence. The damage to coastal ecosystems was highly variable, and the damage to coral reefs was mostly due to the impact of debris from the land. Coastlines had been eroded, with much of the sediment deposited on healthy reefs, agricultural land, in rivers, or even creating new islands. Shallow soils were stripped from some low-lying atolls.

Sri Lanka offered some of the best evidence that intact coastal ecosystems, such as coral reefs and healthy sand dunes, helped buffer aggressive waves. For example, most of Yala and Bundala National Parks were spared because vegetated coastal sand dunes completely stopped the tsunami, which was only able to enter where the dune line was broken by river outlets. Some of the severest damage to Sri Lanka's coast was where mining and damage of coral reefs had been heavy in the past. Similar observations were found in the province of Phang Nga in Thailand, where mangrove forests and sea grass beds significantly mitigated the affect of tsunami.

The Indian Ocean Tsunami, with its epicentre in Sumatra, had of course proved particularly devastating in Indonesia. Apart from the tragic loss of life (possibly as high as 200,000) and displacement of populations, the Indian Ocean Tsunami had created millions of cubic metres of waste and debris and devastated critical environmental infrastructure and damaged ecosystems that provided both living and protection for coastal livelihoods in Indonesia. The costs of these damages were estimated to be more than \$600 million and would take years to restore.

At the request of the Government of Indonesia UNEP experts arrived in Aceh on January 1, 2005 and began working with the UN Country Team to identify the tsunami's environmental impacts, to help mainstream environmental concerns into early relief and country planning, and to ensure that environmental needs were reflected in OCHA's²⁸⁵ January 2005 Flash Appeal.²⁸⁶

In June 2005, UNEP, the Indonesian State Ministry of Environment and national and international NGOs held a conference on in Banda Aceh in Indonesia to discuss how good environmental practices and policies could be integrated into the reconstruction plans in Tsunami and Earthquake — Affected Areas in Aceh and Nias. The conference highlighted the need to learn from expertise and experience from within the Aceh region itself, focussing on practical steps to reconstruct Aceh in an environment-friendly manner.

Rachmat Witoelar, the Indonesian Environment Minister, said that by holding the Green Aceh conference "we are bringing international

solidarity on Aceh to a real and meaningful implementation of sustainable development here". The Governor of Aceh, Azwar Abubakar declared that Aceh would be designated as Green Province with 40 per cent of its area to be protected as limited utilization areas so that the need to obtain timber for reconstruction did not destroy remaining forest areas.

UNEP and the Indonesian State Ministry of Environment called for an environmental reconstruction programme in Indonesia.

Töpfer, UNEP's Executive Director, said:

"The tsunami in the Indian Ocean taught the world some hard, shocking but important lessons which we ignore at our peril.

"We learnt in graphic and horrific detail that the ecosystems, such as coral reefs, mangroves and sea grasses which we have so casually destroyed are not a luxury. They are life savers capable of helping to defend our homes, our loved ones and our livelihoods from some of nature's more aggressive acts.

"They are also instrumental, in less devastating times, of supplying communities with goods and services that underlie prosperity and help human-kind overcome poverty. So they have an important role in assisting us in realizing the Millennium Development Goals and delivering a more stable, healthy and prosperous world.

"It is therefore vital, that during the re-construction of shattered coastlines and settlements, the environment is taken into account along with the economic and social factors."

The slogan for all UNEP's post-conflict or post-disaster work was — and is — *'Building Back Better'*.

The 23rd meeting of UNEP's Governing Council in February 2005 saw the formal adoption of the Bali²⁸⁷ Strategic Plan for Technology Support and Capacity-Building.²⁸⁸ In his opening remarks to the Council, Töpfer referred to the Bali Strategic Plan as "an extremely important step forward for UNEP", for this 23rd Governing Council.

"It is the result of a broad based and transparent negotiation handled in an honest, professional and responsible way... The Plan, which is integrated in our Programme of Work, also takes UNEP from the global and regional level to the national level so we can better target our work."

The aim of the Plan was to strengthen technology support and capacity building in developing countries, as well as countries with economies in transition. It sought to strengthen the capacity of Governments of developing countries and of countries with economies in transition at all levels and provide systematic, targeted, long and short-term measures for technology support and capacity building. Another objective of the Plan was to promote, facilitate, and finance access to and support for environmentally sound technologies and corresponding know-how.

The Plan also aimed to enhance delivery by UNEP of technology support and capacity building based on best practices from both within and outside UNEP. In particular, the Plan sought to improve coordination of disparate efforts to strengthen capacity by various multilateral and bilateral institutions. It did so by providing a framework for strengthening cooperation among UNEP, multilateral environmental agreements (MEAs), and other bodies engaged in environmental capacity building, including the UN Development Programme (UNDP), the Global Environment Facility (GEF), civil society, and other relevant stakeholders. Thus, for example, UNEP and UNDP signed a Memorandum of Understanding at the end of 2004 to improve cooperation in environmental capacity development and to ensure that environmental considerations were incorporated in the mainstream of sustainable development policies and activities.

The Plan sought to enable collaboration with all relevant stakeholders and provide a basis for a comprehensive approach to developing partnerships, including public-private partnerships. It emphasised the identification and dissemination of best practices and fostering of entrepreneurship and partnerships.

With respect to implementation of the Bali Strategic Plan, the Plan stated that a bottom-up approach in identifying specific objectives, strategies, and activities would be used to reflect the needs of countries

and regions. This bottom-up approach reflected the views and priorities expressed by Governments, while also considering views of relevant organisations and stakeholders. This approach also supported another tenet of the Bali Strategic Plan: the importance of national ownership of capacity building and technology support initiatives. Another important theme of the Plan was fostering South-South cooperation bilaterally, regionally, and globally as a mean to maximize and develop existing capacities in developing countries.

The nine-page Plan included sections on objectives, strategic considerations, implementation, coordination mechanisms, and financial mechanisms. It included an indicative list of cross-cutting issues and thematic areas that the plan should address.

Töpfer then proceeded to inform the Governing Council that UNEP needed increased finances to realise the Bali Plan.

“In order to get things moving, to kick start this bold new initiative, I will be immediately, in 2005, investing some 30 per cent of our reserve fund in our regional offices.

This will, in line with the initiative’s bottom up approach, help support governments and regional ministerial conferences so they can begin reaping the benefits of the Bali Plan.

Our new partnership with the United Nations Development Programme will give the Bali Plan even greater momentum.

A problem shared is a problem halved.

It is not the only new partnership with UNDP.

Our new, joint, Poverty and Environment Initiative will allow us mainstream our work in national Poverty Reduction Strategies (PRSPs).

Science is also at the heart of the Plan. We need to build our own science base by building the scientific capacity of developing countries.

We will be concentrating these efforts through our flagship Global Environment Outlook or GEO process.

It is developing networks of experts and institutes around the globe and building capacity where needed. Only through such steps can we keep the global environment properly monitored.

For without sound science, policy-makers may make the wrong decisions.

To have sound science, to have a living Bali Plan, also requires sufficient and predictable funding.

The promises from the International Conference on Financing for Development in Monterrey, held in 2002, need to be honoured.”

The UNEP Governing Council February 2005 meeting not only approved the Bali Strategic Plan. It decided to include a special mention of the Plan in the message it sent to the United Nations General Assembly in view of its upcoming session to review the implementation of the Millennium Declaration.

“The Bali Strategic Plan for Technology Support and Capacity-building should be financed and implemented to meet its objective of substantially increasing the capacity of developing countries and countries with economies in transition to monitor and assess environmental trends.”²⁸⁹

This could be taken as a clear signal from governments that they wanted UNEP to become more responsive to country needs by up-scaling the delivery of support in areas where it has comparative advantages, establishing partnerships that facilitate delivery on the ground and strengthening South-South Cooperation.

The adoption in February 2005 by UNEP’s Governing Council of the Bali Strategic Plan for Technology Support and Capacity Building was very definitely a ‘milestone’ in UNEP’s evolution. Maria Ivanova’s²⁹⁰ comment on this development is perceptive.

“Though many perceive capacity development as a new function for UNEP, building national institutional capacity was part of UNEP’s mandate from 1972. Resolution 2997 specified this function, as did the 1997 Nairobi declaration and subsequent UN documents relevant to UNEP’s mandate .

“There are reasons for excluding this function from an organizational analysis of UNEP, especially one intended to streamline UNEP’s operations. UNEP’s creators understood the organization primarily as a nexus for information and coordination, not implementation, and it should be evaluated along the same lines. With a small staff and minimal resources, UNEP has always lacked the capacities of full-fledged operational agencies like the United Nations Development Programme (UNDP) or the World Bank.

“However, a purely normative role is also insufficient as the need to implement environmental agreements has raised the demand for assistance with capacity development and financing. Moreover, donors place a premium on the delivery of concrete services when determining budget allocations among international organizations, which has increased the pressure on UNEP to come up with projects on the ground.

In this context, UNEP is seeking a balance between the normative and the operational. The 2004 Bali Strategic Plan for Technology Support and Capacity Building represented an attempt to strike this balance by focusing on coordination, cooperation and partnerships.

“The Bali Plan underlines UNEP’s need to improve interagency coordination and cooperation. It does not, however, clarify the respective roles for UNEP, UNDP and the World Bank, which now more resemble competitors than partners. Despite the need for more concrete achievements on the ground, there is a danger that shifting from a normative and catalytic function to an implementation and operational one might further obscure the line separating UNEP from operational agencies. The focus on implementation places emphasis on reacting to specific country needs and circumstances, a task which UNEP was never intended to fulfill. Governments request many capacity building projects, compelling UNEP to engage in work for which it lacks the human and financial capacity. The need for assistance with environmental activities at the national level, however, remains unfilled. Neither UNDP, nor the World Bank, nor UNEP have the ability or the mandate to systematically conceptualize, launch, implement, and scale up environmental programs on a nation-by-nation basis.”



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Top Left to Right: Mangroove forest in Abu Dhabi — a natural defence system to combat the effects of climate change; Damaged buildings after NATO bombing raids of Belgrade — a factor in UNEP's decision to conduct post-conflict assesment; An aerial view of the tsunami destruction of the Indonesian coast, between the towns of Banda Aceh and Meulaboh; Similar destruction in Mullaitivu, a town in northeastern Sri Lanka.



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UNEP's current
Executive Director,
Achim Steiner,
presenting the
Green Economy
report.



16

MEDIUM TERM STRATEGY, UNEP GC/GMEF BALI, FEBURARY 2010, NUSA DUA DECLARATION, IPBES, GREEN ECONOMY

Klaus Töpfer left UNEP in March 2006, having completed just over two four-year terms as Executive Director. Achim Steiner took up his position as UNEP's fifth Executive Director in June that year. A dual national (he holds Brazilian and German citizenship) and a graduate of Oxford University, Steiner had an outstanding record in the field of conservation and sustainable development. Before coming to UNEP he had served for five years as the Director-General of IUCN, an organisation with which UNEP had a long and productive relationship.²⁹¹

Steiner had emerged onto the international stage even before his appointment as IUCN's Director-General. In 1998, at the age of 37, he was appointed Secretary-General of the World Commission on Dams, based in South Africa, where he managed a global programme of work to bring together the public sector, civil society and the private sector in a global policy process on dams and development. Set up by the World Bank and IUCN at a time when the construction of large dams such as Pergau in Malaysia and Narmada in India was coming under

increasingly vociferous criticism, particularly from the NGO community, the World Commission on Dams — under Steiner's leadership — had in 2000 produced a voluminous report which was generally welcomed as a serious and constructive attempt to examine one of the major development issues of the day.

During his tenure at UNEP, Steiner brought his economics background firmly to bear on the environmental agenda. He was convinced that in a world obsessed by GDP, natural resources and ecosystems would continue to be damaged and degraded in the name of progress unless their true wealth could be analysed and convincingly communicated to policy-makers.

This led to the launch of the UNEP Green Economy initiative at the height of the financial and economic crisis in 2008 which would shape not only UNEP's policy directions but the landscape leading to and the outcome at the upcoming Rio+20 Summit in 2012.

Building on The Economics of Ecosystems and Biodiversity — an initiative of the G8 and several developing countries which UNEP was eventually requested to host — the Green Economy would start to shape the discourse on how to realize economic development and environmental sustainability in ways that provide significant social outcomes, not least in respect of decent jobs.

Steiner was also keen to bolster and take forward UNEP's scientific relevance, notably decoupling economic growth from resource use and climate change.

The International Resource Panel, established in 2007 and whose members include the luminaries Ernst U. von Weizsäcker and Ashok Khosla, matched that ambition with some ground-breaking analysis on recycling rates of metals and the challenge of biofuels and a landmark Decoupling Report.

Meanwhile, emissions gap analysis reports, convened by UNEP first in 2009 and involving a growing number of climate modelling centres, have become essential reading for member states. They specialise in pointing out the gulf between ambition and reality in respect to keeping a global temperature rise under 2 degrees C this century.

Under Steiner's tenure UNEP also took forward scientific work on so-called non-CO₂ gases including black carbon, as a way of catalysing quick, complementary and cooperative action on climate change, crop damage and public health.

Today the science has been transformed into a political and practical initiative — the Climate and Clean Air Coalition — bringing together over 20 countries and institutions while recognizing that this is only a quick fix: the inadequate action on CO₂ under the UNFCCC and its Kyoto Protocol remains the long term 'elephant in the room,'

But these potentially glittering prizes were all ahead of Steiner when he first arrived at UNEP — member states wanted management reform and a move to a more results-based body.

Steiner recognizes that he came to UNEP at a critical time. "Klaus Töpfer," he has said: "managed to lead UNEP through a very difficult period. In putting the emphasis on the environment as the foundation for development, I think he had catalyzed a new direction for the institution, or, if not a new direction, had reanimated an understanding of what UNEP was there for and its relevance to the international community. The challenge for Klaus was that in order to put UNEP back on the radar of member states, he personally had to expend a great deal of time and energy re-mobilizing political support.

"When I arrived a lot of the governments were saying 'okay, we know why we have UNEP but can it be re-tuned so that it delivers far more in very practical terms?'"

So Steiner's initial focus was on implementation. "I wanted to assist in realizing a far more focused and responsive institution so that when governments request action, the system is already aligned to deliver".

To help improve its capacity to deliver, UNEP worked closely with the Nairobi-based UNEP Committee of Permanent Representatives or Ambassadors (CPR) to deliver a document known as the Medium Term Strategy (MTS). Borrowing language from the 1997 Nairobi Declaration,²⁹² the MTS recalls that the vision of UNEP for the medium-term future is to be: "The leading global environmental authority that sets the global environmental agenda, that promotes the coherent implementation of the environmental dimension of sustainable development within the United Nations system and that serves as an authoritative advocate for the global environment."

UNEP's mandate, as defined in the MTS, continued to comprise five overall, interrelated areas:

- (a) Keeping the world environmental situation under review;
- (b) Catalysing and promoting international cooperation and action;
- (c) Providing policy advice and early warning information, based upon sound science and assessments;

- (d) Facilitating the development, implementation and evolution of norms and standards and developing coherent interlinkages among international environmental conventions;
- (e) Strengthening technology support and capacity in line with country needs and priorities.

If this was UNEP's mandate, what were the priorities for action? UNEP's Medium Term Strategy 2010-2013, as approved by the Governing Council in 2008,²⁹³ had six cross-cutting thematic priorities. The selection of those thematic priorities was guided by scientific evidence; the areas in which UNEP has a comparative advantage; the UNEP mandate; priorities emerging from global and regional forums; and an assessment of where UNEP could 'make a transformative difference'.

The six cross-cutting thematic priorities were, in alphabetical order:

- (a) Climate change;
- (b) Disasters and conflicts;
- (c) Ecosystem management;
- (d) Environmental governance;
- (e) Harmful substances and hazardous waste;
- (f) Resource efficiency – sustainable consumption and production.

Steiner explained the thinking behind the MTS.²⁹⁴

"Can you turn a bureaucracy into a more results-oriented institution? The refrain that I got from many is 'look, we know UNEP is doing good work, but we don't actually know how to measure this success.' When I arrived, UNEP was also spread across a huge range of issues. Thus in the first year and a half of my first term there was the urgency to establish a new narrative — one that brought more focus and said 'here are the areas in which the world wants UNEP to make a difference.'

"Changing the way any organization is managed is never easy: to do this in a bureaucracy like the UN is even more challenging because the

structures are often so ingrained, the ways of doing business so carved-in-stone and the tiers of scrutiny and decision-making so complex it can be an insuperable task — even if many agree it needs to be done. But we persisted and with the support of many governments established sub-programmes cutting across divisional structures and a Medium-Term Strategy (MTS) that gave a contemporary expression to 'why there is a UNEP and what it is meant to deliver?' alongside yardsticks for demonstrating success and achievements.

"For someone outside the UN this may all sound like 'oh well, big deal, isn't that obvious?' But it had not really been done before. Indeed we had to go all the way to New York to even get permission to try these new approaches. In reality, it all took longer than I had thought at the outset. But that reform process, with MTS articulating a modern, more forward-looking strategy provided that much needed foundation and direction towards delivery and implementation of effective and measurable results."

Steiner paid tribute to the practical usefulness of the Bali Strategic Plan for Capacity Building and Technology Support as he tried to reorient UNEP's priorities.

"The Bali strategic plan essentially gave UNEP a stronger mandate but also the added challenge and expectation particularly from the G77 to be more responsive on the ground — nationally and regionally. This desire for UNEP to do more at the country level was clearly welcome, but at the time and in part as result of a lack of resources, the Bali Strategic Plan was generating tensions and risked a polarization between UNEP's normative role and this request for a more down-to-earth role."

Steiner decided to propose a solution to this dichotomy:

"I put this to the Governing Council and the CPR — the Committee of Permanent Representatives. I said: 'Look, you can establish a parallel funding mechanism for the Bali Strategic Plan, but it is in all reality likely to have insufficient funds to make a real difference. Yet if one looks at what we are proposing in the main programme of work, it is actually 90 per cent identical or very similar to the strategic plan'. So I proposed to make the

Bali Strategic Plan an integral part of delivering the overall programme of work.' That provided myself as Executive Director and the institution some space to find a good equilibrium between these two functions."

Steiner pointed out that by the time he took over as Executive Director, UNEP had a portfolio of over US\$100 million worth of GEF projects, so the notion that UNEP was somehow only active in that esoteric sphere of global environmental agreements was erroneous. Indeed UNEP was active in well over 100 countries. "However, just because you are active in 100 plus countries, does not translate into the logic that you need a 100 country offices to deliver on the Bali Strategic Plan for example — UNEP could spend millions of dollars just in institutional infrastructure, without delivering anything".

The route Steiner chose was to enhance UNEP's relationships with the UN system and international community.

"The fact is that UNEP was and had been working with partners and with various levels of engagement right across the UN system. Our partnership with UNIDO in establishing cleaner production centres of which there are over 50 today is one good example. Another key partner for UNEP is UNDP which is a critical part of the logic that UNEP can engage at the country level in a more intelligent way and was given expression in a new agreement in 2006 with Kemal Dervis, the then UNDP Administrator.

"What countries above all want is access to UNEP's expertise rather than merely running this and that project in Nepal or Bolivia or Albania or China. The fact is that UNEP, its people and competencies as an environmentally-focused organization is distinct from other UN bodies — this is the UN institution that lives, breathes and works on environmental sustainability issues day and night and sees the challenges and opportunities through its own unique lens.

"This is our leverage and our unique value added — from core competencies in areas such as environmental law and building up environmental ministries to global networks in sustainable energy, finance and science. In other words it is more about knowledge and knowledge-

brokering and innovation: that is what interests many governments when they request technical assistance and advice from UNEP".

Steiner referred to what he calls the 'strategic presence model':

"This is also about being more relevant regionally and nationally. The UNEP regional offices for example have evolved from a representational role to a more substantive and programmatic one. They are today an integral part of delivering the programme of work with the global divisions. It's still a convergence path, but I really believe we have strengthened the Regional Offices with expertise despite restricted resources.

"The second part of this strategic presence model is the establishment of country offices in cities such as Brasilia, Beijing and Moscow that reflect these nations' regional and geo-political importance. UNEP's presence in Addis Ababa and in Brussels allows us to focus on the crucial processes and decisions being taken in the African and European Unions.

"And thirdly, the notion of the entire UN system 'delivering as one' in line with the UN Secretary-General's aims which includes the role of the UNDP-led resident coordinator system. Here, I would like to see more UNEP senior technical advisors embedded in UN country teams. Today we are engaged in 30 to 40 countries providing support and expertise and working with the UN teams. I believe the depth of UNEP's support and the breadth could be far more meaningful and relevant for the countries concerned but to date the resources have not been available to take this pillar of an enhanced strategic presence to a higher level".

Steiner believes that in part this also reflects the fact that UNEP's role within the United Nations system has inevitably changed over time.

"It was a point I raised from my first day here — I'd like to see UNEP in the first instance as the environment programme of the United Nations serving the mission and the entities of the UN family. So my whole strategy was not embedded in a notion of building UNEP up as a standalone institution, but rather as a service provider.

One manifestation of this was my decision to establish a SUN team — a Sustainable United Nations team — which has been a service provider to the whole system on for example climate neutrality, social environmental safeguards and supporting country teams to assist in making their whole infrastructure more environmentally responsible. We have also rebuilt the Environment Management Group, a UN system-wide body which UNEP hosts. And here we took forward work on climate neutrality, on biodiversity, on desertification and other issues in order to mainstream them within the UN family.

“This also reflects the way the world has changed. When UNEP was established the focus was almost entirely on how to influence the UN system — to an extent this has happened. Many of our sister agencies now have a larger environmentally-related portfolio than UNEP has — so influencing this reality is key to future environmental sustainability.

“A second phenomenon is that today the environmental issues are less issues of projects and more about environmental governance. How does the UN provide a plan for countries to interact on governance issues that are by definition today much more global than they were in the 70s and 80s and 90s? UNEP’s role in terms of its relationship to the Secretary General, to its sister agencies and programmes and funds remains crucial. But increasingly we need to address how member states view UNEP as a platform for national governments’ approaches to environmental issues.

“Over the past few years there has been a great deal of debate about whether UNEP remains UNEP or whether it is say a UN Environment Organization in order to achieve better delivery and improved governance. But even as UNEP, the Executive Director is a member of the chief executive board of the UN and interacts across the system through for example the EMG. So whether you head a body with a P or an O at the end, probably makes little or no difference. The real question that grows daily is: ‘is the UN really still a credible convener of the world’s diverse interest in order to achieve progress on the issue of environmental sustainability?’”

For Steiner, it was clear that 40 years on from Stockholm, 20 years on from Rio 1992 the balance of emphasis between UNEP’s ‘normative’ role and its other functions had shifted.

“We live in an era where the issue of legally binding instruments and treaties makes many people extremely nervous. Not because of the inherent logic or necessity of such agreements, but because of the quite traumatizing experience of watching the World Trade Organization negotiations getting stuck and the climate change negotiations suffering a great measure of frustration and paralysis. Therefore we are in an age where there is a lot of disenchantment with trying to get 190+ nations to agree to a legally binding text — indeed some of the instruments we have today would be impossible to negotiate in today’s world.

“If this prompts some to say that I am therefore against Multilateral Environmental Agreements (MEAs), then this is a misinterpretation. But what I would say is that the geopolitics of the early 21st century means there is a law of diminishing returns in trying to add more and more individually-negotiated instruments to tackle individual environmental issues. The fact is that many countries, especially developing ones, simply cannot cope with the increasing demand of human and financial resources needed to run this system.

“We recently did an analysis that underlines these challenges: Between 1992 and 2007 for example, 540 meetings have been called under 18 international treaties, generating more than 5,000 decisions. It is simply overwhelming in terms administration and is leading to a massive disconnect in terms of implementation.

“It was perhaps easier in the 70s, 80s and 90s to achieve victories on one issue at the time, ozone being the biggest one, but also CITES, Ramsar, CMS, and many others. But today we need to integrate and reintegrate all these different strands in part because the ability to act on one challenge is now so clearly premised on a myriad of other factors and not just environmental ones. Biodiversity is predicated on action on climate change and the atmosphere is keenly linked to the condition of the biosphere. And both are impacted by social and economic pathways chosen by governments”.

If Steiner's comments (from February 2012) on UNEP and its evolving role are engagingly frank and reflective, a more formal overview can be found in his policy statement to the opening session of the UNEP Governing Council/Global Ministerial Environment Forum at its 11th Special Session, held in Bali, Indonesia on 24 February 2010.

It serves to highlight the main features of the body Steiner had begun to refer to as "UNEP+" as well as the Executive Director's ambitions for it. What the speech shows is an organisation, within the limits of its resources, attempting to function on many levels, with — crucially — 'country-level' activities playing a more important part than had been the case 20 or even 10 years earlier.

Nusa Dua Declaration February 2010

Steiner's peroration included a powerful appeal to environment ministers gathered in Bali. "The knowledge and perspective of the Ministers responsible for the environmental pillar of sustainable development must therefore be at the centre and not at the margins of the process leading up to 2012"

That appeal did not fall on deaf ears. Environment Ministers meeting in Bali decided to issue another Declaration, their first in a decade, pledging to step up the global response to the major environmental and sustainability challenges of the day.

The wide-ranging Nusa Dua Declaration, agreed in the closing session of the UN Environment Programme's (UNEP) Governing Council/Global Ministerial Environment Forum in Bali (Indonesia), 26 February 2010, underlined the vital importance of biodiversity, the urgent need to combat climate change and work towards a good outcome in Mexico later in the year and the key opportunities from accelerating a transition to a low-carbon resource-efficient Green Economy.

The statement also highlighted the need to improve the overall management of the global environment, accepting that 'governance architecture' has in many ways become too complex and fragmented.

The Declaration, the first by world environment ministers since they met in Malmö, Sweden in 2000, was transmitted to the UN General Assembly when it met later in the year.

Nusa Dua Declaration, Bali, February 2010

The Nusa Dua Declaration was adopted by Ministers of Environment and Heads of Delegations at the eleventh special session of the UNEP (United Nations Environment Programme) Governing Council/Global Ministerial Environment Forum, which was held in Bali, Indonesia in February 2010.

1. We, the Ministers and Heads of Delegation of the United Nations Environment Programme Global Ministerial Environment Forum, met in Bali, Indonesia, from 24 to 26 February 2010, for the eleventh special session of the Global Ministerial Environment Forum, celebrating ten years since the Malmö Declaration of 2000.

2. We are deeply concerned that our planet is confronted by climate change and other environmental and development crises. Current environmental challenges depend on global partnerships for solutions and represent opportunities for individuals, local communities and businesses and for international cooperation.

3. We remain committed to strengthening the role of the United Nations Environment Programme as the leading global environmental authority that sets the global environmental agenda, that promotes the coherent implementation of the environmental dimension of sustainable development within the United Nations system, and that serves as an authoritative advocate for the global environment, as set out in the Nairobi Declaration of 1997.

A. Climate change

4. We recognize the scientific view as documented by the Intergovernmental Panel on Climate Change in its fourth assessment report that deep cuts in global emissions are required to hold increase in global temperatures below 2 degrees Celsius and in this regard we reaffirm the importance of tackling climate change issues in accordance with the principle of common but differentiated responsibilities and respective capabilities and our determination to engage in efforts towards the resolution of such issues through enhanced international cooperation.

5. In this context, we welcome the decisions of the fifteenth meeting of the Conference of the Parties to the United Nations Framework Convention on Climate Change and of the fifth Meeting of the Parties to the Kyoto Protocol to extend the mandate on the *Ad Hoc* Working Group on Long-term Cooperative Action and where the *Ad Hoc* Working Group on Further Commitments under the Kyoto Protocol was requested to continue its work and where the parties also took note of the Copenhagen Accord.

6. We reaffirm our commitment to the United Nations Framework Convention on Climate Change process and our commitment to work constructively towards a comprehensive agreed outcome within this process by the end of 2010.

B. Sustainable development

7. We welcome the decision to organize the United Nations Conference on Sustainable Development in 2012. We support and encourage the active and effective participation of the United Nations Environment Programme in the preparatory process for the Conference on Sustainable Development as called for in General Assembly resolution 64/236 of 3

December 2009, and the full and effective contribution of the United Nations Environment Programme to the programme of work outlined for the eighteenth and nineteenth sessions of the Commission on Sustainable Development.

C. International environmental governance and sustainable development

8. We note the fact that the current international environmental governance architecture has many institutions and instruments and has become complex and fragmented. It is therefore sometimes not as effective and efficient as it should be. We commit to further efforts to make it more effective.

9. We appreciate the work of the consultative group of ministers or high-level representatives in presenting a set of options for improving international environmental governance and welcome the establishment of a process to be led by ministers or their high-level representatives to further address international environmental governance reforms. In this regard, we will send the outcomes of this work to the President of the General Assembly and as a contribution to the preparatory committee of the Conference on Sustainable Development.

10. We welcome the activities undertaken by the United Nations Environment Programme and the secretariats of the multilateral environmental agreements, at the behest of the parties to those agreements, in particular the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes, the Stockholm Convention on Persistent Organic Pollutants and the Rotterdam Convention on Prior Informed Consent, to enhance cooperation and coordination among the three 3 conventions and to support Governments in their efforts to implement, comply with and enforce the multilateral environmental agreements.

11. We also welcome the outcome of the simultaneous extraordinary meetings of the conferences of the parties to the Basel, Rotterdam and Stockholm conventions and we appreciate the consultative process on financing options for chemicals and wastes and support further efforts through the United Nations Environment Programme to continue these discussions.

12. We recognize the importance of enhancing synergies among the biodiversity-related conventions, without prejudice to their specific objectives, and encourage the conferences of the parties to the biodiversity-related multilateral environmental agreements to consider strengthening efforts in this regard, taking into account relevant experiences.

D. Green economy

13. We acknowledge that the advancement of the concept of a green economy in the context of sustainable development and poverty eradication can significantly address current challenges and deliver economic development opportunities and multiple benefits for all nations. We also acknowledge the important leading role of the United Nations Environment Programme in discussions on further defining and promoting the concept of a green economy. We encourage the Executive Director to contribute this work to the Preparatory Committee for the Conference on Sustainable Development and to convey the lessons already learned by the United Nations Environment Programme in this effort.

14. We urge the Executive Director to implement fully the Bali Strategic Plan for Technology Support and Capacity-building and invite all other relevant organizations to mainstream the plan in their overall activities, to enable developing countries and countries with economies in transition to benefit fully from

the achievements of its objectives and the advancement of the concept of a green economy.

E. Biodiversity and ecosystems

15. We acknowledge that biodiversity is at the core of human existence; it is threatened by rapid global change and is under pressure from ecosystem degradation and change.

16. We recognize that the International Year of Biodiversity in 2010 presents a unique opportunity to address biodiversity loss and to raise public awareness for achieving the three objectives of the Convention on Biological Diversity and the 2010 biodiversity target, and also to reinforce the importance of promoting actions at national, regional and international levels for achieving the three objectives and the target.

17. We are committed in 2010 to finalize deliberations on improving the science-policy interface for biodiversity and ecosystem services and in so doing negotiating and reaching agreement on whether to establish an intergovernmental science-policy platform on biodiversity and ecosystem services. We also welcome the commitment made by the parties to the Convention on Biological Diversity to finalize an international regime on access and benefit sharing in 2010 in accordance with decision UNEP/CBD/COP/DEC/IX/12 of the Conference of the Parties to the Convention.

18. We also encourage the United Nations Environment Programme to continue to play a leadership role in advancing understanding of the economics of biodiversity and ecosystems services and its policy implications, through the study *The Economics of Ecosystems and Biodiversity*.

19. We encourage and support the United Nations Environment Programme to contribute towards the High-Level Meeting on Biodiversity at the sixty-fifth session of the United Nations General Assembly in 2010, as a contribution to the International Year of Biodiversity and the high-level plenary meeting of the sixty-fifth session of the General Assembly in 2010 to review progress towards achieving the Millennium Development Goals, in particular in relation to environmental goals and targets, and in ensuring environmental sustainability in poverty eradication.

The Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES)

It can be argued that a plethora of Ministerial Declarations can sometimes be counter-productive but UNEP's Nusa Dua Declaration helped bring something new and important to the table.

In the Nusa Dua Declaration, for example, Ministers reminded themselves that: "We are committed in 2010 to finalize deliberations on improving the science-policy interface for biodiversity and ecosystem services and in so doing negotiating and reaching agreement on whether to establish an intergovernmental science-policy platform on biodiversity and ecosystem services (IPBES)."

From UNEP's point of view, the establishment of the IPBES can be seen as another notable act of 'midwifery', comparable indeed to UNEP's role in launching, together with WMO, the IPCC back in 1988.²⁹⁵

Specific discussions on IPBES started following the final meeting of the multi-stakeholder international steering committee for the consultative process on an International Mechanism of Scientific Expertise on Biodiversity (IMoSEB) in November 2007.

The consultation in respect of an IMoSEB led to a decision to invite the Executive Director of UNEP — in collaboration with governments and other partners — to convene an intergovernmental and multi-stakeholder meeting to consider the establishment of an intergovernmental mechanism for biodiversity and ecosystem services. There was also consensus among the stakeholders involved in the Millennium Ecosystem Assessment (MA)²⁹⁶ follow-up initiative that the follow-up to the IMoSEB process and the MA follow-up process should merge. It was the coming together of these two follow-ups that led to the IPBES process.

Three intergovernmental and multi-stakeholders meetings (Malaysia 2008, Kenya 2009, Republic of Korea 2010) were held to discuss ways to strengthen the science-policy interface on biodiversity and ecosystem services. At the first two meetings, the gaps and needs for strengthening the science policy interface were identified, and at the meeting in June 2010, in Busan, Republic of Korea, governments decided that an IPBES should be established, what the focus of its work programme should be, and agreed on many of its operating principles.

The results of the Busan meeting were welcomed by the 10th Conference of the Parties to the Convention on Biological Diversity (CBD) in Nagoya in October 2010²⁹⁷, and were subsequently considered at the 65th session of the United Nations General Assembly (UNGA). UNGA passed a resolution requesting UNEP to convene a plenary meeting to fully operationalize IPBES at the earliest opportunity. This resolution was then taken on board by UNEP in a decision at the 26th session of the UNEP Governing Council meeting, held in February 2011.

On April 21, 2012, after (by then) more than five years of international negotiations, the final operational design of the IPBES was agreed. Bonn, already host to UNEP's Convention on Migratory Species and the Desertification Convention (UNCCD) won the bid to host the secretariat of the new independent body at a meeting held in Panama City.

The Chair of the Panama City meeting was Sir Robert Watson, Chief Scientific Advisor of the Department for Environment, Food and Rural Affairs of the United Kingdom.²⁹⁸ Watson said: "Today, biodiversity won. Over 90 governments successfully established the science-policy interface

for all countries. Biodiversity and ecosystem services are essential for human wellbeing. This platform will generate the knowledge and build the capacity to protect them for this and future generations.”

IPBES would respond to requests from governments for scientific information on biodiversity and ecosystem services, including through relevant Multilateral Environmental Agreements, United Nations bodies and concerned stakeholders.

Governments agreed that the four main functions of IPBES would be:

- To identify and prioritize key scientific information needed for policy-makers and to catalyze efforts to generate new knowledge;
- To perform regular and timely assessments of knowledge on biodiversity and ecosystem services and their interlinkages;
- To support policy formulation and implementation by identifying policy-relevant tools and methodologies;
- To prioritize key capacity-building needs to improve the science-policy interface, as well as to provide and call for financial and other support for the highest-priority needs related directly to its activities.

UNEP was requested to continue to facilitate the platform on an interim basis, in collaboration with the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Food and Agriculture Organization of the United Nations (FAO) and the United Nations Development Programme (UNDP). One or more of these UN bodies would administer the IPBES Secretariat, once it was finally established.

Steiner, also a UN Under-Secretary General, declared: “Years of often complex debate and political negotiations have today reached a positive conclusion and a milestone in terms of humanity’s future response to reversing biodiversity loss and the degradation of ecosystems from forests to freshwaters.

“I would like to congratulate Germany for having been voted the host of the Secretariat of this new science-policy platform. UNEP looks forward to working with partners within and outside the UN system to make this new body the success it undoubtedly will be.”

Elsa Nickel, Deputy Director General of the German Directorate of Nature Conservation and Sustainable use of Natural Resources, thanked the participants for the confidence in the offer put forward by Germany, assuring them that the government was committed to supporting the new body. “We call on governments to work together very closely, especially the five bidding countries (also South Korea, India, Kenya and France) to make IPBES a real success story.”

Irina Bokova, Director-General of UNESCO, added: “The creation of IPBES, just a few weeks away from the Rio+20 Conference, is a strong signal, and I congratulate this significant progress towards the conservation of biodiversity.”

“I hope that this body will allow biodiversity to be better taken into account in sustainable development strategies, as did the IPCC for climate change over the last 20 years. Biodiversity loss is a key indicator of the changes which are affecting our planet”. She added that IPBES “will provide a more efficient coordination tool between researchers and decision-makers in order to rise to this challenge. UNESCO has supported this process since its inception and will do everything to bring its long experience and to mobilize its scientific networks in the fields of water, oceans and biodiversity in the service of IPBES.”

According to UNDP Administrator, Helen Clark, UNDP saw the proposed Platform as “critically important to support implementation of the new Strategic Plan of the Convention on Biological Diversity and to promote global sustainable development. We know that healthy ecosystems provide invaluable services that underpin development, particularly for the billions of people worldwide who depend directly on biodiversity for their livelihoods.

“We believe that IPBES can help ensure that developing countries and communities have access to sound scientific information to

inform development policies, protecting biodiversity and ecosystem services in a way that addresses poverty alleviation and promotes growth with equity.

“Calls have been made for UNDP, with our strong track record on capacity development and our significant portfolio of work on biodiversity and ecosystem services for development, to engage in the arena of capacity building for IPBES. We believe such capacity building can strengthen the platform enormously, and should be closely interwoven with the other work streams on knowledge generation, assessments, and policy support tools and methodologies.”

José Graziano da Silva, Director-General of the UN Food and Agriculture Organization (FAO), said: “Biodiversity is essential for food security. Thousands of interconnected species make up a vital web of biodiversity in ecosystems upon which global food production depends. With the erosion of biodiversity, mankind loses the potential to adapt agro-ecosystems to new challenges like population growth and climate change. Achieving food security for all is intrinsically linked with maintaining biodiversity. We welcome the creation of this platform and are pleased to be supporting it.”

A core trust fund would be established to receive voluntary contributions from governments, United Nations bodies, the Global Environment Facility (GEF), other intergovernmental organisations and other stakeholders, such as the private sector and foundations.

Representatives from the scientific community, non-governmental organisations, indigenous peoples and the business sector also met in Panama to debate the modalities needed for the establishment of the new body.

Jane Smart, representing the International Union for Conservation of Nature (IUCN), said it was “really important to build on existing knowledge. Many of the stakeholders have built up a wealth of data over several decades which we would be very pleased to make available to this new science-policy platform. Such information comes from a diverse range of social and biophysical scientific communities.”

Carolyn Lundquist, representing the Society for Conservation Biology, stressed “the need to enhance the transparency of the platform through direct involvement of stakeholders and civil society organisations as observers”.

Indigenous peoples’ representatives welcomed the inclusion of indigenous knowledge and diverse knowledge holders in the work of IPBES. Joji Cariño, the representative of the Tebtebba Foundation, highlighted that “indigenous peoples and local communities hold in-depth and time-depth knowledge about biodiversity and ecosystems, complementary to science and important for decision-making.”

Anne Larigauderie, speaking on behalf of the International Council for Science (ICSU) and the United Nations University (UNU), praised the decision to establish a Multidisciplinary Expert Panel (MEP) to oversee the scientific and technical functions of IPBES. “This will ensure scientific independence, as well as the representation of the mix of disciplines necessary to address future requests from the IPBES Plenary”. She also welcomed “the decision to start implementing IPBES now, through an ambitious intersessional work programme”.

The group of stakeholders conveyed a joint statement to the government representatives on the first day of the meeting. They re-affirmed their “strong interest in IPBES, both as contributors of knowledge and end users of IPBES products”. The stakeholders also recommended that “procedures be established for the independent review and evaluation of the platform’s efficiency, effectiveness and impact on a periodic basis and act on its recommendations”. The participants stressed “the importance of building capacities at international, regional, sub-regional, national, sub-national and local levels for the knowledge generation, assessments and policy support functions of the platform”.

The launch of the IPBES at the end of April 2012 added to the gathering momentum for the UN Conference on Sustainable Development (Rio+20) to be held in June in Rio de Janeiro, Brazil. It was anticipated that IPBES would become the key focal point for all agencies and organisations involved in the conservation and sustainable use of

biodiversity, long-term human well-being and sustainable development and that the Platform would raise the issue on the political agenda, in the same way that the IPCC raised the climate change issue.

If that did indeed prove to be the case, then 10 or 20, or even 40, years from now, the establishment of IPBES might be seen as another significant 'milestone' for UNEP.²⁹⁹

The Green economy

The Nusa Dua Declaration also emphasized the importance of the 'green economy', acknowledging that "the advancement of the concept of a green economy in the context of sustainable development and poverty eradication can significantly address current challenges and deliver economic development opportunities and multiple benefits for all nations." Ministers acknowledged "the important leading role of the United Nations Environment Programme in discussions on further defining and promoting the concept of a green economy" and encouraged the Executive Director "to contribute this work to the Preparatory Committee for the Conference on Sustainable Development and to convey the lessons already learned by the United Nations Environment Programme in this effort."

This was strong language. It could be argued that in stressing the importance of the Green Economy and UNEP's actual and potential contribution Ministers were possibly moving out of their comfort zone. Some ideas are slow to take root and, at the end of the new millennium's first decade, the term 'green economy' was certainly not common currency in the way, post-Brundtland, the term 'sustainable development' was.

Admittedly, the Preparatory Committee for the 2012 Rio+20 Conference (which the General Assembly had decided on at the end of December 2009) had intended to focus on 'the green economy' as one of the two main themes of the Conference (the other being the Institutional Framework for Sustainable Development (IFSD) in the context of sustainable development and poverty eradication). But there was no consensus as to what the term 'green economy' meant and indeed,

particularly among G77 delegations, a good deal of hesitation. For example, was the 'green economy' going to be a new form of disguised protectionism?

Almost exactly a year after its Bali session, UNEP presented the February 2011 meeting of the GC/GMEF with one of the most important documents it had ever published. UNEP's report *Towards a Green Economy: Pathways to Sustainable Development and Poverty Eradication* has to be seen in the proper context. What, it might be asked, after 40 years had the environmental movement in which UNEP had played its part actually achieved?

UNEP's regular Global Environment Outlook reports had consistently revealed deterioration in most key environmental indicators. GEO 5 was in the course of preparation (as we shall see, it would be launched just before Rio+20) and, from the well-trailed preliminary reports, the prognosis was gloomy, if not bleak. Yes, there had been a flurry of remedial and palliative action over the last four decades.

A host of treaties had been signed and institutions created. But even where the treaties had been properly implemented (and that was more the exception than the rule) had these efforts really stemmed the tide? Wasn't it, after all, just a shuffling of the deck-chairs on the Titanic? And the reason, the fundamental cause, was not far to seek. Poor people understandably wanted to get richer; rich people (perhaps less understandably) wanted to get even richer. Most gains in GDP were achieved by the conversion of natural capital (forests, minerals, water resources) in one form or another. Even with stable populations, that meant increasing demands on natural resources and increased pollution and waste so as to achieve per capita increases in GDP.

But of course populations were not stable. Though fertility rates had declined in some parts of the world, in absolute terms populations continued to grow. So it wasn't just a question of people wanting more of the good things of life. It was a question of *more* people wanting more.

UNEP's Green Economy report propounded a different model.

The key finding of the report was that investing two per cent of global GDP into 10 key sectors could “kick-start a transition towards a low carbon, resource efficient Green Economy”.

The sum, currently amounting to an average of around \$1.3 trillion a year and backed by forward-looking national and international policies, would grow the global economy at around the same rate if not higher than those forecast under current economic models. And it would do so without the rising risks, shocks, scarcities and crises increasingly inherent in the existing, resource-depleting, high carbon ‘brown’ economy.

As such, it comprehensively challenged the myth of a trade-off between environmental investments and economic growth and instead pointed to a current “gross misallocation of capital”.

The report saw a Green Economy as not only relevant to more developed economies but as a key catalyst for growth and poverty eradication in developing ones too, where in some cases close to 90 per cent of the GDP of the poor was linked to nature or natural capital such as forests and freshwaters.

It cited India, where over 80 per cent of the \$8 billion National Rural Employment Guarantee Act, which underwrote at least 100 days of paid work for rural households, invested in water conservation, irrigation and land development. This had generated three billion working days-worth of employment benefiting close to 60 million households.

Two per cent of the combined GDP of Cambodia, Indonesia, the Philippines and Vietnam was currently lost as a result of water-borne diseases due to inadequate sanitation. Policies that re-directed over a tenth of a per cent of global GDP per year could assist in not only addressing the sanitation challenge but conserve freshwater by reducing water demand by a fifth by 2050 compared to projected trends. The report modelled the outcomes of policies that redirected around \$1.3 trillion a year into green investments and across 10 key sectors — roughly equivalent to two per cent of global GDP. To place this amount in perspective, this was less than 1/10th of the total annual investment in physical capital.

Currently, the world spent between one and two per cent of global GDP on a range of subsidies that often perpetuated unsustainable resources use in areas such as fossil fuels, agriculture, including pesticide subsidies, water and fisheries.

Many of these were contributing to environmental damage and inefficiencies in the global economy, and phasing them down or phasing them out would generate multiple benefits while freeing up resources to finance a Green Economy transition.

In addition to higher growth, an overall transition to a Green Economy would realize per capita incomes higher than under current economic models, while reducing the ecological footprint by nearly 50 per cent in 2050, as compared to business as usual.

The Green Economy report acknowledged that in the short-term, job losses in some sectors — fisheries for example — were inevitable if there was to be a transition towards sustainability.

Investment, in some cases funded from cuts in harmful subsidies, would be required to re-skill and re-train some sections of the global workforce to ensure a fair and socially acceptable transition.

The report made the case that over time the number of “new and decent jobs created” in sectors — ranging from renewable energies to more sustainable agriculture — would offset those lost from the former “brown economy”.

For example, investing about 1.5 per cent of global GDP each year in energy efficiency and renewable energies could cut global primary energy demand by nine per cent in 2020 and close to 40 per cent by 2050. Employment levels in the energy sector would be one-fifth higher than under a business as usual scenario as renewable energies take close to 30 per cent of the share of primary global energy demand by mid-century. Savings on capital and fuel costs in power generation would, under a Green Economy scenario, be on average \$760 billion a year between 2010 and 2050.

The report, part of a bigger macro-economic study published online, aimed at accelerating sustainable development and formed part of UNEP's contribution to the preparation of the Rio+20 conference scheduled in Brazil the following year.

Steiner told the UNEP GC/GMEF meeting in Nairobi in February 2011:

"The world is again on the Road to Rio, but in a world very different to the one of the Rio Earth Summit of 1992.

"Rio 2012 comes against a backdrop of rapidly diminishing natural resources and accelerating environmental change — from the loss of coral reefs and forests to the rising scarcity of productive land; from the urgent need to feed and fuel economies and the likely impacts of unchecked climate change.

"The Green Economy as documented and illustrated in UNEP's report offers a focused and pragmatic assessment of how countries, communities and corporations have begun to make a transition towards a more sustainable pattern of consumption and production. It is rooted in the sustainability principles agreed at Rio in 1992, while recognizing that the fundamental signals driving our economies must evolve in terms of public policy and market responses.

"We must move beyond the polarities of the past, such as development versus environment, state versus market, and North versus South.

"With 2.5 billion people living on less than \$2 a day and with more than two billion people being added to the global population by 2050, it is clear that we must continue to develop and grow our economies. But this development cannot come at the expense of the very life support systems on land, in the oceans or in our atmosphere that sustain our economies, and thus, the lives of each and every one of us.

"The Green Economy provides a vital part of the answer of how to keep humanity's ecological footprint within planetary boundaries. It aims to link the environmental imperatives for changing course to economic and social outcomes - in particular economic development, jobs and equity."

Pavan Sukhdev, on secondment from Deutsche Bank and head of UNEP's Green Economy Initiative, said:

"Governments have a central role in changing laws and policies, and in investing public money in public wealth to make the transition possible. By doing so, they can also unleash the trillions of dollars of private capital in favour of a Green Economy.

"Misallocation of capital is at the centre of the world's current dilemmas and there are fast actions that can be taken starting literally today - from phasing down and phasing out the over \$600 billion in global fossil fuel subsidies to re-directing the more than \$20 billion subsidies perversely rewarding those involved in unsustainable fisheries.

"A Green Economy is not about stifling growth and prosperity, it is about reconnecting with what is real wealth; re-investing in rather than just mining natural capital; and, favouring the many over the few. It is also about a global economy that recognizes the intergenerational responsibility of nations to hand over a healthy, functioning and productive planet to the young people of today and those yet to be born."

UNEP defined a Green Economy as "one that results in improved human well-being and social equity, while significantly reducing environmental risks and ecological scarcities".

A big part of that transition involved policies and investments that decoupled growth from the current intensive consumption of materials and energy use.

While there had been some decoupling over the past 30 years, the gains had been far too modest to put the planet on a sustainable path and conserve finite resources. Innovative and imaginative public policies would be vital to generate enabling conditions that, in turn, could unleash markets and direct private sector investments into a Green Economic transition.

These included:

- Sound regulatory frameworks, a prioritizing of government spending and procurement in areas that stimulate green economic sectors and limits on spending that deplete natural capital;
- Taxation and smart market mechanisms that shift consumer spending and promote green innovation;
- Public investments in capacity building and training, alongside a strengthening of international governance.

Public policy could also ensure that the benefits of greening one sector can trigger wider sustainability benefits across others.

- Overall, the report suggested that the lion's share of the proposed two per cent of global GDP would need to come from private capital, primed by more modest amounts from the public purse.

The 10 sectors identified in the report as key to greening the global economy were:

Agriculture, buildings, energy supply, fisheries, forestry, industry including energy efficiency, tourism, transport, waste management and water.

Of the two per cent of GDP proposed in the report, the sums invested by sector at current levels of GDP would be:

- \$108 billion for greening agriculture, including on small-holder farms;
- \$134 billion in greening the building sector by improving energy efficiency;

- Over \$360 billion in greening energy supply;
- Close to \$110 billion for greening fisheries, including reducing the capacity of the world's fleets;
- \$15 billion in greening forestry with important knock-on benefits for combating climate change;
- Over \$75 billion in greening industry, including manufacturing;
- Close to \$135 billion on greening the tourism sector;
- Over \$190 billion on greening transport;
- Nearly \$110 billion on waste, including recycling ;
- A similar amount on the water sector, including addressing sanitation.

Some Sectoral Highlights of UNEP's Green Economy Report

Agriculture

A Green Economy would invest \$100 billion, up to \$300 billion a year until 2050, in agriculture in order to feed nine billion people, while promoting better soil fertility management and sustainable water use to improve biological plant management.

- Scenarios indicated an increase in global yields for major crops by 10 per cent over current investment strategies.
- Equal to raising and sustaining nutrition levels to 2,800-3,000 kilocalories available per person by 2030;
- Food waste globally translated into 2,600 kilocalories per person per day; therefore, a transition to a Green Economy needed to address these challenges, which link to several of the sectors concerned;

Buildings

The building sector was the single largest contributor to global greenhouse gas emissions, with one-third of global end-energy use taking place in offices and homes. The construction sector was responsible for more than a third of global material resource consumption, including 12 per cent of all freshwater use.

Based on an IPCC scenario, the climate footprint of the building sector was projected to nearly double to 15.6 billion tones of carbon dioxide equivalent by 2030, or 30 per cent of total energy related CO₂.

- A combination of applying existing technologies and growth in renewable energy supply under the Green Economy scenarios could dramatically reduce emissions at a saving equal to \$35 per tonne of CO₂;
- With the right government policies, energy savings of around one-third could be achieved worldwide in the building sector by 2050 for an annual investment of \$300 billion to one trillion dollars.

Fisheries

Subsidies estimated at around \$27 billion a year had generated excess fishing capacity by a factor of two relative to the ability of fish to reproduce.

The report suggested that investing in strengthened fisheries management, including the establishment of Marine Protected Areas and the decommissioning and reduction of fleet capacity, as well as retraining, can rebuild the planet's fish resources.

- Such an investment backed by policy measures would result in an increase in catches from the current 80 million tones to 90 million tones in 2050, although between now

and 2020 there would initially be a fall. The present value of benefits from greening the fishing sector was estimated to be three to five times the necessary investment;

- Jobs losses in the short to medium term could be minimized by focusing cuts in capacity on a small number of large-scale fishers over small-scale artisanal fleets;
- Jobs in fisheries were expected to grow again by 2050 as depleted stocks recover.

Forestry

Forests generated goods and services, which supported the economic livelihoods of over one billion people, recycled nutrients vital for agriculture and harboured 80 per cent of land-based species. Deforestation also currently accounted for close to 20 per cent of the world's greenhouse gas emissions.

The report claimed: "Reducing deforestation can therefore be a good investment: the climate regulation benefits of halving global deforestation alone have been estimated to exceed costs by a factor of three." The report analyzed the contribution that \$15 billion a year — or 0.03 per cent of global GDP - could make to greening this sector, including triggering greater investments in Reducing Emissions from Deforestation and Forest Degradation (REDD).

Such investments could also assist in scaling-up tried and tested market mechanisms, including certified timber and the certification of rainforest products to payment for ecosystems and community-based partnerships.

- Over the period 2011 to 2050, investment of \$15 billion annually, or 0.03 per cent of GDP, would raise the value added in the forestry industry by more than 20 per cent, relative to business as usual.

- The report suggested that a transition to a Green Economy could increase forested land - currently close to 4 billion hectares - by over three per cent in 2020, eight per cent by 2030 and over 20 per cent by 2050, relative to business as usual.

Fast tracking such recommendations could make a key contribution to 2011 — designated as the UN's International Year of Forests.

Transport

The environmental and social costs of transport in terms of air pollution, traffic accidents and congestion could currently cost around 10 per cent of a region or country's GDP. Policies for greening transport ranged from those that shifted journeys to public and non-motorized transport to ones which boost fuel efficiency and cleaner vehicles. In Europe, the analysis indicated that public transport investments yielded regional economic benefits more than twice their cost. Reducing the sulphur content of transportation fuels in Sub Saharan Africa could save up to nearly \$1 billion a year in health and related costs.

- Investing 0.34 per cent of global GDP per year up to 2050 in the transport sector could reduce oil usage by as much as 80 per cent below business as usual - increasing employment by six per cent above business as usual, primarily in expanding public transport.

Waste

By 2050, the world was likely to be generating over 13 billion tonnes of municipal and other wastes: currently only 25 per cent of all waste was recovered or recycled.

- An investment of \$108 billion a year in greening the waste sector could lead to near full recycling of electronic wastes, up from the current level of 15 per cent;

- Such an investment could also boost the overall waste recycling threefold by 2050 and cut the amounts going to landfill by over 85 per cent versus a business as usual scenario.

Between 20 per cent and 30 per cent of methane-related greenhouse gas emissions could be reduced by 2030 with associated financial savings.

Waste prevention and management also remained a key challenge for manufacturing, where approaches such as remanufacturing and redesign of products and processes could play a part in reducing waste and resource use:

- If the life of all manufactured products was extended by 10 per cent, for example, the volume of resources extracted could be cut by a similar amount;
- The recycling of heat waste through combined heat and power (CHP) installations presents high potential for more efficient energy use. The pulp and paper industry has CHP installations that allow savings of over 30 per cent of primary energy use.

<http://www.unep.org/greenconomy/AboutGEI/FrequentlyAskedQuestions/tabid/29786/Default.aspx>

1. How is a green economy defined?

For the purposes of the Green Economy Initiative, UNEP has developed a working definition of a green economy as one that results in improved human well-being and social equity, while significantly reducing environmental risks and ecological scarcities. In its simplest expression, a green economy can be thought of as one which is low carbon, resource efficient and socially inclusive.

Practically speaking, a green economy is one whose growth in income and employment is driven by public and private investments that reduce carbon emissions and pollution, enhance energy and resource efficiency, and prevent the loss of biodiversity and ecosystem services. These investments need to be catalyzed and supported by targeted public expenditure, policy reforms and regulation changes. This development path should maintain, enhance and, where necessary, rebuild natural capital as a critical economic asset and source of public benefits, especially for poor people whose livelihoods and security depend strongly on nature.

2. How is a green economy measured?

A wide range of indicators can help measure the transition towards a green economy. UNEP is working with partners such as the OECD and the World Bank to develop a suite of indicators — primarily building on existing frameworks — which governments will be able to choose from depending on their national circumstances, such as the structure of their economy and their natural resource endowment. The indicators being developed can be roughly divided into the following three groups:

- Economic indicators: for example, share of investments or the share of output and employment in sectors that meet a sustainability standard, such as green GDP;
- Environmental indicators: for example, resource use efficiency or pollution intensity at either the sectoral or economy-wide level, for example, energy use/GDP, or water use/GDP;
- Aggregate indicators of progress and well-being: for example, macroeconomic aggregates to reflect natural capital depreciation, including integrated environmental

and economic accounting, or broader interpretations of well-being beyond narrow definitions of per capita GDP.

3. How does a green economy contribute to sustainable development?

Sustainable development has been defined as “development which meets the needs of the present without compromising the ability of future generations to meet their own needs.” It gained international attention in the late 1980s following the Brundtland Commission’s landmark report, “Our Common Future”, and further prominence at the 1992 Earth Summit where it served as a guiding principle for international cooperation on development. Achieving sustainable development requires the advancement and strengthening of its three interdependent and mutually reinforcing pillars: environmental protection, social development, and economic development.

Moving towards a green economy can be an important driver in this effort. Rather than being seen as a passive receptor of wastes generated by economic activity or as one of many substitutable factors of production, the environment in a green economy is seen as a determining factor of economic production, value, stability, and long term prosperity — indeed, as a source of growth and a spur to innovation. In a green economy, the environment is an “enabler” of economic growth and human well-being. Additionally, since the poor are most dependent on the natural resource base for their livelihoods and least able to shield themselves from a degraded environment, movement towards a green economy also promotes equitable growth.

As such, the shift to a green economy can be seen as a pathway to sustainable development, a journey rather than a destination.

The nature of a 'green economy' sought after by a developed or developing nation can vary greatly, depending on its geographical confines, its natural resource base, its human and social capital, and its stage of economic development. What does not change however are its key tenets — of targeting improved human well-being and social equity, whilst reducing environmental risks and ecological scarcities.

4. How does a green economy help eradicate poverty?

Today's economic wealth, as traditionally defined and measured through GDP, is often created through the overexploitation and pollution of our "common" natural resources, from clean freshwater to forests to air essential to our very survival. This type of economic growth, as traditionally defined, has resulted in high economic and social costs, especially for the poor who depend on these resources for their livelihoods and are especially vulnerable to environmental contamination and degradation. The current unprecedented loss of biodiversity and ecosystem degradation is affecting sectors such as agriculture, animal husbandry, fishing and forestry — the very sectors which many of the world's poor depend on for their livelihoods.

Equally important, the move towards a green economy aims to increase access to basic services and infrastructure as a means of alleviating poverty and improving overall quality of life. This includes, for example, providing energy access to the 1.4 billion people who currently lack electricity, and another 700 million who are deprived of modern energy services. Renewable energy technologies, such as solar and wind power, and supportive energy policies promise to make a significant contribution to improving living standards and health in low income areas, particularly to those that currently lack access to energy.

Finally, significant opportunities exist to discontinue and redirect environmentally harmful subsidies. For instance, governments around the world are currently spending an estimated US \$700 billion annually to subsidize fossil fuels. This represents five times the amount of money countries worldwide spend on development assistance. The largest part of these subsidies is being allocated by governments of developing countries, in an effort to cushion the shock of price increases on the poor.

Yet, many studies have shown that fossil fuel subsidies are inefficient in targeting the poor, and are often benefit disproportionately higher income groups. Removing or dismantling environmentally harmful subsidies and replacing them with more targeted support, such as cash transfers, can increase social protection goals while easing fiscal constraints and improvement environmental outcomes.

5. How are the concepts of sustainable consumption and production and green economy related?

Green economy and sustainable consumption and production represent two sides of the same coin. They both share the same objective of fostering sustainable development, covering macro to micro-economic dimensions of public policy and regulation, business operations and social behaviour. Sustainable consumption and production is primarily focused on increasing resource efficiency in production processes and consumption patterns. Complementing this, green economy activities consider macro-economic trends and regulatory instruments governments can pursue through economic and other policies to promote economic growth and job creation that meets the criteria of being green and decent.

In practice, work towards achieving a green economy and sustainable consumption and production are mutually supportive, covering macro and micro interventions that require change in policy and regulatory instruments, investment and business operations, as well as behavioural change in society.

Both are currently high on the international agenda. The 10-Year Framework of Programmes on Sustainable Consumption and Production (the 10 YFP) is one of the key themes of the Commission on Sustainable Development's (CSD) agenda, developed as a consequence of the World Summit on Sustainable Development (2002). Constructing a green economy in the context of sustainable development and poverty eradication is one of the two central themes of the UN Conference on Sustainable Development (Rio+20) that will take place in 2012. It was recognized at CSD 18 that the 10 YFP could be an important input to the UNCSD, serving as a key building block for the transition to a green economy.

6. How does a green economy support employment?

A green economy creates jobs in a wide range of sectors of the economy as new markets emerge and grow, such as in organic agriculture, renewable energy, building retrofits for energy efficiency, public transportation, reclamation of brown-field sites, and recycling, among others.

Decent jobs, with high labour productivity as well as high eco-efficiency and low emissions, hold the promise to provide rising incomes, spur growth and help to protect the climate and the environment. Such green jobs already exist and some have seen high growth, for example, as a result of investment in energy efficiency.

Nonetheless, to ensure a smooth transition to a green economy, a concerted effort in job creation is necessary. Social policies will need to be developed along with environmental and economic policies. Key issues like investing in new skills needed for a low-carbon global economy and policies to handle the employment adjustments in key sectors like energy and transport will be needed to ensure a smooth transition.

7. How does a green economy protect and preserve biodiversity?

The loss of biodiversity has caused some people to experience declining well-being, with poverty in some social groups being exacerbated. If that loss continues it may also compromise the long term ability of ecosystems to regulate the climate and could lead to additional, unforeseen, and potentially irreversible shifts in the earth system and changes in ecosystem services. Furthermore, the ecosystem is the prime provider of a number of raw materials that serve as an engine for economic development. For these reasons, the preservation and protection of ecosystems is at the heart of the green economy agenda and green investments also aim at reducing the negative externalities caused by the exploitation of natural capital.

For instance, investments in the preservation of forests which sustain a wide range of sectors and livelihoods and at the same time preserve 80% of terrestrial species. By boosting investment in green forestry, a green economy agenda would preserve the economic livelihoods of over 1 billion people who live from timber, paper and fiber products which in their turn currently yield 1% of global GDP (this is far outweighed by the non-market public goods derived from forest ecosystem services)

8. What does the green economy offer for developing countries?

Green economy policies can help developing countries attain economic and social gains on several fronts, such as through the deployment of cleaner energy technologies and improved access to energy services; improved resource efficiency through investments in cleaner production approaches; increased food security through the use of more sustainable agricultural methods; and access to emerging new markets for their green goods and services. Improvements in resource efficiency and in diversifying the energy matrix can reduce import bills and protect a country from price volatility in energy markets, while reducing the environmental footprint and associated health costs of economic activity. Of course, each country must assess and evaluate its own resource endowment to determine how to best optimize its opportunities for sustainable economic growth.

As highlighted in UNEP's recent report, "Developing Countries Success Stories", there are a number of ongoing developing country initiatives that are demonstrating a positive benefit stream from specific green investments and policies, and if scaled up and integrated into a comprehensive strategy, could offer an alternative sustainable development pathway, one that is pro-growth, pro-jobs and pro-poor.

9. Does a green economy lead to protectionism?

Concerns have been raised that the implementation of a green economy could lead to trade protectionism and conditionalities on development aid. Trade measures encouraging environmentally sustainable practices, including standards, subsidies, public procurement, and market access

related measures, are often mentioned as potentially leading to green protectionism. For instance, there is concern that environmental standards, although effective in stimulating markets in sustainable goods and services, can also serve as a barrier to developing country exporters, particularly small and medium sized enterprises, which may lack the necessary resources to meet the standards.

Given this risk, it is essential to find the right balance between safeguarding market access on the one hand, and protecting health and the environment on the other. At the international level, one important means of mitigating this risk is to ensure the substantive participation of developing country actors in relevant standard setting negotiations and processes to ensure the concerns are addressed. At the national level, the formulation of green economy policies needs to consider the potential effects on the trading positions of other countries, especially low income countries.

10. What can governments do to enable a green economy?

There are a number of policies that national governments might consider adopting or strengthening in order to stimulate green investment and enable a green economic transition, ranging from regulatory and economic instruments to public-private partnerships and voluntary initiatives. The relevance and efficacy of a particular policy is often highly dependent on the unique endowments and capacities of the country considering the policy.

One of the most direct ways for governments to promote a green economy is through public finance and fiscal measures. For instance, public expenditure on research and development can be an effective means of stimulating the innovation

necessary to transition to a green economy. In many developing countries where access to capital is limited, public investments in a green economy are particularly important. Governments can also lead by example through the use sustainable public procurement efforts that stimulate demand for green products and services.

Additionally, governments can correct for negative externalities by ensuring that prices reflect the actual costs of goods and services, including the environmental costs which are often not captured by the market. The reform of harmful subsidies, such as many of the fishery and fossil fuel subsidies,

and the use of taxation instruments, such as levies on pollution, are key policy interventions available to many governments.

A legal framework that facilitates green economic activity and regulates harmful forms of production and consumption is also necessary. Building the capacity of governments and other stakeholders, as well as promoting actions that increase public support for change, may also be required in the transition to a green economy.

<http://www.unep.org/greenconomy/AboutGEI/FrequentlyAskedQuestions/tabid/29786/Default.aspx>



Top Left to Right: UNEP's energy efficient Nairobi Headquarters; Solar, wind and biofuel 'Green energy' projects; Hybrid electric bus; Planting trees helps denuded forests recover.



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The 26th session of the United Nations Environment Programme (UNEP) Governing Council/Global Ministerial Environment Forum (GC-26/GMEF) took place in February 2011 at the Headquarters in Nairobi.

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THE RUN-UP TO RIO 2012

Two issues — the inclusive Green Economy as it was now termed and the Institutional Framework for Sustainable Development (IFSD) — featured prominently in the ‘Zero Draft’ of “The Future We Want”³⁰⁰ issued by the United Nations on 10 January 2012. This formed the basis for discussions in the final few months before the United Nations Conference on Sustainable Development (UNCSD), scheduled to be held in Rio de Janeiro, Brazil, between 20-22 June 2012.

Both issues were of immediate concern to UNEP, the first because the ‘Green Economy’ had, as we have seen in the previous chapter, been vigorously promoted by UNEP, not as an alternative to ‘sustainable development’, but as one of the tools by which sustainable development could be achieved. UNEP had put a lot of eggs in this basket. Just as pressing was the institutional framework being proposed in the Zero Draft for sustainable development (IFSD).

Why was IFSD of special importance to UNEP? There were, obviously, the specific proposals about UNEP’s future to be considered under the term International Environment Governance or IEG. But it was also clear that other proposals for other parts of the institutional jigsaw could have major ‘knock-on’ effects on UNEP.

As we have seen in an earlier chapter,³⁰¹ the decision taken at Rio to set up a Commission on Sustainable Development had a major impact on UNEP’s own self-confidence. Though by the time of Rio 2012, it looked as though the CSD might have come to the end of its useful existence, plenty of ideas were being floated for a ‘successor’ body? It would be important to avoid a repetition of past mistakes.

Taking the Green Economy issue first:

“The Future We Want” was, at this stage (January 2012) at least, still a fairly concise document, containing 19 pages and 128 paragraphs.

Paragraphs 25-43 dealt with the Green Economy

**EXTRACT FROM THE FUTURE WE WANT, ZERO DRAFT
OF 10 JAN 2012**

**A. Framing the context of the green economy, challenges
and opportunities**

25. We are convinced that a green economy in the context of sustainable development and poverty eradication should contribute to meeting key goals — in particular the priorities of poverty eradication, food security, sound water management, universal access to modern energy services, sustainable cities, management of oceans and improving resilience and disaster preparedness, as well as public health, human resource development and sustained, inclusive and equitable growth that generates employment, including for youth. It should be based on the Rio principles, in particular the principle of common but differentiated responsibilities, and should be people-centred and inclusive, providing opportunities and benefits for all citizens and all countries.

26. We view the green economy as a means to achieve sustainable development, which must remain our overarching goal. We acknowledge that a green economy in the context of sustainable development and poverty eradication should protect and enhance the natural resource base, increase resource efficiency, promote sustainable consumption and production patterns, and move the world toward low-carbon development.

27. We underscore that green economy is not intended as a rigid set of rules but rather as a decision-making framework to foster integrated consideration of the three pillars of

sustainable development in all relevant domains of public and private decision-making.

28. We recognize that each country, respecting specific realities of economic, social and environmental development as well as particular conditions and priorities, will make the appropriate choices.

29. We are convinced that green economy policies and measures can offer win-win opportunities to improve the integration of economic development with environmental sustainability to all countries, regardless of the structure of their economy and their level of development.

30. We acknowledge, however, that developing countries are facing great challenges in eradicating poverty and sustaining growth, and a transition to a green economy will require structural adjustments which may involve additional costs to their economies. In this regard, the support of the international community is necessary.

31. We note that the transformation to a green economy should be an opportunity to all countries and a threat to none. We therefore resolve that international efforts to help countries build a green economy in the context of sustainable development and poverty eradication must not:

- create new trade barriers;
- impose new conditionalities on aid and finance;
- widen technology gaps or exacerbate technological dependence of developing countries on developed countries;
- restrict the policy space for countries to pursue their own paths to sustainable development.

From UNEP's perspective the language of the Zero Draft of January 10, 2012, as far as the Green Economy was concerned, was largely encouraging. Forty years previously, after Stockholm, UNEP had been set up with a coordinating and catalytic role. One of the objectives defined at that time had been for UNEP to work through and with the United Nations system to deliver the objectives identified in the Stockholm Plan of Action. As we have seen in previous chapters, many of those actions had been normative and palliative, dealing more with the symptoms than the causes.

But over time the emphasis had shifted towards 'Cleaner production and consumption', or 'Sustainable Consumption Programmes' or initiatives such as Corporate Social Responsibility which tried to tackle root causes. The Green Economy, as outlined, in the Zero Draft offered massive opportunities for a reorientation of the whole thrust of the environmental movement towards a focus in this direction and here UNEP would of course play its part. Coordinating and catalytic? That much, certainly. But more likely more, much more.

Paragraph 39 of the Zero Draft read:

"We encourage the United Nations, in cooperation with other relevant international organizations, to support developing countries at their request in developing green economy strategies."

As far as the issue of IEG was concerned within the Institutional Framework for Sustainable Development (IFSD), the language put forward in the Zero Draft, as far as UNEP was concerned, was a good deal murkier than the sections which addressed the Green Economy.

As early as 1997, at the Rio+5 Special Session of the General Assembly, Chancellor Helmut Kohl of Germany had proposed the 'creation of a global umbrella organisation for environmental issues, with the United Nations Environment Programme as a major pillar.'³⁰²

UNEP, as we have also seen, had initiated its own comprehensive review of IEG at the start of the new millennium. The Malmö Ministerial Declaration of 31 May 2000³⁰³ had called on the then

upcoming 'World Summit on Sustainable Development' of 2002 to review the requirements for a greatly strengthened institutional structure for international environmental governance, based on an assessment of future needs for an institutional architecture that had the capacity to effectively address wide-ranging environmental threats in a globalizing world.

In this regard, the Malmö Declaration had called on the role of the United Nations Environment Programme to be strengthened and its financial base broadened and made more predictable.

With its decision 21/21 of 9 February 2001 on IEG, UNEP's Governing Council had established an open-ended intergovernmental group of ministers or their representatives (IGM), with the Executive Director as an ex-officio member, to undertake a comprehensive policy-oriented assessment of existing institutional weaknesses as well as future needs for strengthened international environmental governance, including the financing of the United Nations Environment Programme.

The IGM was invited to present a report containing analysis and options to the next session of the Governing Council/Global Ministerial Environment Forum and to undertake an in depth discussion of the report with a view to providing its input on the future requirement of international environmental governance.

Six meetings of the Intergovernmental Group of Ministers took place: in New York, on 18 April 2001, in Bonn, on 17 July 2001, in Algiers, on 9-10 September 2001, in Montreal, on 30 November - 1 December 2001, in New York, on 25 January 2002 and in Cartagena, on 12 February 2002. According to the official report; "all meetings were well attended and witnessed a rich and extensive exchange of views between delegations."³⁰⁴

The seventh special session of the Governing Council/Global Ministerial Environmental Forum was held in Cartagena, Colombia, immediately following the last meeting of the IGM (13-15 February 2002). It considered and adopted the report of the IGM³⁰⁵ which recommended that:

- (i) As the principal United Nations body in the field of the environment, UNEP should be strengthened. This requires a clear solution to the issue of adequate, stable and predictable financing;
- (ii) A variety of proposals were considered, including the proposal to establish UNEP as a United Nations specialized agency, which met with differing views;
- (iii) The Global Ministerial Environment Forum should be placed as the cornerstone of the international institutional structure of international environmental governance;
- (iv) In addition, UNEP headquarters in Nairobi must be maintained and strengthened as a centre for international meetings on the environment;
- (v) The proliferation of institutional arrangements, meetings and agendas, while having the benefit of specialization, may weaken policy coherence and synergy and put further strain on limited resources.

The UNEP Governing Council requested the Executive Director to present its resolution and the report of the Open-ended Intergovernmental Group of Ministers or Their Representatives on International Environmental Governance to the Preparatory Committee for the World Summit on Sustainable Development at its third session. It also:

1. **Decided** to review the implementation of the recommendations contained in the report of the Open-ended Intergovernmental Group of Ministers or Their Representatives on International Environmental Governance at its twenty-second session, subject to the outcome of the World Summit on Sustainable Development;
2. **Also decided** to consider further measures for the strengthening of the United Nations Environment Programme in light of the outcome of the World Summit on Sustainable Development at its twenty-second session.

6th Meeting, 15 February 2002

At the World Summit on Sustainable Development, held in Johannesburg from August 26 - September 4, 2002, President Chirac of France called for a World Environment Organization (WEO), and had repeated that proposal at the United Nations General Assembly in the autumn of 2003, following a record heat wave in Europe in which an unprecedented 35,000 people had died, 15,000 of them in France.³⁰⁶

The WSSD, as we have seen in a previous chapter,³⁰⁷ did not endorse President Chirac's proposal for a WEO, preferring to call upon "UNEP, UN-Habitat, UNDP and UNCTAD, within their mandates, [to] strengthen their contribution to sustainable development programmes and the implementation of Agenda 21 at all levels, particularly in the area of promoting capacity-building."

But the General Assembly World Summit which met in September 2005 to review the implementation of the Millennium Development Goals showed renewed interest in the topic of IEG.

Para 169 of the UNGA Decision³⁰⁸ states:

Environmental activities

"Recognizing the need for more efficient environmental activities in the United Nations system, with enhanced coordination, improved policy advice and guidance, strengthened scientific knowledge, assessment and cooperation, better treaty compliance, while respecting the legal autonomy of the treaties, and better integration of environmental activities in the broader sustainable development framework at the operational level, including through capacity building, we agree to explore the possibility of a more coherent institutional framework to address this need, including a more integrated structure, building on existing institutions and internationally agreed instruments, as well as the treaty bodies and the specialized agencies."

This resulted in an informal General Assembly process, which began in 2006, and was co-chaired by the Mexican and Swiss Ambassadors. Felix Dodds and Michael Strauss, in a book which they co-authored with Maurice Strong, comment:³⁰⁹ "The co-chairs then produced a draft

resolution for consideration by all governments, but they felt they did not have enough support to table the resolution for debate. Instead they asked UNEP to take up the process they had started. For several years, momentum on the process then waned.”

At its Governing Council in February 2009, UNEP held a plenary session on IEG and set up an ad hoc ministerial process which became known as the Belgrade process. A second meeting of the process was held in Helsinki in November 2010. This Belgrade-Helsinki process was still running its course as the preparatory sessions for the Rio+20 Conference (June 2012) got under way with the IEG issue being subsumed in the broader considerations of the appropriate institutional framework for sustainable development (IFSD).

The authors of the Zero Draft were in a considerable dilemma as far as their proposals for the future status of UNEP were concerned. Fifteen years of discussions of IEG had led to no clear consensus as to where, in an institutional sense, UNEP’s future lay. The proposal for a WEO was supported by the European Union and by many African countries. The alternative option of ‘strengthening UNEP’ also had its advocates. Indeed, knowledgeable observers pointed out that setting up a WEO through a separate treaty process would not in and of itself mean the end of UNEP, since UNEP was a creation of the United Nations General Assembly and it would be for the UNGA to take the necessary decisions.³¹⁰

In the absence of a consensus, the authors of the Zero Draft decided to table both options: the creation of a WEO on the one hand, or ‘strengthening UNEP’ on the other.

On 21 February 2012, only a few weeks after the Zero Draft had been tabled, UNEP welcomed the 26th of the Governing Council/Global Ministerial Environmental Forum in its Nairobi headquarters. This was a very special occasion as it coincided with UNEP’s 40th anniversary celebrations. One highlight of those anniversary celebrations was undoubtedly the Governing Council’s afternoon session of February 21 at which three former Executive Directors (Tolba, Dowdeswell and Töpfer) joined the current ED, Steiner, to reflect on UNEP’s past

achievements (or short-comings) and future challenges. Nick Nuttall, UNEP Spokesperson and Acting Director of Communications, read out a message from Strong, UNEP’s first ED, to the attentive gathering. The session was ably compèred by Marc Halle,³¹¹ a former UNEP staff member, now European Director for the International Institute for Sustainable Development (IISD).

Past and present Executive Directors attending the Governing Council were guests of honour at a special dinner held in a huge marquee in the grounds of the UNEP headquarters at Gigiri, Nairobi to mark the 40th anniversary of UNEP and 25 years of partnership between the Nippon Foundation and UNEP in the context of the UNEP Sasakawa Prize. The theme of the gala evening was “Sustainable Development: The Next Evolution (Lessons from the Past and Actions for the Future)”. There was one unforgettable moment when Tolba, now over 90, joined his former colleagues and UNEP’s current leadership (represented by Steiner, the current Executive Director, and Amina Mohamed, UNEP’s Deputy Executive Director) on stage in the huge outdoor tent to cut a vast celebratory cake with a ceremonial sword.

As far as the substantive business of the meeting was concerned, the 26th meeting of the Governing Council held in Nairobi at the end of February 2012 was in a sense a ‘dry run’ for the Rio+20 Conference itself. Though the ‘Zero draft’ or its subsequent emanations were not actually on the table of delegates to the GC/GMEF and therefore no specific texts were under negotiation in Nairobi, it was obvious that the line taken by one country or another on the key topics, particularly the green economy and IEG, were of some relevance. These, after all, were the days of ‘joined-up’ governments. There was certainly an expectation (not always realized in practice) that positions by governments taken in one forum (e.g. Nairobi) might be reflected in subsequent statements by the same government in New York or Rio de Janeiro.

In practice, there was no clear outcome to the IEG debate at the February 2012 Nairobi meeting of the UNEP Governing Council. The flavour of the debate is well caught by the Earth Negotiations Bulletin (ENB) in its summary report of the 26th session of the UNEP Governing Council.

“IFSD: Erik Solheim, Minister of the Environment and International Development, Norway, moderated the session and introduced the background paper (UNEP/GCSS.XII/13/Add.2). Keynote speaker Zakri Abdul Hamid, scientific advisor to the Malaysian Prime Minister and Co-Chair of the Millennium Ecosystem Assessment, noted a 'rare convergence' of conditions for a consensus on global reform for sustainable development. He indicated that about 120 countries have endorsed establishing UNEP as a specialized agency, emphasizing that its focus should be on helping member states meet their environmental commitments, and affirming that governance reform would nurture a robust, green economy.

“Manuel Pulgar-Vidal, Minister of Environment, Peru, supported the call to transform UNEP into a specialized agency, noting that the current system of governance includes many binding agreements, but without the systems to monitor and enforce implementation.

“Henri Djombo, Minister of Sustainable Development, Forestry and the Environment, Republic of Congo, called for a specialized agency on environment that would provide financial, technical and scientific support to developing countries. He stressed that “this kind of architecture” would best coordinate all MEAs, stating that UNEP’s current mandate is not broad enough to fulfill this function. Doris Leuthard, Minister for Environment, Switzerland, noted that a combination of assessed contributions, voluntary contributions and private sector funding are imperative to the running of a new “anchor institution” that would enhance oversight and coordination of MEAs.

“Calling for a move towards a programmatic approach to ‘system-wide synergies’ among environment convention secretariats, John Scanlon,

Secretary-General, Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), supported the establishment of a larger agency coordinating efforts among MEAs. He also called for a reform of the Global Environment Facility that would see it focus on national-level implementation of international agreements as well as provide support to all MEAs, including CITES.

“During roundtable discussions, some delegates favored establishing UNEP as a specialized agency, calling for: an institution with a strong mandate, political visibility and universal membership; effective use of resources; strengthening the scientific basis for decision making; and improving the science/policy interface. Others dissented, calling instead for ‘strengthening’ UNEP, with some emphasizing that UNEP should remain the ‘voice of the environment’ and not broaden its scope into sustainable development as a whole.”

As the 26th session of the UNEP Governing Council ended, it was clear that on at least two key issues of the Rio+20 agenda, namely the Green Economy and IFSD, there was no consensus. As the negotiations continued in the UNCSD Preparatory Committee, the Zero Draft turned into a much bulkier text. Some delegates complained that in the new ‘paperless’ environment all amendments, no matter how far-fetched, found their way into the negotiating text by being projected instantly onto big screens in the hall whereas in the past firm chairmanship, allied with diplomatic skills, was usually able to impose a sense of order and priority. Be that as it may, by the time the Rio+20 conference approached, the Zero Draft had ballooned into a cumbersome bracket-encrusted 200-page monster, many times longer than the 19-page version of January 2012.

There was clearly much still to play for in Rio.



Top Left to Right: Brazilian fashion model and UNEP Goodwill Ambassador Gisele Bündchen plants a tree to mark her first visit to UNEP's Nairobi headquarter while UNEP Executive Director Achim Steiner and Spokesperson Nick Nuttall look on; Kenyan Vice President Stephen Kalonzo Musyoka with Steiner at opening of the 40th anniversary exhibition; Timeline highlighting key events in UNEP's 40 years; Cutting the celebratory cake at UNEP's 40th anniversary gala dinner, Nairobi, February 21, 2012. From left to right: Achim Steiner; Donald Kaniaru, former Director and Senior Legal Advisor; Mostafa Tolba, former Executive Director; Amina Mohamed, Deputy Executive Director; Klaus Töpfer, former Executive Director.





Brazilian President Dilma Rousseff (R) raises the gavel accompanied by the UN Secretary-General Ban Ki-moon during the closure of the United Nations Conference on Sustainable Development Rio+20 in Rio de Janeiro, Brazil.

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GEO-5; RIO+20 THE INTERNATIONAL CONFERENCE ON SUSTAINABLE DEVELOPMENT (ICSD)

Rio De Janeiro, June 2012

On 6 June 2012, less than three weeks before the Rio+20 Conference was due to begin, UNEP issued its much-trailed fifth edition of the Global Environmental Outlook (GEO-5). An accompanying press release announced: “the world continues to speed down an unsustainable path despite over 500 internationally agreed goals and objectives to support the sustainable management of the environment and improve human well-being.”

GEO-5 assessed 90 of the most-important environmental goals and objectives and found that significant progress had only been made in four. These were eliminating the production and use of substances that deplete the ozone layer; removal of lead from fuel; increasing access to improved water supplies; and boosting research to reduce pollution of the marine environment.³¹²

Some progress was shown in 40 goals, including the expansion of protected areas such as National Parks and efforts to reduce deforestation. Little or no progress was detected for 24 — including climate change, fish stocks, and desertification and drought.

Further deterioration was posted for eight goals including the state of the world’s coral reefs while no assessment was made of 14 other goals due to a lack of data.

The report cautioned that if humanity did not urgently change its ways, several critical thresholds might be exceeded, beyond which abrupt and generally irreversible changes to the life-support functions of the planet could occur. The timing of the release on GEO-5 was certainly not coincidental. Nor was the location — Rio de Janeiro, Brazil. Did that mean that the GEO process was being politicized?

Whatever 'advocacy' roles UNEP might take on, such as promoting the Green Economy, the need to safeguard its ability to carry out one of its core missions; namely, keeping the global environment under review was paramount.

GEO's goal, historically, has been to produce scientifically credible and policy relevant assessments of the state of the global environment and to enhance the capacity of a wide range of actors to perform integrated environmental assessments.³¹³

As Maria Ivanova and Melissa Goodall have pointed out:³¹⁴ "In integrated environmental assessments such as the GEO, process is critical to the quality of the product. How the report authors conduct that assessment, who participates, and under what conditions significantly impact the ultimate results. Salience, credibility, and legitimacy are critical factors shaping the impact of scientific assessments. Salience means that scientific input is timely and focused and addresses issues of current importance to policy makers. Credibility refers to the adequacy of scientific evidence and arguments and to the credentials of the scientists involved. Legitimacy of scientific assessments requires that the processes be perceived as being free of bias, taking into account the views of stakeholders, and treating differing views fairly."

As far as GEO-5 is concerned, additional reassurance as to the quality of the process might be drawn from the fact that a High-Level Intergovernmental Panel consisting of 19 high-level policy experts serving in their own expert capacities helped set the vision for GEO-5 and governments nominated experts to serve as authors, reviewers, and members of advisory groups. Since governments normally prefer good news to bad news, it could be argued that without the restraining influence of governments, GEO 5's conclusions might have been even bleaker than they were.

Be that as it may, according to GEO-5, scientific evidence showed Earth's systems were being pushed towards their biophysical limits, with evidence that these limits were close and had in some cases been exceeded.³¹⁵

The full report is downloadable here: http://www.unep.org/geo/pdfs/geo5/GE05_report_full_en.pdf

At the beginning of June 2012, it would be fair to say that the chances of Rio 2012 repeating the successes of Rio 1992 looked slim.

Geoffrey Lean wrote in the *Daily Telegraph* on 20 June 2012:

"Governments, like Rip Van Winkle, have been slumbering for 20 years, rather than taking effective global environmental action. In the run-up to the summit, the United Nations Environment Programme (UNEP) produced a lengthy inventory of how far governments had implemented measures they had solemnly endorsed. It found that of the 90 most crucial agreed goals, "significant progress" had been made on only four: removing lead from petrol; phasing out the use of chemicals that destroy the ozone layer; increasing drinking water supplies to the poor; and increasing research on pollution of the seas. And, in truth, all these were well under way before 1992.

"The 1992 summit, then the largest-ever gathering of world leaders, was thought to be the start of something big. It produced no fewer than three global treaties — on combating climate change, protecting wildlife, and tackling land degradation — and a 40-chapter "blueprint", called Agenda 21, for fixing the world's environmental problems. Though heavily watered down both before and during the summit, they still seemed to provide a foundation on which to build. But precious few bricks have been laid.

"Meanwhile, humanity's pressure on the planet has grown greatly, even as the political will to address it has shrunk: in the past 16 years alone, global demand for natural resources has doubled, and is now calculated to be 50 per cent higher than the rate at which nature can regenerate them. The UNEP report — its fifth, five-yearly Global Environmental Outlook — concludes, for example, that 20 per cent of all vertebrate species are threatened with extinction, coral reefs are declining

fast, the number of “dead zones” in the oceans is rising rapidly, nine-tenths of all fish are contaminated by pesticides, and greenhouse gas emissions may double over the next 50 years, making dangerous climate change inevitable.”

As Lean pointed out, there were indeed no important treaties waiting to be signed by Heads of State or Government, as had been the case 20 years earlier. Adoption of the United Nations Framework Convention on Climate Change (UNFCCC) and the Convention on Biological Diversity (CBD) had, as we have seen in an earlier chapter,³¹⁶ been among the major ‘outcomes’ of Rio 1992. The Convention on Desertification was generally agreed to be a third Rio Treaty since the commitment to negotiate such a treaty had been contained in the ‘desertification’ chapter of Agenda 21. Even the Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on All Types of Forests (to give it its full legal title — though nowadays there is a regrettable tendency to leave out the word ‘authoritative’)³¹⁷ could be counted at least as an outcome, though not exactly as a success.

Above all, Agenda 21, that massive well-argued tome with precise commitments and targets, including plausible estimates of the resources required for implementation, had stood the test of time at least as a coherent intellectual exercise. The fact that in almost all 40 sectors of Agenda 21³¹⁸ there been a lamentable failure to achieve the goals cannot be considered an indictment of Agenda 21 itself, but rather on those who were called upon to implement it.

Of course, the success of a Conference does not depend entirely on whether there is a good ‘outcome’ document. But a good outcome document certainly helps.

As delegates prepared to fly into Rio, Rio+20’s Brazilian hosts faced a considerable dilemma. The Zero Draft issued in January, with its compact structure (19 pages) had, as a result of the tender loving care and attention administered by delegates to the Conference’s Preparatory Committee, swelled to over 200-pages bristling with bracketed text. Typically, in these mega-conferences, negotiations go on right down to the wire and in some cases even beyond in that sometimes the ‘clock

can be stopped’ on the proceedings until a deal is done. When there are ‘summit’ conferences, with the participation of Heads of State or Heads of Government, even the most illustrious personages can find themselves involved in the hard, nitty-gritty negotiation of commas and square brackets. At the Copenhagen Climate Conference in December 2009, for example, President Barack Obama found himself in an intimate drafting group with leaders from India, China, Brazil and South Africa, before announcing ‘a meaningful and unprecedented’ climate-change agreement.³¹⁹

The Brazilian hosts did not, however, have the luxury of time. Rio+20 was not scheduled to be a two-week conference; it was not even a one-week conference. It was just a three-day Conference! Even if the Heads of State and the Heads of Government limited themselves to just three minutes each in the plenary, they would clearly have no time left for negotiations.

Brazil was very conscious of the howls of protest which might be heard on all sides if they announced a sudden end to the negotiating process. Those howls would be heard not just from governments who still had objectives to pursue, but also from civil society, including ‘major groups’ whose status had first been formalized at Rio 20 years earlier, and who now spoke of themselves in proud and occasional menacing terms as ‘stakeholders’.

But the alternative, namely holding a conference which simply failed to agree any conclusions — as for example had twice happened in the case of the Commission on Sustainable Development — was far worse.

On the last weekend before the Conference (it was scheduled to begin the following Wednesday) Brazil took a bold executive decision. Though up till then, UNCSD had been run by the United Nations and the UN-led preparatory process, the hosts now took over the show. It was a masterly, supremely competent operation. The objective was simple. The Heads of State and Heads of Government and their entourages might well be already on their way to Rio. The air tickets and the hotel rooms had already been booked. The red carpets were piled up in corners all over town waiting to be rolled out.

The trumpeters were ready with their fanfares. Let them come, let them all come, the Brazilians said. Rio is above all a welcoming city. The great statue of Christ the Redeemer, high up on Corcovado with welcoming arms stretched wide, was already lit up in an iridescent green light. But above all, the Brazilians insisted, don't let the HOS and the HOG be under the illusion that they are coming to Rio to influence the 'outcome' document. The shape and content of "The Future We Want" would, unfortunately, definitely not be able to benefit from the proposals or suggestions of the HOS or the HOG or other 'high-level representatives', such as Deputy Prime Ministers or Vice-Presidents standing in for their bosses.

And the reason, the Brazilians insisted that the outcome document, The Future We Want, would not be subject to scrutiny, and certainly not to modification, when the formal proceedings opened, was that by then the text would have been definitively put to bed. And it would not be reopened. The Brazilians were quite clear about that. They simply couldn't take the risk.

On Saturday 16 June, with less than four days left before the official opening, the Brazilian Foreign Minister, Antonio de Aguiar Patriota opened the Plenary Session of the Pre-Conference Informal Consultations which were now following the agreed take-over, being held under Brazilian coordination. The time was 3 pm. At 5.30 pm a new text of the outcome document would be available.

This was a document which Brazil was putting forward as a basis for agreement. It was a clean text, not festooned with square brackets. Some people might believe that it represented the lowest common denominator outcome. That was not how Brazil saw it. This was a document which, if agreed, they could all be proud of.

The Brazilian Foreign Minister indicated that the hosts (Brazil) would like to speed up the negotiating procedures. He urged delegates to refrain from introducing brackets or language similar to that which already appeared in the text. He said that "we are now at the eleventh hour" and need to finalize our efforts. Judging from the "energy and investment of intellectual effort and political leadership," he added,

"We are all united by a collective sense of our responsibility and desire to conclude in a timely fashion."

The only changes that could be admitted, he said, were those which already had the agreement of all the contact groups. This concluding chapter does not set out to provide a comprehensive account of the Rio+20 Conference. That account, and possibly a fuller evaluation of the Conference, will no doubt appear in due course. There will be no shortage of material. 40,000 people came to Rio+20 in one capacity or another and some of them, perhaps most, will have some idea as to why they came and what the conference achieved.

Our concern with Rio+20 in this book is the relevance of the Conference for UNEP's own story. In this context, the procedural gambit masterminded by Brazil which resulted in a clean, non-negotiable text being laid on the table on Heads of State and Heads of Government when the Conference opened on 20 June 1992, is of the utmost importance.

To take the institutional — or IFSD — point first. Let us recall that the Zero Draft of January 2012 had contained two options as regards UNEP's possible future, namely 'strengthening UNEP' or 'creating a World Environment Organization (WEO)'.

Zero Draft of January 10, 2012

C. UNEP, specialized agency on environment proposal, IFIs, United Nations operational activities at country level

50. We reaffirm the need to strengthen international environmental governance within the context of the institutional framework for sustainable development, in order to promote a balanced integration of the economic, social and environmental pillars of sustainable development, and to this end:

51. We agree to strengthen the capacity of UNEP to fulfil its mandate by establishing universal membership in its Governing Council and call for significantly increasing its financial base to deepen policy coordination and enhance means of implementation.

OR

51 alt. We resolve to establish a UN specialized agency for the environment with universal membership of its Governing Council, based on UNEP, with a revised and strengthened mandate, supported by stable, adequate and predictable financial contributions and operating on an equal footing with other UN specialized agencies. This agency, based in Nairobi, would cooperate closely with other specialized agencies.

52. We stress the need for a regular review of the state of the planet and the Earth's carrying capacity and request the Secretary-General to coordinate the preparation of such a review in consultation with relevant international organizations and the UN system.

53. We call for the scientific basis for decision making to be strengthened across the UN system and recognise that the interface between science and policy-making should be enhanced.

54. We recognize that sustainable development must be given due consideration by the International Financial Institutions, especially the World Bank and the International Monetary Fund, the regional development banks, UNCTAD and the World Trade Organization in regulating global trade. In that regard, we request the international financial institutions to review their programmatic strategies to ensure the provision of

better support to developing countries for the implementation of sustainable development.

55. We recognize that coordination and cooperation among the MEAs are needed in order to address policy fragmentation and avoid overlap and duplication. We welcome the work already undertaken to enhance synergies among the three conventions in the chemicals and waste cluster. We call for further measures to enhance coordination and cooperation among MEAs in other clusters.

56. We emphasise the need to strengthen operational activities for sustainable development, especially the delivery of the UN system in the field.

57. We agree to further consider the establishment of an Ombudsperson, or High Commissioner for Future Generations, to promote sustainable development.

58. We agree to take steps to give further effect to Rio Principle 10 at the global, regional and national level, as appropriate.

The much longer Co-Chairs' text of the May 22, 2012, of "The Future We Want" retains the two basic options of strengthening UNEP, on the one hand, and setting up a World Environment Organization (WEO) on the other. As compared with the January 10, 2012, 'Zero Draft', the proposals for strengthening UNEP are worked out in greater detail, while the central thrust of achieving 'universal' membership and 'increased' or 'increasing' financial resources is maintained.

In the final outcome document, agreed after the Brazilian 'take-over' of the drafting process, the WEO option has disappeared. There is only one option, and that is the 'strengthening' of UNEP. The relevant text of 'The Future We Want', as it emerged from the Brazil-led negotiating

process before the Conference began and as it was formally endorsed in its entirety with not a hair out of place when the Conference ended on June 22, reads as follows:

The Future We Want, adopted June 22, 2012, Rio de Janeiro

C. Environmental pillar in the context of sustainable development

87. We reaffirm the need to strengthen international environmental governance within the context of the institutional framework for sustainable development, in order to promote a balanced integration of the economic, social and environmental dimensions of sustainable development as well as coordination within the United Nations system.

88. We are committed to strengthening the role of the United Nations Environment Programme (UNEP) as the leading global environmental authority that sets the global environmental agenda, promotes the coherent implementation of the environmental dimension of sustainable development within the United Nations system and serves as an authoritative advocate for the global environment. We reaffirm resolution 2997 (XXVII) of 15 December 1972 which established UNEP and other relevant resolutions that reinforce its mandate, as well as the 1997 Nairobi Declaration on the Role and Mandate of UNEP and the 2000 Malmö Ministerial Declaration. In this regard, we invite the General Assembly, at its sixty-seventh session, to adopt a resolution strengthening and upgrading UNEP in the following manner:

- (a) Establish universal membership in the Governing Council of UNEP, as well as other measures to strengthen its governance as well its responsiveness and accountability to Member States;

- (b) Have secure, stable, adequate and increased financial resources from the regular budget of the United Nations and voluntary contributions to fulfil its mandate;
- (c) Enhance the voice of UNEP and its ability to fulfil its coordination mandate within the United Nations system by strengthening UNEP engagement in key United Nations coordination bodies and empowering UNEP to lead efforts to formulate United Nations system-wide strategies on the environment;
- (d) Promote a strong science-policy interface, building on existing international instruments, assessments, panels and information networks, including the Global Environment Outlook, as one of the processes aimed at bringing together information and assessment to support informed decision-making;
- (e) Disseminate and share evidence-based environmental information and raise public awareness on critical as well as emerging environmental issues;
- (f) Provide capacity-building to countries, as well as support and facilitate access to technology;
- (g) Progressively consolidate headquarters functions in Nairobi, as well as strengthen its regional presence, in order to assist countries, upon request, in the implementation of their national environmental policies, collaborating closely with other relevant entities of the United Nations system;
- (h) Ensure the active participation of all relevant stakeholders drawing on best practices and models from relevant multilateral institutions and exploring new mechanisms to promote transparency and the effective engagement of civil society.

89. We recognize the significant contribution to sustainable development made by the multilateral environmental

agreements. We acknowledge the work already undertaken to enhance synergies among the three conventions in the chemicals and waste cluster (the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants). We encourage parties to multilateral environmental agreements to consider further measures, in these and other clusters, as appropriate, to promote policy coherence at all relevant levels, improve efficiency, reduce unnecessary overlap and duplication, and enhance coordination and cooperation among the multilateral environmental agreements, including the three Rio conventions, as well as with the United Nations system in the field.

90. We stress the need for the continuation of a regular review of the state of the Earth's changing environment and its impact on human well-being and, in this regard, we welcome such initiatives as the Global Environment Outlook process aimed at bringing together environmental information and assessments and building national and regional capacity to support informed decision-making.

It is worth pointing out that the proposal for UNEP to have 'universal membership' which featured in all three texts presented here (i.e. Zero Draft, May 22 Co-Chairs' text, and Final Outcome document) was by no means a new one. The idea of 'universal membership' had, for example, been formally put forward as long ago as the spring of 1992 by the consultants' Coopers and Lybrand (now PWC) in their report to the UNEP Governing Council commissioned in response to the 1991 UNEP Governing Council Decision 6/6. *Review of the organization and management of the United Nations Environment Programme.*

It had been recommended by the Töpfer Task Force. But the use of the term 'upgrade' [In this regard, we invite the General Assembly, at its 67th session, to adopt a resolution strengthening and upgrading UNEP] was novel in the sense that it did not appear in the Zero Draft or in the 22 May draft of The Future We Want. As they took over the drafting process, the Brazilian hosts had made the rules of the game very clear. If there were any red lines, they had to be kept to a minimum and they had to be very tightly drawn. Everyone was expected to suffer to a greater or lesser extent so that everyone in the end might benefit.

But there is no doubt that some countries, particularly the European Union and African countries, had high hopes for the WEO option and had expended considerable negotiating capital to keep that particular ball in play. The Environment Negotiations Bulletin whose reporters generally have their ear to the ground reported that at one point an EU delegate threatened to 'reopen the issue of the WEO' only to be warned by an American colleague that if one issue was reopened, the 'whole agreement might unravel'.³²⁰

Of course, it was not just the delegates in the no-longer smoke-filled rooms who played the game by sticking to the text the Brazilians had put on the table. The Heads of State and Heads of Government rapidly adapted their prepared speeches to the new realities. France's new President, for example, Francois Hollande, attending his first major international gathering, was notably dignified as he confronted the fact that one of France's long-cherished dreams (and one for which they had sought and received EU backing) had been washed out to sea in Guanabara Bay. It was an inspiring and dignified speech. Hollande set his, and France's disappointment about the failure of the WEO option, in the wider context of the challenges and opportunities facing the world.

"There have been steps forward. I see five: firstly, a road map for the Sustainable Development Goals; secondly, the strengthening of the United Nations Environment Programme, which we value so much; there was a call to work towards an agreement on protecting the oceans; a debate was begun on the green economy; and emphasis was put on social issues and the fight against poverty. Those are tangible results!

“They are largely due to the ability we showed to reach compromises, but also to the active role of civil society, which I welcome. Without it, we wouldn’t have the awareness we have today, or the stimulation, the incitement to go further. But because I’ve come here to speak truthfully, I must tell you that these results, however tangible they may be, fall short of our responsibilities and expectations.

“First of all, I regret the fact that we didn’t achieve the creation of a specialized UN environment agency. It’s a project France is strongly committed to, because multilateralism depends on it, because it’s the best way of putting all subjects in the same organization and dealing with them at the same time and in the same place, and finally because this agency could be situated in Nairobi, in Africa, and Africa must have confirmation of its role in the world.

“I also regret that the proposal to establish innovative financing — even though the final communiqué mentions it — was not translated into anything concrete. This financing is essential. Everyone’s aware of the budgetary situation of many of our countries, particularly the most developed ones. So if we don’t add financing to the aid already planned, we won’t be able to achieve the goals we’ve set ourselves. So France remains determined to establish a financial transaction tax with those states that want to: the Europeans and others.

“And I make a commitment that if this tax is created, some of this revenue will be allocated to development. I want to speak truthfully, because emergencies exist — because greenhouse gas emissions haven’t stopped increasing and hit a record in 2011; because the oceans have been acidified and impoverished; because biodiversity has collapsed; because urbanization is spreading everywhere and sometimes reducing to abject poverty millions of men and women, who are piling up on the outskirts of the big cities; because inequalities have deepened in the rich countries, but also between the developed countries and the others.

“So we need a jolt; we’ve realized this here in Rio. But we have a new frontier to cross. First of all, there are changes to be made to give everyone access to water and energy, and I welcome the programme conducted to achieve this goal, because we must guarantee food security, because we

must prevent arable land, land suitable for cultivation, from gradually disappearing or being bought to the detriment of food independence, and because we must carry out the energy transition and diversify energy sources. That’s the agenda we must have.

“On this great cause, let’s make several commitments.

“First of all, nobody can win the great battle for the environment alone, against others. Either we win it together or we’ll lose it together.

“The second commitment is not to pit the North and the South against each other. It’s not that we don’t have different positions on certain subjects, but sustainable development is a planetary cause, a vital issue for the whole world, and it’s not some against others: it’s everyone together.

“And the last commitment is to consider that in the crisis we’re going through, there isn’t only the financial crisis, there isn’t only the economic crisis, there’s also the environmental crisis. And to overcome the crisis, we need more priority to be given to the environment and development. We’ll combat the crisis with all means of regulation.

“Finally, sustainable development isn’t a constraint. It’s a lever. Nor is it a tool to protect the most privileged against the rest, but rather to promote a concept of humanity.”

If France and the EU had failed to achieve their objectives, as far as the creation of a WEO was concerned, the same was true of many African nations, the African Union having formally backed the WEO option. Back in February 2012, Kenyan President Mwai Kibaki had told the 12th Special Session of UNEP’s Governing Council and Global Ministerial Environment Forum of UNEP in Nairobi on Monday 20 February that UNEP should become a fully-fledged agency for green development.

“This will enable us to place equal importance on the environmental sector as has been placed on other sectors of sustainable development,”³²¹ When Brazil’s President Dilma Rousseff, also acting as President of the

Conference, summoned him to the rostrum in Rio Centro on 20 June, he told his audience that he welcomed the proposals to upgrade and strengthen UNEP, first by universal membership, second, by stable and increased funding, and third, by consolidating the headquarters functions in Nairobi. “Kenya as host country promises to provide the necessary facilities for all Member States within easy reach of current facilities”.

Before he returned to his seat, President Kibaki nonetheless expressed the view that “ultimately these steps [strengthening UNEP] will have to be complemented with the transformation of UNEP into a full organization.”

The decision made in Rio, and supported to a greater or lesser extent by the assembled company, can be viewed — as President Kibaki seemed to view it — as a tactical move, one designed to ensure the smooth passage of a text when the option of further negotiation of an alternative was no longer available. To that extent, the question arises: will the General Assembly which will now have the task of turning the Rio agreement on the strengthening and upgrading of UNEP into a General Assembly Resolution stick scrupulously to the language agreed in Rio Centro?

In the different atmosphere of New York, will some states, despite the Rio agreements, try to revive the WEO option? Do they, in short, share President’s Kibaki’s (apparent) view that the upgraded status proposed for UNEP in Rio is but a way-station en route to a different, possibly more glamorous, destination?

Of course, no-one can predict the future. Governments are sovereign and will do what they decide to do. But it is perhaps worth making the case that from UNEP’s point of view, and probably from the point of view of the global environment itself (if the GE can be said to have a point of view), the decision taken in Rio to go down the ‘strengthening UNEP route’ rather than the ‘WEO route’, even if it was initially motivated by the practical considerations of avoiding a negotiating fiasco, was quite possibly the most beneficial of the options on the table.

Indeed, it could be argued that one of Rio+20’s successes was not what it did, but what it avoided.³²²

It might for example have satisfied some Heads of State or Heads of Government to have returned home proclaiming: “We have created a World Environment Organization to Save the World.” There were some easy headlines to be had here. Creating a new institution does not necessarily cost a lot of money, even in cash-strapped times. Bailing out a bank or two may be much more expensive.

It could be argued that, in not calling for the creation of a WEO, the Rio summiters actually demonstrated a high degree of commitment to one the causes they came to Rio to espouse: namely building a durable institutional framework for sustainable development.

If Rio+20 had gone down the WEO route, a new treaty setting up the new organization would have had to be drafted and negotiated. This could have taken a long time, leaving UNEP in limbo in the interim. Respected academics, among others, have argued that it is almost inconceivable that world governments would in today’s circumstances agree to a mandate for a WEO as appropriate and ‘fit for purpose’ as the one UNEP already has. In other words, this is the case of an important principle first enunciated by the English poet Hilaire Belloc: “Always keep a-hold of nurse, for fear of finding something worse.”

It could also be argued that a WEO financed on the basis of assessed contributions would not necessarily have more resources at its disposal than UNEP currently has. Some have calculated that the US contribution, for example, might actually diminish and, in addition, Congressional oversight might be more onerous.

The financial impact might be even worse if a major nation, currently a member of UNEP, was unable to join the new organization (for example where ratification of a treaty or other instrument was required by law but undeliverable in practice).

Leaving aside the financial issue, the fraught history of the climate change and biodiversity negotiations demonstrates how damaging it can be when one of the major players stays outside the tent. The fact that the United States, for example, has been unable to ratify the Kyoto Protocol or the Convention on Biological Diversity or indeed

the Convention on Migratory Species has undoubtedly had a negative impact on the standing and effectiveness of those instruments.

It remains to be seen, of course, what view the General Assembly will take of all these matters as it seeks to give effect to the 'outcomes' of Rio+20, as laid out in 'The Future We Want'.

In the run-up to Rio+20, as well as during the Conference itself, there was a clear understanding among those who had to follow and participate in the IEG/IFSD discussions that other elements of the institutional package could have an impact on the status and future of UNEP, as well as the 'strengthening UNEP versus WEO' discussion. As noted in the previous chapter, the Zero Draft of January 10, 2012, tabled two options for the future of the Commission on Sustainable Development. The first option was to 'reaffirm' the role of the CSD. The second was to transform the CSD into a Sustainable Development Council.

During the course of negotiations over the first few months of 2012, the issues had become considerably more complex. The text tabled by the Co-Chairs on 22 May extends over several pages. It not only repeated the options set out above but with a welter of modifying proposals added in square brackets. It also contained the proposals for a high-level political forum which were ultimately retained in the final version of The Future We Want as adopted by Rio+20 on 22 June 2012 (thereby signalling the official demise of the Commission on Sustainable Development).

It remains to be seen how this idea of a high-level political forum will be progressed. The Rio+20 outcome document proposes an ambitious mandate and a tight time-table for the detailed elaboration of the new body. From UNEP's point of view, bearing in mind the somewhat fraught period the organization went through after the creation of the CSD, a note of caution seems appropriate.

One of the problems UNEP experienced after the establishment of the CSD was in retaining 'high-level' political participation at its own meetings, including the Global Ministerial Environmental Forum. Environment Ministers were now regularly scheduled in two, not one,

high-level sessions, and it was not very clear where the 'value added' lay. If in doubt, some of them seemed to prefer New York!

Quite apart from UNEP's 'narrow parochial interest' in this aspect of the IEG/ IFSD jig-saw, it could be argued that there was no need at this point for the Rio Conference, having successfully 'euthanized' the Commission on Sustainable Development (no mean feat given the usual durability of institutions), to rush to propose an alternative.

In this context, one of the most useful interventions in the Plenary was possibly that made by Milos Koterec, Permanent Representative of Slovakia to the United Nations and President of the United Nations Economic and Social Council (ECOSOC).

Koterec observed:

"There is another lesson to be drawn from past conferences: such occasions offer tremendous impulse to the lingering urge to create ever-more international structures, treaties, and institutions.

"This time around, let's resist that urge. Instead, we need institutions which encourage policy makers to come together, to acknowledge the tradeoffs, to make hard decisions and to better guide development actions.

"Happily, there is no need to reinvent the wheel. Many of these institutions already exist. Let's strengthen them, accentuating their positives, eliminating their negatives."

As President of ECOSOC it was to be expected that Koterec would mention that institution.

"The United Nations Economic and Social Council, for its part, has made tremendous strides in recent years on the road to greater efficiency and effectiveness. The "3 pillars" of sustainable development — economic, social and environmental — have become firmly entrenched in ECOSOC's work with each passing day.

"Long recognized for its unmatched inclusiveness, the Council is also putting its abundant store of good-will to better use:

- We're forging closer ties with the trade and financial institutions, intensifying our dialogue throughout the year;
- We're becoming more innovative and promoting broader engagement. At last month's Youth ECOSOC event, for instance, hundreds of young people gathered to discuss employment challenges. Their priorities, it turns out, are much the same as ours: quality education, green growth, and jobs aplenty;
- ECOSOC is also scaling up outreach to the private sector — through initiatives like our recent Civil Society dialogues or Partnership Event, both of which do splendid work promoting public-private development efforts.

"Indeed, the Council's inter-disciplinary expertise and inter-sectoral approach — honed over 60+ years — positions it well to coordinate both international sustainable development responses and the post-2015 development framework. Likewise, ECOSOC's Annual Ministerial Review and Development Cooperation Forum have emerged as hubs for global sustainable development policy making — on everything from jobs, to aid, to science and technology.

"In the years ahead, I expect their clout to only continue to rise."

By way of conclusion, Koterec proposed a three-point plan,³²³

- "1. Sustainable development merits its very own ministerial-level meeting. This September's ECOSOC Ministerial meeting will hopefully be a watershed.
- "2. The proposed high level political forum should be created within ECOSOC's system. This would give a major boom to the integration efforts.
- "3. Let's reimagine that the Annual Session, revitalizing it with a series of powerfully compact sessions — neither shorter, nor longer in aggregate, but spread out instead over the course of a full year."

Koterec's suggestion, quoted above, that: "The proposed high level political forum should be created within ECOSOC's system" and that this "would give a major boom to the integration efforts" seems particularly pertinent.

UNEP, overall, took quite a positive view of the outcome of Rio+20. A UNEP Press Release, issued on June 22, as the Conference closed, said:.

"Heads of State and more than 190 nations gave the green light to a Green Economy in the context of sustainable development and poverty eradication. Nations agreed that such a transition could be 'an important tool' when supported by policies that encourage decent employment, social welfare and inclusion and the maintenance of the Earth's ecosystems from forests to freshwaters.

"The decision supports nations wishing to forge ahead with a green economy transition while providing developing economies with the opportunity for access to international support in terms of finance and capacity building. Meanwhile the Summit also gave the go-ahead towards a set of Sustainable Development Goals (SDGs) to bring all nations — rich and poor — into cooperative target setting across a range of challenges from water and land up to food waste around the globe.

"The SDGs are expected to complement the Millennium Development Goals after 2015: they reflect the reality that a transition to an inclusive green economy and the realization of a sustainable century needs to also include the footprints of developed nations as well as developing ones as they aim to eradicate poverty and transit towards a sustainable path. Other potentially positive outcomes include a ten year framework on sustainable consumption and production with a group of companies announcing at Rio+20 initiatives to already move forward including in the area of sustainable government procurement of goods and services.

"The Conference also took a decision to work towards a new global indicator of wealth that goes beyond the narrowness of GDP; encouragement for governments to push forward on requiring companies to report their environmental, social and governance footprints.

Achim Steiner, UNEP Executive Director, said: “World leaders and governments have today agreed that a transition to a Green Economy-backed by strong social provisions-offers a key pathway towards a sustainable 21st century.

“Several other important agreements were also forged that can assist in enabling that transition ranging from assessing the potential of a new indicator of wealth and human progress beyond the narrowness of GDP to increasing the level of accountability and transparency of companies in respect to reporting their environmental, social and governance footprints,” he added.

“The outcome of Rio+20 will disappoint and frustrate many given the science, the day to day reality of often simply surviving as individuals and as families, the analysis of where development is currently heading for seven billion people and the inordinate opportunity for a different trajectory. However if nations, companies, cities and communities can move forward on the positive elements of the Summit’s outcome it may assist in one day realizing the Future We Want.

“Meanwhile after almost four decades of discussion, governments have decided to upgrade UNEP including in key areas such as universal membership and improved financial resources-this is welcome as one important way for improving the authority, the influence and the impact of the world’s ministers responsible for the environment in terms of moving development onto a more sustainable track.”

What happened in Rio Centro in June 2012 was, of course, only part of the Rio+20 story. Civil society, deprived of any meaningful chance to participate in any meaningful discussion of the Conference’s conclusions, was nonetheless determined to make its voice heard.

Twenty years earlier a group of Yanomami Indians, all sporting their distinctive lip-stretching bangles, had gripped the attention of the Earth Summit with their plea for the rights of indigenous peoples. In Rio 2012 the side-events of all kinds began long before the Conference and some of them continued after it had closed.

Arguably, one of the most important side-events in Rio in 2012 was the first-ever gathering of the chief justices of the world’s supreme courts — the UNEP-organized World Congress on Justice, Law and Environmental Sustainability. The 200 Participants in the World Congress included chief justices, senior judges, attorney-generals, chief prosecutors, auditor-generals and senior auditors. They met for the first time on Sunday evening, June 17, before Rio+20’s official opening, in the splendour of Rio de Janeiro’s own Tribunal di Justiça to make it absolutely clear that environmental rights were part and parcel of the rule of law, to be enforced alongside, and indeed as a component of, basic human rights. See www.unep.org/delc/worldcongress/

One of the most remarkable speeches was given by Ricardo Lorenzetti, the Supreme Court chief justice of Argentina. He made it absolutely clear that in his view it was the duty of the judiciary to stop the politicians reneging on their promises, or the “no-regression principle”. Once a human right has been admitted, including the right to a decent environment, it cannot be reversed. “The key role of the judiciary is that we do not depend on election,” he said.

Kwon Jae-Jin, Korea’s minister of justice, gave a graphic account of how his country had cleaned up the rivers and waterways by using the full force of the law against polluting industries.

Prof Nicholas Robinson, a former chairman of IUCN’s Commission on Environmental Law, said: “It is probably utopic to expect that judges by themselves will be able to solve the environmental problems of the planet. But too bad for the planet if it doesn’t have the judges on its side.”

Steiner, UNEP’s Executive Director, who had an apparently enviable ability to be in several different places at once told the gathering of Supreme Court Justices that good governance nationally as well as internationally was one of the key themes at Rio+20. “Citizens have to be able to take their own governments to account for failure to uphold commitments they have entered into.”

This was not an academic consideration. The Zero Draft of The Future We Want, dated 10 January 2012, had included, as paragraph 58, the

sentence: “We agree to take steps to give further effect to Rio Principle 10 at the global, regional and national level, as appropriate.”

Rio Principle 10 famously stated:

“Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”

Rio Principle 10 had served as the basis of the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). One of the high hopes of UNEP and others as they looked towards Rio+20 was that the language in the Zero Draft would be retained in the final document, so that the momentum for a ‘globalization’ of Aarhus might be maintained. This was one of the points emphasized by the World Congress as it called on governments to back an Institutional Framework for the Advancement of Justice, Governance and Law for Environmental Sustainability in the 21st Century backed by UNEP.

As far as Rio Principle 10 was concerned, the World Congress did not achieve all that it wished to achieve, not that week in June 2012 anyway. Clear language calling for a ‘global Aarhus Convention’ to give international and legally-binding effect to Rio Principle 10 would indeed have been a major ‘outcome’ to the Rio+20 Conference, to rival the Rio 1992 ‘outcomes.’ But such language was not forthcoming. As we have seen, the final draft of *The Future We Want*, had already been sealed even before Rio+20 officially opened.

In the official outcome document, there is no clear call for a ‘globalization of Aarhus’ Instead the text reads: “We encourage action at regional, national, sub-national, and local levels to promote access to

information, public participation, and access to justice in environmental matters, as appropriate.”

Good, as far as it goes, but does it go far enough? Those most concerned with the implementation and enforcement of environmental law obviously felt it didn’t. One of the participants in the World Congress, John Scanlon, the Executive Secretary of CITES, told participants that 500 rhinos had been poached in South Africa in the course of 2011 and it looked as though a similar or even larger number might suffer the same fate in the current year. Better access to justice, better enforcement of judicial processes might make all the difference.

If Geoffrey Lean is the doyen of environmental journalists, Fred Pearce is perhaps the doyen of scientific journalists. Writing for *Yale Environment 360*:³²⁴ on 28 June 2012, having had plenty of time to clear his head from a surfeit of caipirinhas, Pearce produced a verdict on the Rio+20, which somehow (miraculously?) manages to be both accurate and hopeful.

“There were no histrionics, no last-minute deals or walkouts. In fact, no anything really. The *Rio+20 Earth Summit* last week ended with barely a whimper. Many of the halls emptied by early afternoon on the final day. With the concluding text agreed three days earlier, the journalists had little to report, unplugged their laptops, and headed for the beaches.

“And yet, behind the scenes, something really interesting just may have happened in Rio. The summit was never going to be like its illustrious predecessor in Rio de Janeiro 20 years earlier. At the original event, virtually all the world’s leaders (including a reluctant George H.W. Bush) signed two ground breaking treaties, on climate change and protecting biodiversity. Neither has turned out to be as effective as hoped back then. But the ambition was clear: saving the planet and achieving “*sustainable development*” for all.

“Two decades on, the planet’s ecosystems are still degrading fast. Any green gains have been wiped out by soaring consumption. Humanity’s

annual requirement for natural resources is about double what it was then. The rate of species extinctions is undiminished. Carbon dioxide emissions are up 40 per cent, and the concentration of the heat-trapping gas this year for the first time hit 400 parts per million (ppm) in the Arctic air — up about 40 ppm from 1992.

“But the former will among politicians to address the challenge has dissipated. Where in Rio this time, were Obama, Merkel, and Cameron? Even Hillary Clinton only showed in Rio for a few hours. Where were the new treaties to sign? Europeans in particular had hoped to get agreement on drawing up a convention to protect the high seas, which are currently not covered by either national jurisdiction or international environmental law. But an unlikely alliance of the U.S. and Venezuela, backed by Japan, Russia, and Canada, vetoed the plan at the last.

“The text of the Rio+20 Outcomes Document, the conference’s main formal declaration, is lame even by the standards of international diplomacy. Beside a high-seas commitment, other proposals omitted from the declaration included an outright condemnation of subsidies for fossil fuels, support for mandatory environmental and sustainability reporting by large corporations, and a green light for green taxes.

“The conference did agree to start talks on setting sustainable development goals to augment the world’s existing millennium development goals, but could not agree on what topics they might cover. Even a planned upgrade of the UN Environment Programme fizzled.

“The process for drafting the Rio+20 declaration was as flawed as the outcome. The Brazilian hosts decreed that all text had to be agreed before the arrival of government ministers for the final three days. As the deadline approached, they simply deleted those sections causing controversy and replaced them with weak compromise text. At most such conferences, ministers do deals to improve on the work of their civil servants. That often produces the late-night drama. Here, they were presented with a lowest-common-denominator *fait accompli*. There wasn’t even a slot on the conference agenda for them to discuss the text they were signing. Any semblance of democratic accountability was lost.

“The diplomats professed to be happy. The UN official in charge of the conference, Sha Zukang, declared a “successful” outcome. But environmentalists, scientists and social activists saw only that nobody had been committed to anything. Even conference veterans well versed in how to extract a smidgeon of success in grievous compromise could find nothing to cheer. WWF International lambasted a “colossal failure of leadership and vision”; Care International called it a “charade.”

“The recriminations began even before the conference closed. British Deputy Prime Minister Nick Clegg blamed developing countries for being “antagonistic to our European ideas on the *green economy*.” Brazilian delegate and senator Eduardo Braga said, “Europe is too absorbed by its economic problems.”

“Both were right. But so too was the director of the UN Environment Programme Achim Steiner, when he said in mid-conference that it revealed “a world at a loss what to do.” On the final day, he concluded: “We can’t legislate sustainable development in the current state of international relations.”

“If not legislation, then what?

“In part, the absence of ambition derives from a new realism about what international agreements alone can achieve. The World Bank’s vice president of sustainable development, Rachel Kyte, remembered how 20 years before, governments appeared to believe that the planet could be put on a green path with some environmental laws to curb Western profligacy and some overseas aid for the developing countries. Nobody believes that anymore.

“But there is optimism that a new way can be found. “We have failed to turn things round in the past 20 years,” said Steiner, “but underneath that failure there is an extraordinary array of activity and innovation.” The heart of that was a beguiling phrase: green economics. Rather than fighting the power of capital, or trying to legislate away its environmental downsides, the idea is to harness market forces to turn economies onto a green track. More carrot and less stick.

“Green economics, though only briefly mentioned in the final declaration, was on everyone’s lips in the corridors at Rio. Kyte insisted it was the answer. “Twenty years ago, we agreed what to do; now we have the tools to do it.” Steiner chastised environmentalists who feared it. “If we do not go into the heart of economic policy, we will meet here at Rio+40 even more culpable. Markets are social constructs. They are not a force like gravity. They can be governed.”

“Green economics, as represented in Rio, meant primarily introducing metrics about the use and abuse of nature and natural resources into corporate and national accounting. This would, as Steiner put it, bring the environment within the “visible spectrum” of economic activity. The theory goes that once natural capital turns up on balance sheets in the same way as man-made capital, then CEOs and policy makers will adopt greener ways. Natural capital accounting should mean environmental protection is seen as an investment, rather than a cost, said economist Sam Fankhauser of the London School of Economics. Corporations will husband resources better, while governments will switch taxation onto resource use and pollution rather than economic activity itself.

“Faced with national governments reluctant to engage in its grand plans, the UN is increasingly turning to corporations to make a difference. This too is seen as part of the brave new world of green economics. Tim Wirth, the former U.S. senator who now heads the UN Foundation, which fosters UN links with business, told journalists that “magic” public-private partnerships were more important than any conference declaration.

“Leading the charge to grab some of the action is Chad Holliday, former president of DuPont and now chairman of the Bank of America.

“UN Secretary-General Ban Ki-moon has recruited him to co-chair his ambitious programme to bring electricity and clean cooking fuel to the billions still without them by 2030. Holliday called the energy scheme “the greatest public-private partnership of all time” and said it would become the prototype for how to implement the planned UN sustainable development goals.

“Many other CEOs have picked up the scent that there is plenty of business to be done. The UN claimed there were 1,500 corporate leaders in town for the conference, compared with only a handful in 1992.

“The public-private partnerships will involve public funding, from governments and bodies such as the World Bank, leveraging further investment from the profit-seeking private sector. Ban’s energy plan, dubbed “sustainable energy for all,” has brought a commitment of \$2.4 billion from the Brazilian government to connect its remaining citizens to the national grid by 2014.

“With such inducements, corporations have pledged \$50 billion in further investment round the world. And that is just the start. In another sign of how public-private partnerships might deliver, the Asian Development Bank announced here that it had launched a consortium of banks and corporations aiming to spend \$175 billion over the next decade on “sustainable” transportation systems across the developing world, including rapid-transit bus networks, railways, and fuel-efficient vehicles.

“Is this the salvation of the world, or a headlong rush into an unsustainable future under a green logo? NGOs warned in Rio that if nature had a dollar sign attached, corporations would soon take it over. They see the trading of carbon rights to forests, proposed under future climate change agreements, as just the start.

“Meanwhile, ecologists pointed out that ecosystems do not function like warehouse inventories and that equating natural man-made capital could be both bad economics and bad ecology. Green economies “need to be embedded in ecological principles and not simply focused on economic growth based on new, greener production systems,” wrote Georgina Mace of Imperial College London in a paper in PLoS Biology, published to coincide with the conference.

“But whatever the drawbacks of commodifying nature, something has to be done. The state of the host country today, 20 years after the first Earth Summit, underlines the failed resolve of the intervening years.

“The good news is that Brazil is saving the Amazon. Deforestation rates are down over 70 per cent on a decade ago. But the bad news is that it is doing so by allowing agribusiness to invade huge areas of the almost equally precious cerrado grasslands. In Rio, a megacity of some 10 million people, there are a handful more stops on the Metro, but road traffic has still vastly increased. Rio+20 was held, like its predecessor, at a vast conference complex 40 kilometers out of town, which most of the 45,000 participants reached on two-hour rides from the congested city aboard 350 air-conditioned buses.

“Most worryingly, when I came to the first Earth Summit 20 years ago, everyone agreed that the model for how the developing world could

achieve urban sustainability was the nearby Brazilian city of Curitiba. Its innovative bus transit system, trash recycling and poverty alleviation programmes — set up by mayor and urban planner Jaime Lerner — were a huge success, as I saw on a short visit.

“This time, I asked a new generation of delegates what the new urban model might be. Oh, Curitiba, they said. Any others? They scratched their heads. In two decades, nobody has successfully repeated the Curitiba experiment. Until there are thousands of Curitibas — thanks to green economics or some other means — the world will still be hurtling towards disaster. And we may not have another 20 years.”





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Current UNEP Executive Director, Achim Steiner, and three predecessors; Mostafa Tolba, Elizabeth Dowdeswell and Klaus Töpfer.

EPILOGUE

UNEP — The First 40 years by Stanley Johnson provides a unique perspective of the life and times of the environment programme of the UN since its inception in 1972.

It is not an 'authorized' biography of UNEP, but the personal viewpoint of the author based on his own experience of many of the events recorded, as well as other source material and interviews with current and former UNEP staff.

The book has been completed under a tight deadline and we recognise that individuals, organisations and governments who have contributed to UNEP's history may have been overlooked and key events missed, or perhaps not given the attention they deserve.

If this is the case, we apologise in advance, and welcome any opinions or additional material to support the online version of this publication.

This 40th anniversary book in substantive terms ends with the Rio+20 Summit, held in Rio de Janeiro, Brazil, June 2012, 40 years after Stockholm and 20 years after the ground-breaking Rio Earth Summit of 1992.

A new chapter is, however, already unfolding.

At the recent 67th session of the UN General Assembly (UNGA), member states of the United Nations took several important decisions to give effect to the conclusions of the International Conference on Sustainable Development, held in Rio de Janeiro, Brazil, in June 2012, as expressed in the document entitled "The Future We Want" which was adopted by the Conference.

Actions include progressing the development and design of the Sustainable Development Goals, as called for by United Nations Secretary-General Ban Ki-moon, to build on the Millennium Development Goals post-2015³²⁵: defining a new indicator of wealth beyond GDP; sustainable procurement among governments and moving forward on the 10 Year Framework of Programmes for Sustainable Consumption and Production.

The empowerment by Heads of State of the inclusive Green Economy in the context of sustainable development and poverty eradication has also breathed new life into this initiative. A Partnership for the Green Economy involving UNEP and sister agencies like UNDP and government funding has also now been launched to expand advisory services to developing economies and build capacity.

As Achim Steiner pointed out: "The outcome of Rio+20 will disappoint and frustrate many given the science, the day to day reality of often simply surviving

as individuals and as families, the analysis of where development is currently heading for seven billion people and the inordinate opportunity for a different trajectory. However if nations, companies, cities and communities can move forward on the positive elements of the Summit's outcome it may assist in one day realizing the 'Future We Want'."

Above all the build up to Rio+20, beset by various new and on-going crises, and its outcome has perhaps finally led to a deeper, wider and more urgent understanding of the imperative of a balanced form of sustainable development — making economists more environmentally literate and environmentalists more economically aware in order to also deliver transformational social outcomes.

The 67th session of the UNGA also addressed the future of UNEP in respect to the Rio+20 Summit's outcomes including how best to strengthen and upgrade UNEP, realize the benefits of universal membership, provide increased resources and devise a mechanism for better engaging civil society. The full text of the General Assembly's resolution, as adopted without a vote on December 21, 2012, is given in Annex 6.

It must be a matter of great satisfaction to all those who have been involved in this unfolding story over the last four decades that the United Nations General Assembly has once again seen fit to reaffirm "its commitment to strengthening the role of the United Nations Environment Programme as the leading global environmental authority that sets the global environmental agenda, promotes the coherent implementation of the environmental dimension of sustainable development within the United Nations system and serves as an authoritative advocate for the global environment."

The adoption of this UNGA resolution provides indeed a fitting conclusion to Stanley Johnson's narrative. The General Assembly has instructed the new 'universal' UNEP Governing Council to take the decisions called for in Rio in June 2012 regarding the 'upgrading and strengthening of UNEP'.

There is a fresh spring in the step of staff at UNEP and optimism that a new and even more consequential chapter has opened that bodes well for greater engagement towards a far more positive future for the world's people and the planet.

Nick Nuttall, *UNEP Spokesperson, Gigiri, Nairobi, Kenya,*
December 21, 2012

ANNEX 1

UNGA RESOLUTION 2994 (XXVII)

2994 (XXVII). United Nations Conference on the Human Environment

The General Assembly,

Reaffirming the responsibility of the international community to take action to preserve and enhance the environment and, in particular, the need for continuous international co-operation to this end,

Recalling its resolutions **2398** (XXIII) of 3 December **1968**, **2581** (XXIV) of 15 December **1969**, **2657** (XXV) of 7 December **1970**, **2849** (XXVI) and **2850** (XXVI) of 20 December 1971,

Having considered the report of the United Nations Conference on the Human Environment, held at Stockholm from 5 to 16 June **1972**, and the report of the Secretary-General thereon,

Expressing its satisfaction that the Conference and the Preparatory Committee for the United Nations Conference on the Human Environment succeeded in focusing the attention of Governments and public opinion on the need for prompt action in the field of the environment,

- **Takes note with satisfaction** of the report of the United Nations Conference on the Human Environment;
- **Draws the attention** of Governments and the Governing Council of the United Nations Environment Programme to the Declaration of the United Nations Conference on the Human Environment and refers the

Action Plan for the Human Environment to the Governing Council for appropriate action;

- **Draws the attention** of Governments to the recommendations for action at the national level referred to them by the Conference for their consideration and such action as they might deem appropriate;
- **Designates 5 June** as World Environment Day and urges Governments and the organizations in the United Nations system to undertake on that day every year world-wide activities reaffirming their concern for the preservation and enhancement of the environment, with a view to deepening environmental awareness and to pursuing the determination expressed at the Conference;

Takes note with appreciation of resolution **4 (I)** of **15 June 1972** adopted by the Conference on the convening of a second United Nations Conference on the Human Environment and refers this matter to the Governing Council of the United Nations Environment Programme with the request that the Council study this matter, taking into account the status of implementation of the Action Plan and future developments in the field of the environment, and report its views and recommendations to the General Assembly so that the Assembly can take a decision on all aspects of the matter not later than at its twenty-ninth session.

2112th plenary meeting 15 December 1972

ANNEX 2

UNGA RESOLUTION 2997 (XXVII)

General Assembly decision (Res.2997 (XXVII)) was probably the chief accomplishment of the 1972 General Assembly. Because Resolution 2997 is of such fundamental importance to the story of UNEP, the full text is given below:

The General Assembly,

Convinced of the need for prompt and effective implementation by Governments and the international community of measures designed to safeguard and enhance the environment for the benefit of present and future generations of man,

Recognizing that responsibility for action to protect and enhance the environment rests primarily with Governments and, in the first instance, can be exercised more effectively at the national and regional levels,

Recognizing further that environmental problems of broad international significance fall within the competence of the United Nations system,

Bearing in mind that international co-operative programmes in the field of the environment must be undertaken with due respect for the sovereign rights of States and in conformity with the Charter of the United Nations and principles of international law,

Mindful of the sectoral responsibilities of the organizations in the United Nations system,

Conscious of the significance of regional and subregional co-operation in the field of the environment and of the important role of the regional economic commissions and other regional intergovernmental organizations,

Emphasizing that problems of the environment constitute a new and important area for international cooperation and that the complexity and interdependence of such problems require new approaches,

Recognizing that the relevant international scientific and other professional communities can make an important contribution to international co-operation in the field of the environment,

Conscious of the need for processes within the United Nations system which would effectively assist developing countries to implement environmental policies and programmes that are compatible with their development plans and to participate meaningfully in international environmental programmes,

Convinced that, in order to be effective, international co-operation in the field of the environment requires additional financial and technical resources,

Aware of the urgent need for a permanent institutional arrangement within the United Nations system for the protection and improvement of the environment,

Taking note of the report of the Secretary-General of the United Nations Conference on the Human Environment,

ANNEX 2 (continued)

I

GOVERNING COUNCIL OF THE UNITED NATIONS ENVIRONMENT PROGRAMME

1. **Decides** to establish a Governing Council of the United Nations Environment Programme, composed of fifty-eight members elected by the General Assembly for three-year terms on the following basis:
 - (a) Sixteen seats for African States;
 - (b) Thirteen seats for Asian States;
 - (c) Six seats for Eastern European States;
 - (d) Ten seats for Latin American States;
 - (e) Thirteen seats for Western European and other States;
2. **Decides** that the Governing Council shall have the following main functions and responsibilities:
 - (a) To promote in programmes within the United Nations system;
 - (d) To keep under review the world environmental situation in order to ensure that emerging environmental problems of wide international significance receive appropriate and adequate consideration by Governments;
 - (e) To promote the contribution of the relevant international scientific and other professional communities to the acquisition, assessment and exchange of environmental knowledge and information and, as appropriate, to the technical aspects of the formulation and implementation of environmental programmes within the United Nations system;
 - (f) To maintain under continuing review the impact of national and international environmental policies and measures on developing countries, as well as the problem of additional costs that may be incurred by developing countries in the implementation of environmental

programmes and projects, and to ensure that such programmes and projects shall be compatible with the development plans and priorities of those countries;

- (g) To review and approve annually the programme of utilization of resources of the Environment Fund referred to in section 111 below;

3. **Decides** that the Governing Council shall report annually to the General Assembly through the Economic and Social Council, which will transmit to the Assembly such comments on the report as it may deem necessary, particularly with regard to questions of co-ordination and to the relationship of environmental policies and programmes within the United Nations system to overall economic and social policies and priorities;

II

ENVIRONMENT SECRETARIAT

1. **Decides** that a small secretariat shall be established in the United Nations to serve as a focal point for environmental action and co-ordination within the United Nations system in such a way as to ensure a high degree of effective management;
2. **Decides** that the environment secretariat shall be headed by the Executive Director of the United Nations Environment Programme, who shall be elected by the General Assembly on the nomination, of the Secretary-General for a term of four years and who shall be entrusted, inter alia, with the following responsibilities:
 - (a) To provide substantive support to the Governing Council of the United Nations Environment Programme;
 - (b) To co-ordinate, under the guidance of the Governing Council, environmental programmes within the United Nations system, to keep their implementation under review and to assess their effectiveness;

ANNEX 2 (continued)

- (c) To advise as appropriate, and under the guidance of the Governing Council, intergovernmental bodies of the United Nations system on the formulation and implementation of environmental programmes;
- (d) To secure the effective co-operation of, and contribution from, the relevant scientific and other professional communities in all parts of the world;
- (e) To provide, at the request of all parties concerned, advisory services for the promotion of international co-operation in the field of the environment;
- (f) To submit to the Governing Council, on his own initiative or upon request, proposals embodying medium-range and long-range planning for United Nations programmes in the field of the environment;
- (g) To bring to the attention of the Governing Council any matter which he deems to require consideration by it;
- (h) To administer, under the authority and policy guidance of the Governing Council, the Environment Fund referred to in section III below;
- (i) To report on environmental matters to the Governing Council;
- (j) To perform such other functions as may be entrusted to him by the Governing Council;

3. **Decides** that the costs of servicing the Governing Council and providing the small secretariat referred to in paragraph 1 above shall be borne by the regular budget of the United Nations and that operational programme costs, programme support and administrative costs of the Environment Fund established under section III below shall be borne by the Fund;

III

ENVIRONMENT FUND

1. **Decides** that, in order to provide for additional financing for environmental programmes, a voluntary fund shall be established, with effect from 1 January 1973, in accordance with existing United Nations financial procedures;

2. **Decides** that, in order to enable the Governing Council of the United Nations Environment Programme to fulfil its policy guidance role for the direction and co-ordination of environmental activities, the Environment Fund shall finance wholly or partly the costs of the new environmental initiatives undertaken within the United Nations system which will include the initiatives envisaged in the Action Plan for the Human Environment⁴³ adopted by the United Nations Conference on the Human Environment, with particular attention to integrated projects, and such other environmental activities as may be decided upon by the Governing Council and that the Governing Council shall review these initiatives with a view to taking appropriate decisions as to their continued financing;

3. **Decides** that the Environment Fund shall be used for financing such programmes of general interest as regional and global monitoring, assessment and data-collecting systems, including, as appropriate, costs for national counterparts; the improvement of environmental quality management; environmental research; information exchange and dissemination; public education and training; assistance for national, regional and global environmental institutions; the promotion of environmental research and studies for the development of industrial and other technologies best suited to a policy of economic growth compatible with adequate environmental safeguards; and such other programmes as the Governing Council may decide upon, and that in the implementation of such programmes due account should be taken of the special needs of the developing countries;

4. **Decides** that, in order to ensure that the development priorities of developing countries shall not be adversely affected, adequate measures shall be taken to provide additional financial resources on terms compatible with the economic situation of the recipient developing country, and that, to this end, the Executive Director, in co-operation with competent organizations, shall keep this problem under continuing review;

ANNEX 2 (continued)

5. **Decides** that the Environment Fund, in pursuance of the objectives stated in paragraphs 2 and 3 above, shall be directed to the need for effective co-ordination in the implementation of international environmental programmes of the organizations in the United Nations system and other international organizations;

6. **Decides** that, in the implementation of programmes to be financed by the Environment Fund, organizations outside the United Nations system, particularly those in the countries and regions concerned, shall also be utilized as appropriate, in accordance with the procedures established by the Governing Council, and that such organizations are invited to support the United Nations environmental programmes by complementary initiatives and contributions;

7. **Decides** that the Governing Council shall formulate such general procedures as are necessary to govern the operations of the Environment Fund;

IV

ENVIRONMENT CO-ORDINATION BOARD

1. **Decides** that, in order to provide for the most efficient co-ordination of United Nations environmental programmes, an Environment Co-ordination Board, under the chairmanship of the Executive Director of the United Nations Environment Programme, shall be established under the auspices and within the framework of the Administrative Committee on Co-ordination;

2. **Further decides** that the Environment Co-ordination Board shall meet periodically for the purpose of ensuring co-operation and co-ordination

among all bodies concerned in the implementation of environmental programmes and that it shall report annually to the Governing Council of the United Nations Environment Programme;

3. **Invites** the organizations of the United Nations system to adopt the measures that may be required to undertake concerted and co-ordinated programmes with regard to international environmental problems, taking into account existing procedures for prior consultation, particularly on programme and budgetary matters;

4. **Invites** the regional economic commissions and the United Nations Economic and Social Office at Beirut, in co-operation where necessary with other appropriate regional bodies, to intensify further their efforts directed towards contributing to the implementation of environmental programmes in view of the particular need for the rapid development of regional cooperation in this field;

5. **Also invites** other intergovernmental and those non-governmental organizations that have an interest in the field of the environment to lend their full support and collaboration to the United Nations with a view to achieving the largest possible degree of co-operation and co-ordination;

6. **Calls upon** Governments to ensure that appropriate national institutions shall be entrusted with the task of the co-ordination of environmental action, both national and international;

7. **Decides** to review as appropriate, at its thirty-first session, the above institutional arrangements, bearing in mind, inter alia, the responsibilities of the Economic and Social Council under the Charter of the United Nations.

2112th plenary meeting, 15 December 1972.

ANNEX 3

UNGA RESOLUTION 3004 (XXVII)

3004 (XXVII). Location of the environment secretariat

The General Assembly,

Recalling its resolutions 2398 (XXIII) of 3 December 1968, 2581 (XXIV) of 15 December 1969, 2657

(XXV) of 7 December 1970 and 2850 (XXVI) of 20 December 1971 on the preparations for the United Nations Conference on the Human Environment,

Noting with appreciation the report of the United Nations Conference on the Human Environment, in particular the recommendation on the establishment of the environment secretariat,

Noting also the report of the Secretary-General on the location of the proposed environment secretariat,

Considering that the headquarters of the United Nations and of the specialized agencies are all located in the developed States in North America and Western Europe,

Convinced that in order to employ international machinery for the promotion of the economic and social advancement of all peoples, in accordance with the Preamble of the Charter of the United Nations, the activities and headquarters or secretariats of United Nations bodies or agencies should be located having regard, *inter alia*, to equitable geographical distribution of such activities, headquarters or secretariats,

1. *Decides* to locate the environment secretariat in a developing country;
2. *Further decides* to locate the environment secretariat in Nairobi, Kenya.

2112th plenary meeting 15 December 1972

ANNEX 4

REGIONAL SEAS CONVENTIONS AND PROTOCOLS

[Mediterranean](#) | [Kuwait Region](#) | [West and Central Africa](#) | [South-East Pacific](#) | [Red Sea and Gulf of Aden](#) | [Wider Caribbean](#) | [Eastern Africa](#) | [South Pacific](#) | [Black Sea](#) | [North-East Pacific](#) | [partner programmes](#) [Mediterranean](#)

The Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention); adopted on 16 February 1976, in force 12 February 1978; revised in Barcelona, Spain, 9-10 June 1995 as the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (not yet in force) HYPERLINK "http://www.unep.ch/regionalseas/regions/med/t_barcel.htm" Revised text (1995)

The Protocol for the Prevention and Elimination of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft (Dumping Protocol); adopted in Barcelona, Spain, on 16 February 1976, in force 12 February 1978, revised in Barcelona, 9-10 June 1995 as the Protocol for the Prevention and Elimination of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft or Incineration at Sea Original text (1976) Revised text (1995)

The Protocol Concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances in Cases of Emergency (Emergency Protocol); adopted in Barcelona, Spain, on 16 February 1976, in force 12 February 1978 Full text

Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources (LBS Protocol); adopted in Athens, Greece, on 17 May 1980, in force 17 June 1983, amended in Syracuse, Italy, 6 - 7 March 1996 as the

Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities Full text Amended text

The Protocol Concerning Mediterranean Specially Protected Areas (SPA Protocol); adopted in Geneva Switzerland, on 2 April 1982, in force 1986, revised in Barcelona, Spain on 9-10 June 1995 as the Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean (SPA and Biodiversity Protocol) Full text Revised text

The Protocol for the Protection of the Mediterranean Sea against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil (Offshore Protocol); adopted in Madrid, Spain, 13-14 October 1994 Full text

The Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movementss of Hazardous Wastes and their Disposal (Hazardous Wastes Protocol); adopted in Izmir, Turkey, 30 September-1 October 1996, not yet in force Full text

Texts also available to download from the Mediterranean Action Plan website HYPERLINK "<http://www.unepmap.org/>" <http://www.unepmap.org/>

[Kuwait region](#)

Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution (Kuwait Convention); adopted 1978, in force 1979

Protocol Concerning Regional Co-operation in Combating Pollution by Oil and Other Harmful Substances in Cases of Emergency; adopted 1978, in force 1979

ANNEX 4 (continued)

REGIONAL SEAS CONVENTIONS AND PROTOCOLS

Protocol for the Protection of the Marine Environment against Pollution from Land-Based Sources; adopted 1990, in force 1993

Protocol on the Control of Marine Transboundary Movements and Disposal of Hazardous Wastes; adopted 1998

Protocol concerning Marine Pollution resulting from Exploration and Exploitation of the Continental Shelf; adopted 1989, in force 1990

West and Central Africa

Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region (Abidjan Convention); adopted 1981, in force 1984

Protocol on concerning cooperation in combating pollution in cases of emergency; adopted in 1981, in force 1984

South-East Pacific

Convention for the Protection of the Marine Environment and Coastal Area of the South-East Pacific (Lima Convention); adopted 1981, in force 1986

Agreement on Regional Cooperation in Combating Pollution of the South-East Pacific by Hydrocarbons or Other Harmful Substances in Case of Emergency; adopted 1981

Supplementary Protocol to the Agreement on Regional Co-Operation in Combating Pollution of the South-East Pacific by Hydrocarbons or Other Harmful Substances in Cases of Emergency; adopted 1983, in force 1987

Protocol for the Protection of the South-East Pacific against Pollution from Land-based Sources; adopted 1983, in force 1986

Protocol for the Conservation and Management of Protected Marine and Coastal Areas of the South-East Pacific; adopted 1989, in force 1994

Protocol for the Protection of the South-East Pacific Against Radioactive Contamination; adopted 1989, in force 1995

Protocol on the Programme for the Regional Study on the El Niño Phenomenon (ERFEN) in the South-East Pacific; adopted 1992

Red Sea and Gulf of Aden

Regional Convention for the Conservation of the Red Sea and Gulf of Aden Environment (Jeddah Convention); adopted 1982, in force 1985

Protocol Concerning Regional Co-Operation in Combating Pollution by Oil and Other Harmful Substances in Cases of Emergency; adopted 1982, in force 1985

Wider Caribbean

Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena Convention); adopted 1983, in force 1986

Protocol Concerning Co-operation in Combating Oil Spills in the Wider Caribbean Region; adopted 1983, in force 1986

Protocol concerning Protected Areas and Wildlife (SPAW); adopted 1990

Protocol on the prevention, reduction and control of land-based sources and activities; adopted 1999.

Texts available from the [HYPERLINK "http://www.cep.unep.org/law/sub_law.htm"](http://www.cep.unep.org/law/sub_law.htm) *Caribbean Environment Programme.*

ANNEX 4 (continued)

REGIONAL SEAS CONVENTIONS AND PROTOCOLS

Eastern Africa

The Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region (Nairobi Convention); adopted 1985, in force 1996

The Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region; adopted 1985

The Protocol concerning Co-operation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region; adopted 1985

South Pacific

Convention for the Protection of Natural Resources and Environment of the South Pacific Region (Noumea Convention); adopted 1986, in force 1990

Protocol for the Prevention of Pollution of the South Pacific Region by Dumping; adopted 1986, in force 1990

Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region; adopted 1986, in force 1990

Black Sea

Convention on the Protection of the Black Sea Against Pollution (Bucharest Convention); adopted 1992, in force 1994 Full text

Protocol on Protection of the Black Sea Marine Environment Against Pollution from Land-based Sources; adopted 1992, in force 1994 Full text

Protocols on Cooperation in Combating Pollution of the Black Sea Marine Environment by Oil and other Harmful Substances in Emergency Situations; adopted 1992, in force 1994 Full text

Protocol on the Protection of the Black Sea Marine Environment Against Pollution by Dumping; adopted 1992, in force 1994 Full text

North-East Pacific

The Convention for Cooperation in the Protection and Sustainable Development of the Marine and Coastal Environment of the Northeast Pacific; adopted 2002. Full text

Partner programmes

Antarctic: Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR); in force 1982

Baltic: Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki Convention); adopted 1974, in force 1980, revised 1992, in force 2000

Caspian: Framework Convention for the Protection of the Marine Environment of the Caspian Sea; adopted 2003

North-East Atlantic: The Convention for the Protection of the Marine Environment of the North-East Atlantic – Oslo and Paris conventions; adopted 1974, revised and combined into OSPAR Convention 1992, in force 1998

ANNEX 5

MALMÖ MINISTERIAL DECLARATION OF 31 MAY, 2000

We, Ministers of Environment and heads of delegation meeting in Malmö, Sweden from 29 to 31 May 2000, on the occasion of the First Global Ministerial Environment Forum, held in pursuance of United Nations General Assembly resolution 53/242 of 28 July 1999 to enable the world's environment ministers to gather to review important and emerging environmental issues and to chart the course for the future,

Recalling the Stockholm Declaration of the United Nations Conference on the Human Environment and the Rio Declaration of the United Nations Conference on Environment and Development, the Barbados Declaration on the Sustainable Development of Small Island Developing States as well as the Nairobi Declaration on the Role and Mandate of the United Nations Environment Programme,

Deeply concerned that, despite the many successful and continuing efforts of the international community since the Stockholm Conference, and some progress having been achieved, the environment and the natural resource base that supports life on Earth continue to deteriorate at an alarming rate,

Reaffirming the importance of the speedy implementation of the political and legal commitments entered into by the international community, in particular at the Rio Conference,

Convinced that urgent and renewed efforts are required to be undertaken by all countries in a spirit of international solidarity, and recognizing, inter alia, the principle of common but differentiated responsibility as contained in the Rio Principles to manage the environment so as to promote sustainable development for the benefit of present and future generations,

Conscious that the root causes of global environmental degradation are embedded in social and economic problems such as pervasive poverty, unsustainable production and consumption patterns, inequity in distribution of wealth, and the debt burden,

Also conscious that success in combating environmental degradation is dependent on the full participation of all actors in society, an aware and educated population, respect for ethical and spiritual values and cultural diversity, and protection of indigenous knowledge

Aware that the 10-year review and appraisal of the implementation of Agenda 21 to be conducted in 2002 will provide a further opportunity for the international community to take action to implement its commitments and to strengthen international cooperation urgently required to address the challenges of sustainable development in the twenty-first century,

Convinced that the Millennium Summit of the fifty-fifth session of the United Nations General Assembly provides a unique opportunity to address at the highest level the role of the United Nations in the field of sustainable development, and noting in this regard the proposals of the Secretary-General of the United Nations as contained in his report “We the peoples: the role of the United Nations in the twenty-first century”, which will serve as the basis of discussion at the Summit,

Determined to contribute to this historic endeavour from an environmental perspective, and having requested the President of the Governing Council to bring the following matters to the attention of the fifty-fifth session of the General Assembly, the Millennium Assembly,

ANNEX 5 (continued)

MALMÖ MINISTERIAL DECLARATION OF 31 MAY, 2000

Declare that:

Major environmental challenges of the twenty-first century

1. The year 2000 marks a defining moment in the efforts of the international community to ensure that the growing trends of environmental degradation that threaten the sustainability of the planet are arrested and reversed. Hence there is an urgent need for reinvigorated international cooperation based on common concerns and a spirit of international partnership and solidarity.
2. There is an alarming discrepancy between commitments and action. Goals and targets agreed by the international community in relation to sustainable development, such as the adoption of national sustainable development strategies and increased support to developing countries, must be implemented in a timely fashion. The mobilization of domestic and international resources, including development assistance, far beyond current levels is vital to the success of this endeavour.
3. The evolving framework of international environmental law and the development of national law provide a sound basis for addressing the major environmental threats of the day. It must be underpinned by a more coherent and coordinated approach among international environmental instruments. We must also recognize the central importance of environmental compliance, enforcement and liability, and promote the observation of the precautionary approach as contained in the Rio Principles, and other important policy tools, as well as capacity-building.
4. The Global Environment Outlook 2000 of the United Nations Environment Programme provides a compelling assessment of the serious nature of the environmental threats faced by the international community. Special attention should be paid to unsustainable consumption patterns among the richer segments in all countries, particularly developed countries. Environmental stewardship is lagging behind economic and social development, and a rapidly growing population is placing increased pressures on the environment.
5. Environmental threats resulting from the accelerating trends of urbanization and the development of megacities, the tremendous risk of climate change, the freshwater crisis and its consequences for food security and the environment, the unsustainable exploitation and depletion of biological resources, drought and desertification, and uncontrolled deforestation, increasing environmental emergencies, the risk to human health and the environment from hazardous chemicals, and land-based sources of pollution, are all issues that need to be addressed.
6. Opportunities however exist that can redress this situation. Technological innovation and the emergence of new resource-efficient technologies, in which the private sector plays a major role, provide a source of great hope and increased opportunities to avoid the environmentally destructive practices of the past including through clean technologies.
7. To confront the underlying causes of environmental degradation and poverty, we must integrate environmental considerations in the mainstream of decision-making. We must also intensify our efforts in developing preventive action and a concerted response, including national environmental governance and the international rule of law, awareness-raising and education, and harness the power of information technology to this end. All actors involved must work together in the interest of a sustainable future.
8. It is necessary that the environmental perspective is taken into account in both the design and the assessment of macro-economic policy-making, as well as

ANNEX 5 (continued)

MALMÖ MINISTERIAL DECLARATION OF 31 MAY, 2000

practices of government and multilateral lending and credit institutions such as export credit agencies.

9. The trends of globalization in the world economy, with the attendant environmental risks and opportunities, require international institutions to adopt new approaches and to engage the major actors involved in globalization in new ways. We should encourage a balanced and integrated approach to trade and environment policies in pursuit of sustainable development, in accordance with the decision of the Commission on Sustainable Development at its eighth session.
10. The role and responsibility of nations based on the Rio Principles, as well as the role and responsibility of the main actors including Governments, the private sector and civil society, must be emphasized in addressing the environmental challenges of the twenty-first century. Governments are the primary agents in this process, whose actions are vital in implementing United Nations environment-related instruments since Stockholm, institutional capacity-building and strengthened international cooperation.

The private sector and the environment

11. The private sector has emerged as a global actor that has a significant impact on environmental trends through its investment and technology decisions. In this regard, Governments have a crucial role in creating an enabling environment. The institutional and regulatory capacities of Governments to interact with the private sector should be enhanced. A greater commitment by the private sector should be pursued to engender a new culture of environmental accountability through the application of the polluter-pays

principle, environmental performance indicators and reporting, and the establishment of a precautionary approach in investment and technology decisions. This approach must be linked to the development of cleaner and more resource efficient technologies for a life-cycle economy and efforts to facilitate the transfer of environmentally sound technologies.

12. The potential of the new economy to contribute to sustainable development should be further pursued, particularly in the areas of information technology, biology and biotechnology. The ethical and social implications must be carefully considered. There must be recognition of the public interest in knowledge related to biodiversity, including the interest of indigenous and local communities. A corporate ethic guided by public interest should be promoted.
13. The Global Compact established by the Secretary-General of the United Nations with the private sector provides an excellent vehicle for the development of a constructive engagement with the private sector. UNEP should continue to enhance its engagement and collaboration with the private sector and consider the relation between foreign direct investment and the environment, with a view to minimizing negative environmental implications.

Civil society and the environment

14. Civil society plays a critically important role in addressing environmental issues. The role, capabilities and involvement of civil society organizations has seen a substantial increase over recent years, which highlights the need for national Governments and for UNEP and international organizations to enhance the engagement of these organizations in their work on environmental matters.

ANNEX 5 (continued)

MALMÖ MINISTERIAL DECLARATION OF 31 MAY, 2000

15. Civil society has found new and effective modes of expression of popular sentiments and concerns. It provides a powerful agent for promoting shared environmental purpose and values. Civil society plays an important role in bringing emerging environmental issues to the attention of policy makers, raising public awareness, promoting innovative ideas and approaches, and promoting transparency as well as non-corrupt activities in environmental decision-making.
 16. The role of civil society at all levels should be strengthened through freedom of access to environmental information to all, broad participation in environmental decision-making, as well as access to justice on environmental issues. Governments should promote conditions to facilitate the ability of all parts of society to have a voice and to play an active role in creating a sustainable future.
 17. Science provides the basis for environmental decision-making. There is a need for intensified research, fuller engagement of the scientific community and increased scientific cooperation on emerging environmental issues, as well as improved avenues for communication between the scientific community, decision makers and other stakeholders.
 18. We must pay special attention to threats to cultural diversity and traditional knowledge, in particular of indigenous and local communities, which may be posed by globalization. In this context we welcome the proclamation by the United Nations General Assembly of the year 2001 as the International Year of Dialogue among Civilizations.
 19. Greater emphasis must be given to the gender perspective in decision-making concerning the management of the environment and natural resources.
 20. There is a need for independent and objective media at all levels in enhancing awareness and developing shared environmental values in global society. The media can serve the cause of sustainable development by identifying emerging issues, awareness-raising and promoting appropriate action.
- The 2002 review of UNCED**
21. The 2002 review of the implementation of the outcome of the United Nations Conference on Environment and Development (UNCED) should be undertaken by an international conference at the summit level. The objective should not be to renegotiate Agenda 21, which remains valid, but to inject a new spirit of cooperation and urgency based on agreed actions in the common quest for sustainable development. In this regard, the ratification of all environmental conventions and protocols, in particular those related to climate, desertification, biosafety and chemicals, should be urgently pursued by Governments.
 22. Governments and UNEP have to play a major role in the preparation for the 2002 review of UNCED at the regional and global levels and ensure that the environmental dimension of sustainable development is fully considered on the basis of a broad assessment of the state of the global environment. The preparations for the conference should be accelerated.
 23. The 2002 conference should aim at addressing the major challenges to sustainable development, and in particular the pervasive effects of the burden of poverty on a large proportion of the Earth's inhabitants, counterposed against excessive and wasteful consumption and inefficient resource use that perpetuate the vicious circle of environmental degradation and increasing poverty.

ANNEX 5 (continued)

MALMÖ MINISTERIAL DECLARATION OF 31 MAY, 2000

24. The 2002 conference should review the requirements for a greatly strengthened institutional structure for international environmental governance based on an assessment of future needs for an institutional architecture that has the capacity to effectively address wide-ranging environmental threats in a globalizing world. UNEP's role in this regard should be strengthened and its financial base broadened and made more predictable.

Conclusion

25. At the dawn of this new century, we have at our disposal the human and material resources to achieve sustainable development, not as an abstract concept but as a concrete reality. The unprecedented developments in production and information technologies, the emergence of a younger

generation with a clear sense of optimism, solidarity and values, women increasingly aware and with an enhanced and active role in society - all point to the emergence of a new consciousness.

We can decrease poverty by half by 2015 without degrading the environment, we can ensure environmental security through early warning, we can better integrate environmental consideration in economic policy, we can better coordinate legal instruments and we can realize a vision of a world without slums. We commit ourselves to realizing this common vision

*Adopted by the Global Ministerial Environment Forum -
Sixth Special Session of the Governing Council of the United Nations
Environment Programme, Fifth plenary meeting, 31 May 2000*

ANNEX 6

REPORT OF THE GOVERNING COUNCIL OF THE UNITED NATIONS ENVIRONMENT PROGRAMME ON ITS TWELFTH SPECIAL SESSION AND ON THE IMPLEMENTATION OF SECTION IV.C,

ENTITLED “ENVIRONMENTAL PILLAR IN THE CONTEXT OF SUSTAINABLE DEVELOPMENT”, OF THE
OUTCOME DOCUMENT OF THE UNITED NATIONS CONFERENCE ON SUSTAINABLE DEVELOPMENT

General Assembly resolution 67/213

The General Assembly,

Reaffirming the mandate contained in its resolution 2997 (XXVII) of 15 December 1972, which established the United Nations Environment Programme, and other relevant resolutions that reinforce its mandate, as well as the 1997 Nairobi Declaration on the Role and Mandate of the United Nations Environment Programme of 7 February 1997¹ and the 2000 Malmö Ministerial Declaration of 31 May 2000,²

Recalling its resolutions 53/242 of 28 July 1999, 55/200 of 20 December 2000, 57/251 of 20 December 2002, 64/204 of 21 December 2009, 65/162 of 20 December 2010, 66/203 of 22 December 2011 and other previous resolutions relating to the Governing Council/Global Ministerial Environment Forum of the United Nations Environment Programme,

Reaffirming its commitment to strengthening the role of the United Nations Environment Programme as the leading global environmental authority that sets the global environmental agenda, promotes the coherent implementation of the environmental dimension of sustainable development within the United Nations system and serves as an authoritative advocate for the global environment,

Taking into account Agenda 21³ and the Plan of Implementation of the World Summit on Sustainable Development (Johannesburg Plan of Implementation),⁴

Reaffirming the Rio Declaration on Environment and Development⁵ and its principles,

Recalling the 2005 World Summit Outcome,⁶

Recalling also the Bali Strategic Plan for Technology Support and Capacity-building,⁷

Committed to strengthening international environmental governance within the context of the institutional framework for sustainable development in order

to promote a balanced integration of the economic, social and environmental dimensions of sustainable development as well as coordination within the United Nations system,

Recalling the outcome document, entitled “The future we want”,⁸ of the United Nations Conference on Sustainable Development, held from 20 to 22 June 2012 in Rio de Janeiro, Brazil, which invited the General Assembly to adopt, at its sixty-seventh session, a resolution strengthening and upgrading the United Nations Environment Programme, in the manner outlined in paragraph 88, subparagraphs (a) to (h) of the outcome document,

Recalling also paragraph 89 of the outcome document of the United Nations Conference on Sustainable Development, encouraging parties to multilateral environmental agreements to consider further measures, in the chemicals and waste cluster and other clusters, as appropriate, to promote policy coherence at all relevant levels, improve efficiency, reduce unnecessary overlap and duplication and enhance coordination and cooperation among the multilateral environmental agreements, including the three Rio conventions, as well as with the United Nations system in the field,

Reiterating the need for secure, stable, adequate and predictable financial resources for the United Nations Environment Programme, and, in accordance with its resolution 2997 (XXVII), underlining the need to consider the adequate reflection of all the administrative and management costs of the Programme in the context of the United Nations regular budget,

Reiterating also that capacity-building and technology support to developing countries in environment-related fields are important components of the work of the United Nations Environment Programme,

1. **Takes note** of the report of the Governing Council of the United Nations Environment Programme on its twelfth special session and the decisions contained therein;⁹

2. **Reiterates** the continuing need for the United Nations Environment Programme to conduct up-to-date, comprehensive, scientifically credible and policy-relevant global environment assessments, in close consultation with

ANNEX 6 (continued)

Member States, in order to support decision-making processes at all levels, and in this regard takes note of the fifth report in the Global Environment Outlook series and its related summary for policymakers, and stresses the need to enhance the policy relevance of the Outlook by, inter alia, identifying policy options to speed up the achievement of the internationally agreed goals and to inform global and regional processes and meetings where progress towards the agreed goals will be discussed;

3. **Also reiterates** the importance of the Nairobi headquarters location of the United Nations Environment Programme, and requests the Secretary-General to keep the resource needs of the Programme and the United Nations Office at Nairobi under review so as to permit the delivery, in an effective manner, of necessary services to the Programme and to the other United Nations organizations and entities in Nairobi;

4. **Decides** to:

- (a) Strengthen and upgrade the United Nations Environment Programme in the manner set out in subparagraphs (a) to (h) of paragraph 88 of the outcome document, entitled “The future we want”,⁸ of the United Nations Conference on Sustainable Development, as endorsed by the General Assembly in its resolution 66/288 of 27 July 2012;
- (b) Establish universal membership in the Governing Council of the United Nations Environment Programme, and mandates it, as from its first universal session to be held in Nairobi in February 2013, using its applicable rules of procedure and applicable rules and practices of the General Assembly, pending the adoption of its new rules of procedure, to expeditiously initiate the implementation of the provisions contained in paragraph 88 of the outcome document in its entirety; make a recommendation on its designation to reflect its universal character; and decide on future arrangements for the Global Ministerial Environment Forum;
- (c) Request the Executive Director of the United Nations Environment Programme to continue to provide support for the full and effective participation of representatives of developing countries in the Governing Council meeting and invite the Governing Council to consider further arrangements in this regard;

5. **Recalls** the decision to have secure, stable, adequate and increased financial resources from the regular budget of the United Nations and voluntary contributions to fulfil the mandate of the United Nations Environment Programme, and:

- (a) Requests the Secretary-General, in line with paragraph 88 (b) of the outcome document of the United Nations Conference on Sustainable

Development, to reflect in the 2014-2015 biennium budget proposal resources that take into account the proposed revised programme of work of the United Nations Environment Programme and the implementation of paragraph 88, subparagraphs (a) to (h), of the outcome document of the United Nations Conference on Sustainable Development, as well as opportunities for increasing the efficient use of resources;

- (b) Urges donors to increase voluntary funding to the United Nations Environment Programme, including to the Environment Fund;
- (c) Requests the Secretary-General to maintain the resource needs from the regular budget of the United Nations for the United Nations Environment Programme under review, in the light of the implementation of paragraph 88 of the outcome document, in accordance with United Nations budgetary practices;

6. **Decides** to include in the provisional agenda of its sixty-eighth session, under the item entitled “Sustainable development”, a sub-item entitled “Report of the Governing Council of the United Nations Environment Programme on its first universal session”.

¹ *Official Records of the General Assembly, Fifty-second Session, Supplement No. 25 (A/52/25), annex, decision 19/1, annex.*

² *Ibid., Fifty-fifth Session, Supplement No. 25 (A/55/25), annex I, decision SS.VI/1, annex.*

³ *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, vol. I, Resolutions Adopted by the Conference* (United Nations publication, Sales No. E.93.I.8 and corrigendum), resolution 1, annex II.

⁴ *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex.

⁵ *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, vol. I, Resolutions Adopted by the Conference* (United Nations publication, Sales No. E.93.I.8 and corrigendum), resolution 1, annex I.

⁶ Resolution 60/1.

⁷ UNEP/GC.23/6/Add.1 and Corr.1, annex.

⁸ Resolution 66/288, annex.

⁹ *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 25 (A/67/25).*

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CHAPTER 1 — THE BIRTH OF UNEP

¹Published by Texere, New York and London 2000

² See Stanley P. Johnson, *The Politics of the Environment*, published by Tom Stacey, London, 1973

³Strong, *op.cit* p.59

⁴ Lars-Göran Engfeldt "From Stockholm to Johannesburg and beyond", published in 2009 by the Swedish Ministry for Foreign Affairs, pp 34-35

⁵ From Stockholm to Johannesburg and beyond; the evolution of the international system for sustainable development governance and its implications, by Lars-Göran Engfeldt, published by the Government Offices of Sweden, June 2009

⁶Published by Universe Books, New York, 1972

⁷ Organization for Economic Cooperation and Development

⁸ UNGA Resolution 2398 (XXIII)

⁹ Cf Richard N. Gardner's article: "The role of the UN in environmental problems" in *World Eco-Crisis: International Organizations in Response*, edited David A Kay and Eugene B. Skolnikoff, University of Wisconsin Press 1972.

¹⁰ See "Did We Save the Earth at Stockholm?" by Peter B. Stone. *Earth Island* 1973

¹¹Strong, *op.cit*. p.128

¹² *Only One Earth: The Care and Maintenance of a Small Planet*, Andre Deutsch and Pelican Books, 1972

¹³ Other recommendations for actions at national level were circulated to governments but did not form part of the official documentation for the Conference.

¹⁴ *Designing the United Nations Environment Programme* by Maria Ivanova, published online Sept 6, 2007@Springer Science+Business Media

¹⁵ See *Sixty Years of Science at UNESCO – 2005 to 2005*, UNESCO 2006

¹⁶ *The United Nations System and the Human Environment* by Brian Johnson published as a monograph by the Institute for the Study of International Organisation, University of Sussex. 1971

¹⁷ Address to the United Nations Conference on the Human Environment by Robert S. McNamara, President World Bank Group, Stockholm June 8, 1972, published by the International Bank for Reconstruction and Development 1972.

¹⁸ Later Sir Ronald Arculus, UK Ambassador to Italy

¹⁹ *Penguins and Mandarins: the memoirs of Martin Holdgate*, the Memoir Club, 2003

²⁰Sweden's national report to the United Nations on the human environment, Royal Ministry for Foreign Affairs, Stockholm 1971

²¹ Telephone conversation with the author on March 9, 2012

²² In his message of Congress on the environment of August 1972, President Nixon confirmed that he would 'ask Congress to authorize and appropriate \$40 million as our Nation's share of a five-year, \$100 million fund.'

²³ *The Shifting Grounds of Conflict and Peacebuilding*, by John W. McDonald, with Noa Zanolli, Lexington Books, 2008, p 112

²⁴ The third session of the Preparatory Committee for the United Nations Conference on the Human Environment was held in New York from 13 to 24 September 1971.

²⁵United Nations Centre for Economic and Social Information, Geneva (undated)

²⁶ Claire Sterling: "Delegates vote for strong UN environment agency", *London Financial Times*, June 16, 1972

²⁷ Extracts from Indian Prime Minister Indira Gandhi's speech to the Plenary Session of the Stockholm Conference on June 8, 1972 are printed in 'Environment, Stockholm' published by the Centre for Economic and Social Information, UN Geneva, 1972

²⁸ A/CONF.48/14 of 3 July 1972

CHAPTER 2 – FINDING A HOME

²⁹ As far as the *Observations* were concerned: A number of States (including Canada, Chile, Egypt, India, Kenya, Pakistan, Sudan, the UK and Yugoslavia) held that the Declaration, while not perfect, represented a first step in developing international environmental law. The UK considered that there were certain

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references to highly political matters in the Declaration which were out of place. China stated that the Declaration had failed to point out the main reason for the pollution of the environment - namely, the policy of plunder, aggression and war carried out by imperialist, colonialist and neo-colonialist countries; China, therefore, did not agree with a number of views embodied in the Declaration. Algeria declared, the Declaration should have affirmed the need to end the environmental despoliation of colonialism. Kenya and the Philippines regretted that no explicit reference has been made to the pollution of the minds of men. *Reservations/comments* were made with regard to principle 1 by South Africa (the condemnation of *apartheid* is a 'interference in the internal affairs of States'), with regard to principle 2 by the USA and Uruguay (the preservation of ecosystems means retention of a complete system, with all the complex inter-relationships intact) and with regard to principle 26 by a number of States (the principle did not condemn the use of nuclear weapons in strong enough words).

³⁰ See UNEP in Global Environmental Governance: Design, Leadership, Location, by Maria Ivanova in Global Environmental Politics 10.1, February 2010

³¹ Wallace Irwin, Vista, February 1974

³² In Stockholm in June, 1972, a Liberian diplomat, Lafayette Diggs, who had earlier served in Nairobi and appreciated its potential, had suggested that Nairobi would be the best home, and the Kenyan delegate had indicated that, if it was the wish of the international community that the new body be located in Nairobi, Kenya would be happy to host it. See the article in Environmental Policy and Law 34/6 (2004), by Nicholas Kimani, assisted by Elizabeth Mrema. Elizabeth Mrema, is currently a senior official in UNEP and Executive Secretary of the UNEP Convention on Migratory Species (see p116)

³³ Former Njoroge Mungai, interviewed by Stanford Medicine Magazine for an Alumnus Profile in Feb 2006, said that as minister of foreign affairs in the late '60s and early '70s, one of his "biggest accomplishments was bringing the U.N.'s Environment Program to Kenya, the only country outside the West where the U.N. has a major presence or headquarters."

³⁴ Maurice Strong, op cit (Where on Earth are we Going) p 137

³⁵ See Wallace Irwin, Jnr, Vista February 1973

³⁶ John W. McDonald, with Noa Zanolli: The shifting grounds of Conflict and Peacebuilding, Lexington Books, 2008

³⁷ Interview with author, Nairobi, Feb 20, 2012. Donald Kaniaru joined the staff

of UNEP in Nairobi in 1975. He worked in UNEP as a programme officer and as director in various programmes associated with environment law and policy development.

³⁸ Wallace Irwin, Jnr, Vista, February 1973

³⁹ From Stockholm to Nairobi, Environmental Policy and Law, 34/6 (2004), pp 231 ff, by Nicholas Kimani assisted by Elizabeth Mrema.

⁴⁰ See endnote 32

⁴¹ Maurice Strong, op.cit. p129-130

⁴² Recorded interview with Wolfgang Burhenne and Donald Kaniaru, Feb 20, 2012, UNEP archives.

⁴³ Wallace Irwin Jnr. served as an adviser to the U.S. Delegation at the Stockholm Conference as well as Senior Adviser for Environmental Affairs in the U.S. Mission to the UN.

CHAPTER 3 — FIRST UNEP GOVERNING COUNCIL, JUNE 1973

⁴⁴ Abbreviated as DOE. Peter Walker, Secretary of State for the Environment, sometimes referred to DOE as 'the place where the buck stops!'

⁴⁵ Report of the Governing Council of the United Nations Environment Programme, 12-22 June 1973,

⁴⁶ UNEP, Nairobi: "Programme priorities established by the first UNEP Governing Council", undated

⁴⁷ Willem Wijnstekers, The Evolution of CITES, 1995, p 11

⁴⁸ Wolfgang Burhenne was the Chairman of the Resolution Committee and subsequently played a central role as IUCN progressed the draft Convention.

⁴⁹ John Scanlon, CITES Secretary-General, personal communication

⁵⁰ CITES entered into force after the tenth ratification, on 1 July 1975.

⁵¹ See the chapter on 'the making of CITES' in Barbara J. Lausche's book: Weaving a Web of Environmental Law, published by Erich Schmidt Verlag in 2008. The process is also discussed in Martin Holdgate's history of IUCN: *The Green Web* (Earthscan 1999)

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⁵² The full text of CITES Article XII (The Secretariat) states that:

1. Upon entry into force of the present Convention, a Secretariat shall be provided by the Executive Director of the United Nations Environment Programme. To the extent and in the manner he considers appropriate, he may be assisted by suitable inter-governmental or non-governmental international or national agencies and bodies technically qualified in protection, conservation and management of wild fauna and flora.

2. The functions of the Secretariat shall be:

- (a) to arrange for and service meetings of the Parties;
- (b) to perform the functions entrusted to it under the provisions of Articles XV and XVI of the present Convention;
- (c) to undertake scientific and technical studies in accordance with programmes authorized by the conference of the Parties as will contribute to the implementation of the present Convention, including studies concerning standards for appropriate preparation and shipment of living specimens and the means of identifying specimens;
- (d) to study the reports of Parties and to request from Parties such further information with respect thereto as it deems necessary to ensure implementation of the present Convention;
- (e) to invite the attention of the Parties to any matter pertaining to the aims of the present Convention;
- (f) to publish periodically and distribute to the Parties current editions of Appendices I, II and III together with any information which will facilitate identification of specimens of species included in those Appendices;
- (g) to prepare annual reports to the Parties on its work and on the implementation of the present Convention and such other reports as meetings of the Parties may request;
- (h) to make recommendations for the implementation of the aims and provisions of the present Convention, including the exchange of information, of a scientific or technical nature;
- (i) to perform any other function as may be entrusted to it by the Parties.

⁵³ Barbara J. Lausche, *op.cit.* page 87, footnote 47

⁵⁴ Lausche, *Op.cit* pp 195-197

⁵⁵ Stockholm Recommendation 86 (c) Ensure that ocean dumping by their nationals anywhere, or by any person in areas under their jurisdiction, is con-

trolled and that Governments shall continue to towards the completion of, and bringing into force as soon as possible of, an overall instrument for the control of ocean dumping as well as needed regional agreements within the framework of this instrument, in particular for enclosed and semi-enclosed seas, which are more at risk from pollution.

⁵⁶ See Report of UNEP Governing Council 12-22 June 1973, pp 42 and 43. Under the section 'Oceans' the following 'tasks' are indicated:

Oceans

- (i) To carry out objective assessments of problems affecting the marine environment and its living resources in specific bodies of water;
- (ii) To prepare a survey of the activities of international and regional organizations dealing with conservation and management of the living resources of the oceans;
- (iii) To assist nations in identifying and controlling land-based sources of pollution, particularly those which reach the oceans through rivers;
- (iv) To stimulate international and regional agreements for the control of all forms of pollution of the marine environment, and especially agreements relating to particular bodies of water;
- (v) To urge the Inter-Governmental Maritime Consultative Organization to set a time-limit for the complete prohibition of international oil discharge in the seas, as well as to seek measures to minimize the probability of accidental discharges;
- (vi) To develop a programme for the monitoring of marine pollution and its effects on marine ecosystems, paying particular attention to the special problems of specific bodies of water including some semi-enclosed seas, if the nations concerned so agree;
- (vii) To urge the International Whaling Commission to adopt a 10-year moratorium on commercial whaling;

CHAPTER 4 – HARAMBEE! UNEP COMES TO NAIROBI

⁵⁷ Strong, *op.cit.* p 140

⁵⁸ Dr Tolba succeeded Mr Strong as Executive Director of UNEP in 1977.

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CHAPTER 5 – MEDITERRANEAN ACTION PLAN – REGIONAL SEAS

⁵⁹ See pp 16-17

⁶⁰ Stockholm Action Plan, Recommendation (86) (e)

⁶¹ It lasted until 1982.

⁶² Pelican, London, 1972 Andre Deutsch, London, 1972

⁶³ Barbara Ward and Rene Dubos, op.cit, p 275

⁶⁴ Stockholm Action Plan, Recommendation 92 (b)

⁶⁵ IUCN (1993). Status of Multilateral Treaties in the Field of Environment and Conservation. Gland, Switzerland, Third Edition,

⁶⁶ Report of UNEP Governing Council on its Second Session, Nairobi, March 11-14, 1974

⁶⁷ The Barcelona IGM : “ [Noted] with satisfaction the preparatory work undertaken by FAO for a draft framework convention for the protection of the marine environment against pollution in the Mediterranean, by the consultant from IMCO for a draft protocol on co-operation in combating pollution of the Mediterranean by oil and other harmful substances, and by the Spanish delegation for a draft protocol for the prevention of pollution of the Mediterranean Sea by dumping from ships and aircraft, all of which was submitted for information and given careful examination”

⁶⁸ *Global Environmental Diplomacy; Negotiating Environmental Agreements for the World, 1973-1992*, by Mostafa K. Tolba with Iwona Rummel-Bulska, MIT Press 2008

⁶⁹ Further protocols on Protection against pollution from Land-based Sources and on Specially Protected Areas were added in 1980 and 1982 respectively (IUCN, 1993, op. Cit.)

⁷⁰ A list of Regional Seas Conventions and Protocols is given at Annex 4.

⁷¹ Personal communication, 16 March 2012

⁷² Personal communication by email March 3, 2012

⁷³ Mostafa K. Tolba with Iwona Rummel-Bulska, op.cit p 44

CHAPTER 6 – OZONE DIPLOMACY

⁷⁴ See also Richard Elliot Benedick's book of that name, published by Harvard University Press, 1998

⁷⁵ “We had to build distinctive structures symbolic of our environmental purposes.” Maurice Strong, op.cit. p 140

⁷⁶ Following the first United Nations Habitat Conference, held in Vancouver, Canada, in 1976, and the establishment of UN-HABITAT, UNEP's direct programme functions in the human settlements area were effectively devolved to the new body.

⁷⁷ Personal communication

⁷⁸ The United States Environmental Protection Agency was established under President Nixon on December 2, 1970. On the same day, the US Senate confirmed William Ruckelshaus as EPA's first Administrator.

⁷⁹ The author, then an official of the European Commission, served in this capacity at the invitation of the German government.

⁸⁰ Mostafa Tolba succeeded Maurice Strong as Executive Director of UNEP in 1977, Strong having indicated a wish to return to Canada before the end of his term. See Maurice Strong, op.cit. p 144.

⁸¹ Tolba and Rummel-Bulska, op.cit p 58

⁸² United Kingdom of Great Britain and Northern Ireland, for example, commented: “During negotiations in the Ad Hoc Group the United Kingdom Government has placed a general reserve in regard to all possible annexes and protocols on the grounds that they are premature until a framework convention has been elaborated. The United Kingdom Government believes the Nordic proposal is unnecessary and unsound. Any eventual protocol should go no further than the position of the European Community which has agreed on a temporary reduction of production subject to review. The United Kingdom Government hopes, in the light of the above, that the proposers of the draft annex will be persuaded to withdraw.”

⁸³ Interview broadcast on BBC World Service, 6 July 1999

⁸⁴ Dr Richard D. McPeters, Principal Investigator, Earth Probe TOMS at NASA's Goddard Space Flight Center explains “Our software had flags for ozone that was lower than 180 DU, a value lower than had ever been reliably reported prior to 1983. In 1984, before publication of the Farman paper, we noticed a

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sudden increase in low value from October of 1983. We had decided that the values were real and submitted a paper to the conference the following summer when Joe's paper came out, showing the same thing. As the first one in print, he gets full credit for discovery of the ozone hole. It makes a great story to talk about how NASA "missed" the ozone hole, but it isn't quite true." <http://www.theozonehole.com/ozoneholehistory.htm>

⁸⁵ Tolba and Rummel-Bulska, op.cit p 61

⁸⁶ See Richard Elliot Benedick, op.cit p 45

⁸⁷ See Richard Elliot Benedick, op.cit p 45

⁸⁸ Richard Elliot Benedict, *Ozone Diplomacy: New Directions in Safeguarding the Planet*, Harvard University Press, 1991, 1998 and in Mostafa Tolba and Iwona Rummel-Bulska's book, *Global Environmental Diplomacy*, MIT 2008.

⁸⁹ The distinguished Austrian diplomat Winfried Lang presided over the plenary conference in Vienna and later chaired the meetings leading to the Montreal Protocol.

⁹⁰ Laurens Jan Brinkhorst was subsequently elected a Member of the European Parliament and went on to become Minister of Agriculture in the Netherlands and Deputy Prime Minister.

⁹¹ Richard Benedick, op.cit, p 124

⁹² Chris Patten would in 1992 be appointed the last British governor of Hong Kong.

⁹³ See pp 121-124

⁹⁴ See *The World Environment 1972-1992*, edited by Mostafa K. Tolba, Osama A. El-Kholy et al, Chapman and Hall, London 1992, p 56

⁹⁵ Parts per billion volume

⁹⁶ Maria Ivanova, *Financing International Environmental Governance: Lessons learned from the United Nations Environment Programme*, October 2011

⁹⁷ Scientific Assessment Panel 2010: Twenty Questions and Answers about the Ozone Layer: 2010 Update. Coordinating Lead Authors: David W. Fahey and Michaela I. Hegglin

⁹⁸ See <http://www.interpol.int/Crime-areas/Environmental-crime/Environmental-crime>

CHAPTER 7 — CLIMATE CHANGE: LAUNCHING THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE (IPCC)

⁹⁹ Cambridge University Press 2007

¹⁰⁰ SMIC was the Study of Man's Impact on Climate, based on the proceedings of a conference held in Stockholm in June 28-July 16, 1971

¹⁰¹ Barbara Ward and René Dubos, *Only One Earth: The Care and Maintenance of a Small Planet*, Andre Deutsch/Pelican Books, London 1972, page 267

¹⁰² See also p 67

¹⁰³ Personal communication

¹⁰⁴ See p 71

¹⁰⁵ Bolin, op.cit. pp 35-36

¹⁰⁶ As outlined in the UN General Assembly Resolution 43/53 of 6 December 1988

¹⁰⁷ Since the entry into force of the Maastricht Treaty on November 1, 1993, the European Community has been known as the European Union (EU).

¹⁰⁸ Stanley P. Johnson and Guy Corcelle, *The Environmental Policy of the European Communities*, Kluwer Law International 1989, 1995

¹⁰⁹ Now Sir John Houghton

¹¹⁰ It is to be noted that one of the Co-Chairs of WG III was Canada's Elizabeth Dowdeswell who, in 1993, would succeed Tolba as Executive Director of UNEP.

¹¹¹ In 1990, Agarwal co-authored a paper called *Global Warming in an Unequal World* which led to a global debate and had a considerable impact on the G-77 position in the negotiations leading up to the Framework Convention on Climate Change. It was the first time that the issue of equity had been raised in the context of global warming. During this period, Agarwal also chaired the world's largest network of environmental NGOs based in Nairobi, the Environment Liaison Centre. In 1987, the United Nations Environment Programme elected Agarwal to its Global 500 Honour Roll for his work both in the national and international arena.

¹¹² *Climate Change: Science, Impacts and Policy*. Proceedings of the Second World Climate Conference. Edited by J. Jäger and H.L. Ferguson, pp 515 ff

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¹¹³Sir Crispin Tickell, former UK Ambassador to the United Nations, first proposed such a meeting. Sir Martin Holdgate summed up.

¹¹⁴A/RES/45/212 of 21 December 1990, adopted without a vote

¹¹⁵ Peter Usher, personal communication

¹¹⁶Jean Ripert, a distinguished French diplomat and public servant, had served as the Chairman of IPCC's Special Committee on the Needs of Developing Countries.

¹¹⁷ The texts of both Conventions were formally opened for signature in Rio de Janeiro on the opening day of UNCED, June 5, 1992.

CHAPTER 8 — TRANSBOUNDARY MOVEMENT OF HAZARDOUS WASTES AND THEIR DISPOSAL

¹¹⁸ 1972 United Nations Conference on the Human Environment (UNCHE), Stockholm. UN Doc. A/CONF.48/1/Rev 1, Declaration, Principle 6.

¹¹⁹The phrase 'the struggle against pollution' reflects the proposals made late in the day by the delegation of the Peoples Republic of China, attending their first major international conference after taking up the 'Chinese' seat in the United Nations. Point 6 of the 'Chinese Declaration' circulated in Stockholm, under the heading 'Struggle against Pollution' states: "The governments of all countries must take steps to prevent the discharge of pollutants into the environment. We support the people of all countries who are struggling against pollution."

¹²⁰ The World Charter for Nature was a brain-child of Wolfgang Burhenne. It was prompted by President Mobutu of Zaire, at the IUCN General Assembly in Kinshasa in 1975, discussed in Ashkhabad in 1978 and finally adopted by the UNGA in 1982 with only the USA opposing.

¹²¹ The World Charter for Nature appears as an Annex to UN General Assembly Resolution 37/7, 1982, adopted by a vote of 111 to 1 on October 28, 1982.

¹²² See Roger Wilson, Draft Principles Relating to Liability and Compensation for damages arising from the transboundary movement of hazardous waste. In Proceedings of Qatar International Law Conference 1994, Martinus Nijhoff, The Hague 1995

¹²³ See pp 45

¹²⁴ SWMTEP aimed to indicate planned activities under the environment programme not only of UNEP but also of other organizations of the United Nations system, together with the resources required and the specific purposes for which they would be utilized.

¹²⁵ The meeting was very well-attended, the subject of transboundary waste disposal having rapidly risen up the international political agenda. The author, representing the European Community at the meeting, was happy to share his hotel room in Cairo with Dr Wolfgang Burhenne who, mysteriously, had found himself 'bumped' from previously-allocated accommodation.

¹²⁶ See Hohmann, op.cit , pp 148-156: Cairo Guidelines

¹²⁷ TV recorded interview with author, March 20, 2012. In UNEP audio-visual archives, Nairobi, Kenya

¹²⁸ Bill Long, International Environmental Issues and the OECD, 1950-2000, an historical perspective. P 55-57. OECD, Paris, 2000

¹²⁹ Katharina Kummer Peiry, Executive Secretary of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal. United Nations Audiovisual Library of International Law, 2010. see www.un.org/law/avl.

¹³⁰ Then the Swiss Minister of the Interior

¹³¹ Tolba with Rummel-Bulska op.cit p 113

¹³² Geoffrey Lean, Our Planet Vol 10, number 4, 1999

¹³³ Kummer Perry, op.cit., Basel Convention www.un.org/law/avl

¹³⁴ See their article 'Not on Planet Earth', Our Planet, Vol 10, Number 4, 1999.

¹³⁵ The Bamako Convention (in full: Bamako Convention on the ban on the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa) is a treaty of African nations prohibiting the import of any hazardous (including radioactive) waste. The Convention was negotiated by twelve nations of the Organization of African Unity at Bamako, Mali in January, 1991, and came into force in 1998.

¹³⁶ The 1995 Waigani Convention is a treaty that bans the exporting of hazardous or radioactive waste to Pacific Islands Forum countries, and prohibits

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Forum island countries from importing such waste. The convention has been ratified by Britain, France, Japan and Ten Pacific region countries (including Australia and New Zealand).

¹³⁷ Adopted by the third meeting of the Basel Convention Conference of the Parties COP 3 in 1995, the Amendment to the Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (referred to as “the Ban Amendment”) provides for the prohibition of exports of all hazardous wastes covered by the Convention that are intended for final disposal, reuse, recycling and recovery from countries listed in annex VII to the Convention (Parties and other States which are members of the OECD, EC, Liechtenstein) to all other countries.

¹³⁸ Independent on Sunday, 12 April 2012 <http://www.independent.co.uk/environment/green-living/un-close-to-ban-on-wests-toxic-waste-exports-2374685.html>

¹³⁹ BAN, a charitable organization based in the United States, works to prevent the globalization of the toxic chemical crisis. “We work in opposition to toxic trade in toxic wastes, toxic products and toxic technologies, that are exported from rich to poorer countries. Alternatively, we work to ensure national self-sufficiency in waste management through clean production and toxics use reductions and in support of the principle of global environmental justice — where no peoples or environments are disproportionately poisoned and polluted due to the dictates of unbridled market forces and trade.”

CHAPTER 9 — BONN CONVENTION (CMS), BRUNDTLAND AND BIODIVERSITY

¹⁴⁰ See Martin Holdgate, *The Green Web*, London: Earthscan, 1999.

¹⁴¹ See p 44 and Annex 1

¹⁴² The United Nations Convention on the Law of the Sea was opened for signature in Montego Bay, Jamaica, on 10th December 1982. 119 signatures were appended to the Convention, the largest number ever recorded – at that time – on the opening day for the signing of a treaty. As adopted, UNCLOS includes some important provisions relating to the marine environment and marine living resources both in the ‘exclusive economic zones’ of coastal states as well as on the high seas.

¹⁴³ IUCN today brings together more than 80 States, more than 100 Government Agencies and over 800 NGOs from about 140 countries. Almost 11,000

voluntary scientists and experts from a wide range of disciplines are grouped in IUCN’s six Commissions. These networks assess the state of the world’s natural resources and provide the Union with sound know-how and policy advice on conservation issues, playing an important role in implementing IUCN’s work programme. The six IUCN Commissions are: *Commission on Education and Communication (CEC)*; Commission on Environmental, Economic and Social Policy (CEESP) *Commission on Environmental Law (CEL)* Commission on Ecosystem Management (CEM); *Species Survival Commission (SSC)*; *World Commission on Protected Areas (WCPA)*.

¹⁴⁴ The African Convention on the Conservation of Nature and Natural Resources was signed in Algiers, Algeria, in 1968, ante-dating Stockholm.

¹⁴⁵ Barbara Lausche, op.cit. p 40

¹⁴⁶ Dr Wolfgang Burhenne further explains: “Ertl – I called him ‘Sepp’ – was always on the defensive. He told me ‘Grzimek (Bernhard Grzimek, the Director of the Frankfurt Zoological Society, and inspiration of the film ‘Serengeti shall not die’) is always pissing on me for not doing enough for animals!’ So I told him to be on the attack, not the defensive, so that is why Germany supported the CMS. Getting things done is often a matter of luck. Being in the right place at the right time.” Personal communication.

¹⁴⁷ Penguins and Mandarins: the Memoirs of Martin Holdgate. The Memoir Club, 2003, p 203

¹⁴⁸ See p 41

¹⁴⁹ See p.29 Dr Mungai also served as President Kenyatta’s personal physician.

¹⁵⁰ Mr Strong proposed for consideration such specific activities as:

- (j) Development and dissemination of environmentally sound technologies, with special emphasis on water treatment, waste disposal and recycling, building technologies, as well as of environmentally sound techniques for pest control;
- (k) Measures for preventing loss of soil through desertification, erosion and salination, and for restoring the productivity of marginal lands;
- (l) Investigation of and support for pilot projects exemplifying alternative patterns of development which are environmentally sound - e.g. “eco-development”•
- (m) Measures for preserving the marine environment, with special emphasis on monitoring and control of land-based sources of ocean pollution, particularly river discharges:

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- (n) Measures for the conservation of genetic resources of plant and animal life as well as micro-organisms which are important to the well-being of man;
- (o) Training and technical assistance particularly focused on helping Governments of developing countries to establish national environmental policies and machinery for integrating environmental considerations into their national development plans and programmes as well as helping them to participate in and derive full benefits from Earthwatch;
- (p) Support for the development of environmental education and dissemination of environmental information to various sectors of the public having particular interests and needs;
- (q) Implementation of the first phase of Earthwatch, including the Global Environmental Monitoring System (GEMS) and the International Referral System;
- (r) Assessment to provide guidance for decision-making in certain key ecological regions such as the Mediterranean Sea, the Caribbean Sea, South Pacific island regions, tropical rain forest regions of Central Africa or South America and arid areas of the Middle East, Asia and/or Africa.

Other subjects to which he drew attention included the following:

- The possible need for international arrangements in respect of activities which could lead to significant modification of the climate;
- The elaboration of new rules of international law regarding the environment;
- The environmental implications of various alternative patterns of energy production and use.

¹⁵¹ Lausche, op.cit. p 170

¹⁵² See pp 56-62 and Annex 4

¹⁵³ World Conservation Strategy: Living Resource Conservation for Sustainable Development. Prepared by IUCN with the advice, cooperation and financial assistance of UNEP and WWF and in collaboration with FAO and UNESCO. Published by IUCN, UNEP and WWF, 1980.

¹⁵⁴ *Our Common Future*. Report of the World Commission on Environment and Development. Oxford: University Press, 1987

¹⁵⁵ Lester Pearson, former Prime Minister of Canada, Pearson served as Chairman of the Commission on International Development (the Pearson Commission) which was sponsored by the World Bank from 1968-69.

¹⁵⁶ In 1977, former German Chancellor Willy Brandt was appointed as the chairman of the Independent Commission for International Developmental Issues. This produced a report in 1980, which called for drastic changes in the global attitude towards development in the Third World.

¹⁵⁷ *The World Environment, 1972-1982. A Report by the United Nations Environment Programme*. Edited by Martin W Holdgate, Mohammed Kassas and Gilbert F White. Published for the United Nations Environment Programme by Tycooly Internations. Dublin, 1982.

¹⁵⁸ A/RES/38/161 of 19 December 1983

¹⁵⁹ Personal communication

¹⁶⁰ UNEP Governing Council Decision 14/14 of 19 June 1987 "expresses its warm appreciation to the Commission for its work."

¹⁶¹ *Our Common Future: Report of the World Commission on Environment and Development*, Oxford University Press, 1987 pp 13-14

¹⁶² See previous chapter, passim

¹⁶³ See p 13

¹⁶⁴ Gro Harlem Brundtland (Chairman) (Norway), Mansour Khalid (Vice-Chairman) (Sudan), Susanna Agnelli (Italy), Bernard Chidzero (Zimbabwe), Lamine Mohamed Fadika (Ivory Coast), Volker Hauff (Federal Republic of Germany) Istvan Lang (Hungary), Ma Shijun (People's Republic of China) Margarita de Botero (Colombia), Nagendra Singh (India), Paulo Nogueira-Neto (Brazil), Saburo Okito (Japan), Shridath Ramphal (Guyana), William Ruckelshaus (US), Mohamed Sahnoun (Algeria), Emil Salim (Indonesia), Bukar Shahib (Nigeria), Vladimir Sokolov (USSR), Janez Stanovnik (Yugoslavia), and Maurice Strong (Canada.)

¹⁶⁵ IIED was launched in 1971 by renowned economist and policy advisor Barbara Ward, making it one of the very first organisations to link environment with development. See also Maurice Strong op.cit. p.154 and 256

¹⁶⁶ <http://openlearn.open.ac.uk/mod/oucontent/view.php?id=405678§ion=3.3>

¹⁶⁷ Recorded interview Nairobi March 20, 2012

¹⁶⁸ Tolba with Rummel-Bulska, see *Chapter 8*

¹⁶⁹ See Fiona McConnell: *The Biodiversity Convention*, Kluwer 1996

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¹⁷⁰ See for example 'The Policy Process in International Environmental Governance' by Sheila Aggarwal-Khan, published by Palgrave Macmillan 2011

¹⁷¹ Under Article VIII, "The Contracting States recognize that it is important and urgent to accord a special protection to those animal and plant species that are threatened with extinction, or which may become so, and to the habitat necessary to their survival. Where such a species is represented only in the territory of one Contracting State, that State has a particular responsibility for its protection. These species which are or may be listed, according to the degree of protection that shall be given to them are placed in Class A or B of the Annex to this Convention, and shall be protected by Contracting States as follows: species in Class A shall be totally protected throughout the entire territory of the Contracting States; the hunting, killing, capture or collection of specimens shall be permitted only on the authorization in each case of the highest competent authority and only if required in the national interest or for scientific purposes; and species in Class B shall be totally protected, but may be hunted, killed captured or collected under special authorization granted by the competent authority.

"The competent authority of each Contracting State shall examine the necessity of applying the provisions of this article to species not listed in the annex, in order to conserve the indigenous flora and fauna of their respective countries. Such additional species shall be placed in Class A or B by the State concerned, according to its specific requirements."

¹⁷² In 1989, the European Commission proposed its own directive for the protection of species and habitat, closely modelled on the provisions of the Berne Convention, with appendices dealing not only with species to be protected, but also different types of habitat. The directive, adopted by the Council in 1992, also provided for the setting up of a coherent European ecological network of sites of Community significance, known as Natura 2000.

¹⁷³ See Fiona McConnell, *op.cit.* p 181

¹⁷⁴ Fiona McConnell, *op.cit.* p 184

¹⁷⁵ Professor of International Law, Director of the Department of Public International Law and International Organization, Faculty of Law, University of Geneva. See her article: Convention on Biological Diversity, Rio de Janeiro, 5 June 1992. United Nations Audiovisual Library of International Law

¹⁷⁶ McConnell, *ibid* pp 94-96

CHAPTER 10 — THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT (UNCED)

¹⁷⁷ Maurice Strong, *op.cit.* p 144

¹⁷⁸ Maurice Strong, *op.cit.* p 132

¹⁷⁹ The Earth Summit: The United Nations Conference on Environment and Development, edited Stanley P. Johnson, p 20, Kluwer 1993

¹⁸⁰ The paper which UNEP submitted to the UNCED Preparatory Committee, and to which Maurice Strong had alluded in his opening speech to the Committee on August 6, 1990, was a thoughtful well-presented paper on "priority evolving environmental issues for consideration by the Preparatory Committee for the United Nations Conference on Environment and Development." There were twelve substantive sections to the paper (climate change; transboundary air pollution; protection of oceans and coastal areas; combating desertification; the role of regional and sub-regional environment programmes; availability of resources for developing countries and funding mechanisms; environment, economics and sectoral policies; transfer of environmentally sound technology; biological diversity and biotechnology; fresh water; hazardous substances; and public participation.)

¹⁸¹ See pp 17-18

¹⁸² Lars-Göran Engfeldt: From Stockholm to Johannesburg and Beyond, Swedish Ministry of Foreign Affairs, 2009, pp 114-140

¹⁸³ UNGA Resolution 43/196 of 20 December 1988

¹⁸⁴ The General Agreement on Trade and Tariffs came into effect on 1 January, 1948

¹⁸⁵ The World Trade Organization came into being as the successor to GATT on January 1, 1995, under the Marrakesh Agreement.

¹⁸⁶ See pp 123

¹⁸⁷ See Agenda 21, para 33.20

¹⁸⁸ Javier Pérez de Cuéllar served as the fifth Secretary-General of the United Nations from 1 Jan 1982 to 31 Dec 1991. He was succeeded by Boutros Boutros-Ghali.

¹⁸⁹ Engfeldt, *op.cit.* p 138

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¹⁹⁰ See The Earth Summit by Stanley P Johnson, p 517 for a full list of UNCED staff.

¹⁹¹ See p 8

¹⁹² Martin Holdgate, op.cit pp 324-325

¹⁹³ Sir Crispin Tickell, former British ambassador to the United Nations, is often credited with the 'greening' of Prime Minister Margaret Thatcher in the sense that he helped persuade her that climate change was an issue the United Kingdom had to take seriously. He was the driving force behind her 'teach in' with senior Ministers at 11, Downing Street, in 1987. See also pp 91-93

¹⁹⁴ Professor Klaus Töpfer, German Federal Minister for the Environment, who would become Executive Director of UNEP in 1998, chaired the negotiations of Agenda 21's Chapter 11: Combating Deforestation and the 'Forest Principles.'

¹⁹⁵ <http://www.mauricestrong.net/index.php/closing-statement>

¹⁹⁶ Maurice Strong recalls a certain 'froideur' on the part of Mr Boutros Boutros-Ghali because his own opening speech to UNCED garnered more applause than the UN Secretary-General's. Strong, op. cit. p 226

¹⁹⁷ See Annex 2

¹⁹⁸ See p 13

CHAPTER 11 — DESERTIFICATION, POPS, GEO-1, UNEP FINANCE INITIATIVE

¹⁹⁹ See p 88

²⁰⁰ Author interview, February 2012. UNEP audio-visual archives.

²⁰¹ Official Development Assistance

²⁰² Lars-Göran Engfeldt. Op.Cit p 217

²⁰³ Financing International Environmental Governance: Lessons from the United Nations Environment Programme, by Maria Ivanova, Assistant Professor of global governance and Co-Director, Centre for Governance and Sustainability, John W. McCormack Graduate School of Policy and Global Studies, University of Massachusetts, Boston, USA.

²⁰⁴ See pp 75-6

²⁰⁵ See from UNEP, "Report of Fourth Meeting of Parties to the Montreal Protocol," UNEP/OzL.Pro.4/15, November 25, 1992, pp. 56-57.

²⁰⁶ Since 1991, the GEF has provided \$10.5 billion in grants and has leveraged \$51 billion in co-financing for over 2,700 projects in over 165 developing countries and countries with economies in transition. Through its Small Grants Programme (SGP), the GEF has also made more than 14,000 small grants directly to civil society and community based organizations, totaling \$634 million. Source: GEF Official Website: <http://www.thegef.org/gef/whatisgef>

²⁰⁷ See Chapters 7 and 9

²⁰⁸ See Chapter 11

²⁰⁹ See p 75

²¹⁰ The GEF Council is the main governing body of the GEF. It functions as an independent board of directors, with primary responsibility for developing, adopting, and evaluating GEF programs. Council members representing 32 constituencies (16 from developing countries, 14 from developed countries, and two from countries with transitional economies) meet twice each year for three days and also conduct business by mail. All decisions are by consensus.

²¹¹ Zoe Young. A New Green Order? The World Bank and the Politics of the Global Environmental Facility, Pluto Press, 2002, pp 7-8

²¹² See pp 235 ff

²¹³ In addition to Ms. Dowdeswell, former Executive Directors Tolba and Töpfer were present at the UNEP 40th anniversary celebrations, as well as Mr. Achim Steiner, UNEP's current Executive Director. Mr. Maurice Strong was unable to attend but sent a message which was delivered on his behalf to the assembled ministers and delegates by Nick Nuttall, UNEP Spokesperson and Acting Director of the Division of Public Information.

²¹⁴ Achim Steiner, UNEP's current Executive Director

²¹⁵ See p 40

²¹⁶ *The World Environment 1972-1992: Two decades of Challenge*, edited by Mostafa K/ Tolba, Osama A. El-Kholy et al, Chapman and Hall, London, 1992, p 271

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²¹⁷ *The World Environment*, 1972-1982, p 134.

²¹⁸ A/RES/47/188, 93rd plenary meeting of 22 December 1992, Establishment of an intergovernmental negotiating committee for the elaboration of an international convention to combat desertification in those countries experiencing serious drought and/or desertification, particularly in Africa.

²¹⁹ See p 180

²²⁰ Tolba, El-Kholy, El-Hinnawi et al (Eds) *The World Environment, 1972-1992*. Chapman & Hall.

²²¹ Adopted 1987 by UNEP Governing Council, amended 1989.

²²² Published 1985, updated 1989, revised 2002

²²³ London Guidelines for the Exchange of Information on Chemicals in International Trade (UNEP-guideline, as amended 1989), see Harald Hohmann, *Basic Documents in International Law*, Vol I, pp. 157 ff, Graham and Trotman, 1992

²²⁴ Shorthand for Rotterdam Convention on the Prior Informed Consent Procedure For Certain Hazardous Chemicals and Pesticides in International Trade. Also referred to as the PIC Convention. Adopted in 1998, and entered into force in 2004.

²²⁵ Aldrin, Chlordane, DDT, Dieldrin, Dioxins and Furans, Endrin, Heptachlor, Hexachlorobenzene, Mirex, Polychlorinated Biphenyls, Toxaphene.

^{226/227} The Stockholm Convention on persistent organic pollutants was adopted on 22 May 2001 in Stockholm, Sweden and entered into force on 17 May 2004.

²²⁸ *Global Environment Outlook 2000*. UNEP's Millennium Report on the Environment. London: Earthscan, 1999

²²⁹ See especially Agenda 21, Section 4: Changing Consumption Patterns

²³⁰ Maurice Strong, op.cit. p 296

²³¹ A/RES/S-19/2, 19 September 1997. Programme for the Further Implementation of Agenda 21

²³² Engfeldt, op.cit. p 222

²³³ See Maurice Strong op. cit. p 307

²³⁴ A/51/950 of 14 July 1997. paras 176 and 177

CHAPTER 12 — THE TÖPFER TASK FORCE, ENVIRONMENT AND TRADE, SEATTLE AND AND THE CARTAGENA BIOSAFETY PROTOCOL

²³⁵ Conversation with author, Feb 20 2012, UNEP audio-visual archives.

²³⁶ For a full list of CMS Agreements, see www.cms.int/

²³⁷ Members of the task force: Klaus Töpfer (chair), Christina Amoako-Nuama, Julia Carabias Lillo, Lars-Göran Engfeldt, Jean-Pierre Halbwachs, Ashok Khosla, Maria Julia Ray, John Ashe, Nitin Desai, Guro Fjellanger, Martin Holdgate, Martin Khor, Tommy Koh, Gus Speth, Mostafa Tolba, Makarim Wibisono, Michael Zammit Cutajar, Julia Marton LeFèvre, Maurice Strong (ex officio), Joseph Tomusange, and Timothy Wirth.

²³⁸ Conversation with author, Feb 20 2012, UNEP audio-visual archives.

²³⁹ United Nations General Assembly Resolution A/RES/53/242 of 28 July 1999. Report of the Secretary-General on environment and human settlements

²⁴⁰ Some progress was made in this direction during the Rio+20 process, which recommended a broadening of GEF's mandate to include financing national actions designed to implement international environmental commitments. See para 265 of "The Future We Want" A.Conf/216.L.1 of June 19, 2012

²⁴¹ See pp 173-5

²⁴² WTO rules did not, for example, allow for discrimination on the basis of non-product related process and production methods (PPMs). So a state or a group of states like the European Union could not ban, say, the import of eggs from countries whose animal welfare standards were deficient (e.g. hens being kept in 'battery' cages.) From the WTO point of view – under the 'like-product doctrine' – an egg was an egg was an egg.

²⁴³ See pp 66 ff

²⁴⁴ Personal communication, March 2012

²⁴⁵ See also the 'Handbook on Trade and the Environment', prepared by UNEP and the International Institute for Sustainable Development (IISD). http://www.iisd.org/pdf/envirotrade_handbook.pdf

²⁴⁶ See p 45 ff

²⁴⁷ See also endnote 242

²⁴⁸ See pp 106-8

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²⁴⁹ See Cartagena Protocol on Biosafety: from negotiation to implementation. CBD Secretariat. <http://www.cbd.int/doc/publications/bs-brochure-02-en.pdf>

²⁵⁰ Living Modified Organisms

²⁵¹ Cartagena Protocol on Biosafety: from negotiation to implementation. CBD Secretariat. <http://www.cbd.int/doc/publications/bs-brochure-02-en.pdf>

²⁵² Cartagena Protocol on Biosafety: from negotiation to implementation. CBD Secretariat. <http://www.cbd.int/doc/publications/bs-brochure-02-en.pdf>

²⁵³ The Cartagena Protocol on Biosafety: An analysis of results. An IISD briefing note by Aaron Cosbey and Stas Burgiel. *Earth Negotiations Bulletin*, IISD. <http://www.iisd.org/pdf/biosafety.pdf>

CHAPTER 13 — MALMÖ, GEO 2000 AND THE MILLENNIUM SUMMIT

²⁵⁴ Stephan Schmidheiny with the Business Council for Sustainable Development. *Changing Course: A Global Business Perspective on Development and the Environment*. Cambridge, Mass.: MIT Press, 1992

²⁵⁵ United Nations Press Release SG/SM/6881 1 February 1999

²⁵⁶ **INFOTERRA** is the global environmental information exchange network of the United Nations Environment Programme. The network operates through a system of government-designated national focal points which at present number 177. An INFOTERRA national focal point is essentially a national environmental information centre usually located in the ministry or agency responsible for environmental protection. The primary function of each centre is to provide a national environmental information service.

INFOTERRA received its mandate at the 1972 Stockholm Conference on the Human Environment which recommended the establishment of a mechanism for the exchange of environmental information and experiences among countries. In response to this recommendation, UNEP established the INFOTERRA network (initially known as IRS - International Referral System, part of Earthwatch) and governments were requested to designate a national focal point to coordinate INFOTERRA activities at the country level. The 1992 Rio Conference on Environment and Development (UNCED) reiterated the importance of information for decision-making and requested the strengthening of the INFOTERRA network to improve information availability (Agenda 21, Chapter 40).

²⁵⁷ Principle 10 of the Rio Declaration on Environment and Development, June 1992, stated: "Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided."

²⁵⁸ See pp 250-1

²⁵⁹ <http://www.un.org/millennium/sg/report/summ.htm>

²⁶⁰ <http://www.un.org/millennium/sg/report/ch4.pdf>, p 3

²⁶¹ GEO-1, the first report in the series, was published in January 1997. GEO-2000 can be accessed at www.unep.org/geo2000

²⁶² UN General Assembly Resolution A/RES/55/2 of 18 September 2000: United Nations Millennium Declaration

²⁶³ See p 179

²⁶⁴ See for example the World Bank's report of that name, published in 1995.

CHAPTER 14 — THE WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT, JOHANNESBURG, 2002

²⁶⁵ See Chapter 9

²⁶⁶ See p 133

²⁶⁷ Agenda 21, para 33.20

²⁶⁸ Global Environment Outlook 3, published by Earthscan, London, 2002

²⁶⁹ UNEP/GC/SS.VII/1 of 15 February 2002. See Engfeldt, op. cit. pp 245-247

²⁷⁰ Engfeldt, op.cit p 249

²⁷¹ See Johannesburg Plan of Implementation paras 127-132

²⁷² Engfeldt, op. cit. p 271

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²⁷³ The New Partnership for Africa's Development (NEPAD) is an economic development program of the African Union. NEPAD was adopted at the 37th session of the Assembly of Heads of State and Government in July 2001 in Lusaka, Zambia. NEPAD aims to provide an overarching vision and policy framework for accelerating economic co-operation and integration among African countries.

²⁷⁴ Para 31 of the Declaration of the WTO Ministerial Meeting held in Doha in November 2001 states:

With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on:

- (i) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). The negotiations shall be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question;
- (ii) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status;
- (iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

²⁷⁵ The 22 reports covered the following industry sectors: Accounting, Advertising, Aluminium, Automotive, Aviation, Chemicals, Coal, Construction, Consulting engineering, Electricity, Fertilizer, Finance and insurance, Food and drink, Information & communications technology, Iron and steel, Oil and gas, Railways, Refrigeration, Road transport, Tourism, Waste management and Water management.

²⁷⁶ ISO 14000 is a family of standards related to environmental management that exists to help organizations (a) minimize how their operations (processes etc.) negatively affect the environment (i.e. cause adverse changes to air, water, or land); (b) comply with applicable laws, regulations, and other environmentally oriented requirements, and (c) continually improve in the above.

CHAPTER 15 — POST-CONFLICT ASSESSMENT, ASIAN TSUNAMI, BALI STRATEGIC PLAN FOR TECHNOLOGY TRANSFER AND CAPACITY BUILDING

²⁷⁷ Now the Department of Environment, Food and Rural Affairs

²⁷⁸ Former UK Secretary of State for the Environment

²⁷⁹ The Joint UNEP/UNCHC Balkans Task Force

²⁸⁰ Personal communication, March 2012

²⁸¹ UNEP/GC.22/2/Add.7

²⁸² On taking over as UNEP's Executive Director Töpfer had decided upon a substantial reorganization of UNEP 'organigram', shifting the emphasis from theme-based (e.g. air, water, waste) programme activity centres (PACS) towards process goals, e.g. early warning and assessment, implementation, public information etc

²⁸³ UNEP Asian Tsunami Disaster Task Force: Situation Report February 2005. www.unep.org/tsunami/reports/Asian_tsunami_report.doc

²⁸⁴ Ibid

²⁸⁵ United Nations Office for the Coordination of Humanitarian Affairs

²⁸⁶ UNEP Post-Tsunami Recovery Activities 2004-2007, UNEP 2008, p 30

²⁸⁷ The Plan was first approved by the High-level Intergovernmental Working Group on an Intergovernmental Strategic Plan for Technology Support and Capacity-building at its third session, in Bali, Indonesia, in December 2004.

²⁸⁸ UNEP/GC.23/6/Add.1

²⁸⁹ UNEP/GC.23/6/Add.1

²⁹⁰ UNEP in Global Environmental Governance: Design, Leadership, Location, by Dr. Maria Ivanova published in Global Environmental Politics 10:1, February 2010

ENDNOTES

CHAPTER 16 — MEDIUM TERM STRATEGY, UNEP GC/GMEF BALI, FEBRUARY 2010, NUSA DUA DECLARATION, IPBES, GREEN ECONOMY

²⁹¹ As we have seen, men like Wolfgang Burhenne, one of IUCN's stalwarts and long-standing chairman of IUCN's Law Commission, had been 'present at the creation' of UNEP and had followed every single one of UNEP's Governing Councils or meetings of the Global Ministerial Environmental Forum. Martin Holdgate, another of UNEP's original set of 'godparents', held the post of IUCN Director-General between 1988 and 1994. UNEP, IUCN and WWF had co-sponsored the 1980 World Conservation Strategy and the subsequent 1993 Report 'Caring for the Earth'. Several UNEP-sponsored MEAs, as we have seen, were built on foundations originally laid by IUCN.

²⁹² See pp 155-6

²⁹³ UNEP SS.X/3 Medium Term Strategy for the Period 2010-2013

²⁹⁴ In conversation with the author Feb 28, 2012

²⁹⁵ See pp 155-6

²⁹⁶ See www.millenniumassessment.org/en/index.html

²⁹⁷ The CBD at its Nogoya meeting in October 2010 also adopted the Aichi Biodiversity Targets which included:

Target 5. By 2020, the rate of loss of all natural habitats, including forests, is at least halved and where feasible brought close to zero, and degradation and fragmentation is significantly reduced.

Target 6

By 2020 all fish and invertebrate stocks and aquatic plants are managed and harvested sustainably, legally and applying ecosystem based approaches, so that overfishing is avoided, recovery plans and measures are in place for all depleted species, fisheries have no significant adverse impacts on threatened species and vulnerable ecosystems and the impacts of fisheries on stocks, species and ecosystems are within safe ecological limits.

Target 7

By 2020 areas under agriculture, aquaculture and forestry are managed sustainably, ensuring conservation of biodiversity.

²⁹⁸ Sir Robert Watson was Chairman of the Global Environmental Facility's Scientific and Technical Advisory Panel from 1991 to 1994, Chair of the Intergovernmental Panel on Climate Change (IPCC) from 1997 to 2002 and Board

co-chair for the Millennium Ecosystem Assessment from 2000 to 2005

²⁹⁹ <http://www.ipbes.net/>

CHAPTER 17 — THE RUN-UP TO RIO 2012

³⁰⁰ United Nations, January 12, 2012: 'The Future We Want', Rio+20

³⁰¹ See Chapter 10

³⁰² See Felix Dodds and Michael Strauss (with Maurice Strong): *Only One Earth, the long road via Rio to Sustainable Development*, Routledge, London and New York, 2012, p 160

³⁰³ See pp 173-174

³⁰⁴ SS.VII/1. International environmental governance, para 8

³⁰⁵ Decision GC/GMEF SS.VII/1

³⁰⁶ Dodds etc, op.cit. p 160

³⁰⁷ See Chapter 14

³⁰⁸ UNGAA/RES/60/1 of 24 October 2005

³⁰⁹ Dodds and Strauss (with Strong) op. cit. p 162

³¹⁰ See for example John Scanlon in "Enhancing Environmental Governance for Sustainable Development: Function-Oriented Options", Governance and Sustainability Brief Series, March 2010, John W. McCormack School of Policy, University of Massachusetts, Boston, USA.

³¹¹ Marc Halle's post-Rio commentary: "Life after Rio" published on June 23, 2012 by IISD is a most readable, if caustic, assessment of the 'mega-coference' as a whole and of the Rio 2012 Conference in particular.

ENDNOTES

CHAPTER 18 — GEO-5; RIO+20. THE INTERNATIONAL CONFERENCE ON SUSTAINABLE DEVELOPMENT (ICSD), RIO DE JANEIRO, JUNE 2012

³¹² for a full list of goals and status of implementation, visit: www.unep.org/geo/pdfs/geo5/Progress_towards_goals.pdf

³¹³ Ivanova, M and Goodall, M. Global Environment Outlook (GEO) Reports. Berkshire Encyclopedia of Sustainability, vol.8 Measurements, Indicators, and Research Methods for Sustainability

³¹⁴ Op.Cit, p 1

³¹⁵ Unlike other international organizations such as the World Meteorological Organization or the World Health Organization, UNEP performs little direct monitoring and surveillance. Rather, it collects, collates, analyzes, and integrates data from UN agencies, other organizations, and national statistical offices to form broader environmental assessments. It engages a diverse range of experts from all regions and professions in the production process. In the case of GEO-5 some 600 experts were involved over a three-year period.

³¹⁶ See Chapter 10

³¹⁷ See for example para 194 of The Future We Want: “We call for urgent implementation of the non-legally binding instrument on all types of forests and the Ministerial Declaration of the high-level segment of the ninth session of the United Nations Forum on Forests on the occasion of the launch of the International Year of Forests.”

³¹⁸ See for example the excellent chapter ‘The Implementation Gap’ in the book by Felix Dodds and Michael Strauss (with Maurice Strong) entitled Only One Earth: the long road via Rio to sustainable development, pp 187-230. Routledge, London—2012

³¹⁹ CNN, December 18, 2009

³²⁰ ENB reported on Monday June 18, 2018 “On Section C(IFSD), the facilitator added text on functions from a Norwegian-led consultation. One group said they would consult further on functions and transforming UNEP into a specialized agency. One responded that if any text were reopened, everything would unravel. Another said he could not accept text that weakens UNEP. The facilitator closed the meeting with a warning to delegates about reopening “agreed” text.”

³²¹ http://sabahionline.com/en_GB/articles/hoa/articles/newsbriefs/2012/02/20/newsbrief-07

³²² See, for example <http://www.guardian.co.uk/environment/2012/june/21/rio-20-world-environment-organisation>

³²³ the text is transcribed from the speech actually delivered by Mr Koterec in Rio+20. See uncsd website under resources/statements for video recording.

³²⁴ <http://www.guardian.co.uk/environment/2012/jun/28/rio-green-economics-hope>

EPILOGUE

³²⁵ In August 2012 Ban Ki-moon, the UN Secretary-General, named a 26-member panel to advise him on the global development agenda after 2015, the target date for the millennium development goals (MDGs). The high-level panel held its first meeting at the end of September during the UN General Assembly and is expected to submit a report in the first half of 2013. UK prime minister David Cameron, Liberian president Ellen Johnson Sirleaf, and President Susilo Bambang Yudhoyono, of Indonesia, serve as co-chairs of the panel.

Secretary-General Ban said: “I have asked my high-level panel to prepare a bold yet practical development vision to present to member states next year. I look forward to the panel’s recommendations on a global post-2015 agenda with shared responsibilities for all countries, and with the fight against poverty and sustainable development at its core.”

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- **The Politics of Population:** Cairo, 1994 - <http://www.amazon.co.uk/The-Politics-Population-Cairo-1994/dp/1853832979>
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