

Malaysia and UNCED:

An Analysis of a Diplomatic Process; 1989 - 1992

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ABSTRACT

This thesis is a political and diplomatic analysis of a United Nations special conference - the United Nations Conference on the Environment and Development (UNCED) which took place over a period of two and a half years from 1989 to 1992. It examines the process and substance of the UNCED negotiations as seen through the role played by Malaysia. It shows how Malaysia, a small, developing country, strives to influence events at the United Nations. A number of issues have been selected as negotiation case-studies. They include forests, biological diversity, climate change and the cross-sectoral issues of finance and technology transfer. The thesis examines the motives of nation-states in resolving these environmental problems and analyses the unprecedented role of non state actors which took an active part in the UNCED process. Finally, the thesis analyses the results of UNCED and attempts to predict its future as seen through the newly created Commission on Sustainable Development.

Dedicated to the memory of my parents

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CONTENTS

ABBREVIATIONS AND ACRONYMS	vi
INTRODUCTION	
About the Thesis	1
Scope of Study	3
Significance of Study	5
Methodology	7
CHAPTER 1 - A CONCEPTUAL FRAMEWORK: CONFERENCE DIPLOMACY AND UNCED	
Convening of Special Conferences	11
- Special conferences on the environment	18
Elements of Conference Diplomacy	
- Actors	25
- Decision-making process	29
- Environmental Politics	32
- Paradigm shift	34
Events leading to the adoption of the UNGA resolution 44/228 on UNCED	37
- The debate	40
Conclusion	43
CHAPTER II - PREPARATION AT THE NATIONAL LEVEL	
The Internal Decision-making Process	45
- The National Steering Committee on UNCED	47
- National Seminar on UNCED	49
- The National Report	52
- Shaping the Malaysian position	53
- Diplomatic Strategy	56
Mobilizing the South	61
- Malaysia's initial contribution to the UNCED debate	64
- ASEAN meetings on the Environment	67
- Summit-level Group for South-South Consultation and Cooperation (Group of Fifteen)	76
- The Beijing Ministerial Conference of Developing Countries on the Environment and Development	78
- The Second Ministerial Conference of Developing Countries on the Environment and Development	86
Malaysia's Initiative for the Greening of the World	91
Malaysia and the issue of Antarctica and the Environment	95
Conclusion	98

CHAPTER III - THE PROCESS AND SUBSTANCE OF THE UNCED NEGOTIATION

Introduction	
Part I : Elements and Process	100
Part II: Selected issues before UNCED:	
- The Rio Declaration on the Environment and Development	111
- Forest Principles	124
- Institutional Arrangements	140
- Transfer of Technology	149
- Financial Resources and Mechanisms	159
- The Framework Convention on Climate Change	172
- The Convention on Biological Diversity	182
Conclusion	191

CHAPTER IV - AT THE RIO SUMMIT

Introduction	197
The Organisation of the Conference	197
Negotiation Behaviour in resolving issues at the Summit	199
The role of non negotiating actors:	
- The Heads of State/Government	205
- Media	208
- Non-Governmental Organisations (NGOs)	211
The Outcome of the Summit	220
Conclusion	224

CHAPTER V - ASSESSMENT AND CONCLUSION

Introduction	228
An Assessment of UNCED as a Special Conference	229
The Players: The United States	233
: The South	237
: The European Union	242
: The NGOs	243
Sovereignty and National Interest	245
An Appraisal of Malaysia's role	248
The Future of UNCED: The Role of the Commission on Sustainable Development	260
Conclusion	263
BIBLIOGRAPHY	268
APPENDIX	284

ABBREVIATIONS AND ACRONYMS

ACABQ	Advisory Committee on Administrative and Budgetary Questions
ACC	Administrative Committee on Coordination
AIPO	ASEAN Interparliamentary Organisation
AMME	ASEAN Ministerial Meeting on Environment
AOSIS	Alliance of Small Island States
ASEAN	Association of Southeast Asian Nations
ASOEN	ASEAN Senior Officials Meeting on Environment
ATCP	Antarctic Treaty Consultative Parties
BCSD	Business Council on Sustainable Development
CANZ	Canadian, Australian and New Zealand Group
CHOGM	Commonwealth Heads of Government Meeting
CFC	Chlorofluorocarbon
CIDA	Canadian International Development Agency
CITES	Convention on International Trade on Endangered Species
CO ₂	Carbon dioxide
COFO	Committee on Forestry
CSD	Commission on Sustainable Development
DNA	Deoxyribonucleic acid
EU	European Union (then referred to as the European Community (EC))
ECOSOC	Economic and Social Council
EPSM	Environmental Protection Society, Malaysia
FAO	Food and Agricultural Organisation
FRG	Federal Republic of Germany

G 15	Group of 15 (Summit Level Group for South-South Consultation and Cooperation)
G 77	Group of 77 (developing countries)
GA	General Assembly
GATT	General Agreement on Tariff and Trade
GDR	German Democratic Republic
GEF	Global Environmental Facility
GEMS	Global Environmental Monitoring System
GNP	Gross National Product
IBRD	International Bank for Reconstruction and Development (World Bank)
IDA	International Development Association
IFAD	International Fund for Agricultural Development
IFC	International Facilitating Committee
IGO	Intergovernmental Organisation
INC	Intergovernmental Negotiating Committee
INC-FCCC	Intergovernmental Negotiating Committee on the Framework Convention on Climate Change
INFOTERRA	International Referral System for Environmental Information
INTAN	National Institute of Public Administration, Malaysia
IPCC	Intergovernmental Panel on Climate Change
IPR	Intellectual Property Rights
IRPTC	International Register of Potentially Toxic Chemicals
ISIS	Institute of Strategic and International Studies, Malaysia
ITTO	International Tropical Timber Organisation
IUCN	International Union for the Conservation of Nature and Natural Resources (World Conservation Union)
JIU	Joint Inspection Unit

MNC	Multinational Corporation
NAFTA	North American Free Trade Area
NIEO	New International Economic Organisation
NGO	Non Governmental Organisation
NSC	National Steering Committee, Malaysia
ODA	Overseas Development Administration
OECD	Organisation for Economic Cooperation and Development
PETRONAS	National Petroleum Authority, Malaysia
Prepcom	Preparatory Committee for UNCED
PUSPATI	Centre for Nuclear Energy Research, Malaysia
R & D	Research and Development
TNC	Transnational Corporation
TWN	Third World Network
UN	United Nations
UNCED	United Nations Conference on Environment and Development
UNCHE	United Nations Conference on Human Environment
UNCLOS	United Nations Conference on the Law of the Sea
UNCTAD	United Nations Conference on Trade and Development
UNCTC	United Nations Center for Transnational Corporation
UNDP	United Nations Development Programme
UNEP	United Nations Environmental Programme
UNGA	United Nations General Assembly
US	United States of America
WMO	World Meteorological Organisation
WRI	World Resources Institute
WTO	World Trade Organisation
WWF	Worldwide Fund for Nature

INTRODUCTION

ABOUT THE THESIS

The United Nations Conference on the Environment and Development (UNCED) held in Rio de Janeiro in June, 1992, was by far the largest special conference that the United Nations had ever held. It was attended by 116 Heads of State and Government, 172 states, over 8,000 delegates, 9,000 members of the press and 3,000 accredited representatives of the Non-governmental Organisations (NGO). This thesis is a political and diplomatic analysis of that special conference. It analyses the process and the substance of UNCED, examined through the role played by Malaysia.

The thesis explains that while UNCED provided the international community with the platform on which global environmental problems could be addressed, its achievements fell short of the intended goals. It is an example of states moving from one conference to another, reiterating with noble and sometimes towering ambition, the intention of alleviating global environmental problems, but failing to translate them into action. This occurs because states, while agreeing to come to the negotiating table, are not prepared to transfer or relinquish their claims to national sovereignty. On the contrary, the UNCED deliberations and results demonstrated that states saw UNCED as a tool to pursue and secure whatever they regard as their national and economic interests.

Thus, while extensive efforts were made in finding the solution to implement the UNCED decisions, different interests

and different priorities have since encouraged states to compromise in the name of consensus. UNCED has resulted in a set of bland agreements which serve merely the minimal interests of all participants.

The thesis attempts to show that states still consider themselves as the only actor that matters on the international stage. In the pursuit of their national interests, states have fully capitalised on the intellectual resources afforded by the NGOs. While they welcomed the contributions offered by the NGOs, the latter's ideas were taken selectively to the extent that, at the end the form and content of the agreements negotiated all conformed to the governments' expectations, not the NGOs'. While Agenda 21 (the Programme of Action) referred to the new form of partnership with the NGOs, it was mere lip service as in reality governments, whether in the North or South, were equally unenthusiastic about the intended new form of collaboration. In short, NGOs were accepted only in so far as they were useful to governments. It remains that in the affairs of multilateral negotiations at the UN, the state is still in charge.

The thesis analyses the UN's institutional capacity to meet the challenges posed by UNCED. Over the years, the UN system has grown to the extent that it has become incapable of efficiently managing its own units. Coordination among its agencies has proved to be virtually impossible and with yet another institution in place, the Commission on Sustainable Development (CSD), which is likely to turn into another 'talk fest'.

UNCED took place in a complex context of multilateral diplomacy and if many things were left "unsaid" at UNCED, this should not surprise anyone with the knowledge of the limitations of conference diplomacy. The answer to the problem lies in the willingness of the states in the international community to create a genuine partnership and trust to address the wider issues of inequality and the maldistribution of resources, which in fact are the major contributors to environmental problems.

Finally, this thesis demonstrates how Malaysia, a small, developing country, can influence events such as UNCED. While the exercise was exhausting and the results minimal, Malaysia still considers it useful to engage in such multilateral negotiations. This dilemma however continues to haunt the poorer countries which can ill-afford to participate in such expensive and elaborate meetings, given their limited resources and expertise.

SCOPE OF STUDY

The thesis is divided into four areas of study. Chapter I covers the conceptual framework of UN special conferences. It discusses the actors, the decision-making process, the politics and the different paradigms around which the conferences evolve, with particular reference to the United Nations Conference on Human Environment (UNCHE) held in Stockholm in 1972 and to UNCED, held twenty years later. The second part of the chapter traces the events leading to the adoption of the of the United Nations General Assembly resolution 44/228 of 22 December, 1989, which provided the mandate to convene UNCED.

The second area of study, discussed in Chapter II, describes how Malaysia prepared itself for this special conference. It shows how national views are shaped and how strategies are devised to ensure that the positions taken are being understood on the home front before they are suggested to the world outside. The chapter goes on to describe the initiatives undertaken by Malaysia to mobilise the position of developing countries through regional conferences such as the ASEAN Ministerial Meeting on the Environment, the Group of Fifteen (Summit-level Group of South-South Consultation and Cooperation), the Beijing Ministerial Conference of Developing Countries on the Environment and Development and the Kuala Lumpur Ministerial Conference of Developing Countries on the Environment and Development. The final part touches on Malaysia's unsuccessful attempt to introduce the Malacca Straits pollution problems and the issue of Antarctica into the UNCED agenda.

The third area of study is about the process and substance of the UNCED negotiations. This is described in Chapter III through a case study. Here, seven issues of particular importance to Malaysia and the developing countries have been selected. An assessment of Malaysia's role in each of these issue-negotiations provides an idea of how, small, developing states negotiate. The section on the elements and processes of the negotiation is inspired by the works of Gilbert Winham in his political analysis of the Tokyo Round and Kennedy Round Multilateral Trade Negotiations.

The behaviour, conduct and performance of actors in resolving issues 'at the Summit' forms another area of study, which is discussed in Chapter IV. These aspects merit attention as delegates, due to time constraints, are pressured to arrive at an agreement in the final stages of the negotiations. As practitioners are not the only actors at the Summit, the role of Non-negotiating actors such as the Heads of State and Government, the media and the NGOs is also discussed in this chapter. Emphasis is placed on whether these non-negotiating actors made a substantial difference in influencing the results of UNCED. Finally, the chapter outlines the outcome of the Summit.

The thesis ends with an assessment in Chapter V, of UNCED as a special conference. It provides an appraisal of the role played by Malaysia at UNCED and speculates on what the future holds for UNCED, as seen through the mechanisms already put in place, in particular, the Commission on Sustainable Development (CSD).

SIGNIFICANCE OF STUDY

UNCED provided its actors with a rich experience in multilateral negotiations. It afforded an enormous learning experience, especially for developing countries, on negotiating behaviour and on the diplomatic process of reaching agreement through coalition and consensus-building. The ability of negotiators to cope with the multitude of complex issues and to resolve them within a time-frame of two and a half years contributed to

making this UN special conference a unique event which should be of interest to students of international organisations.

Malaysia's participation at UNCED merits attention, given the active role it assumed throughout the two and a half-year process. Malaysia has been embarking on an active foreign policy since the early 1980s. Although a small and developing country, it has aspired to influence events at the multilateral level. For example, Malaysia jolted the position of the Antarctic Treaty Consultative Parties (ATCP) at the 37th UN General Assembly when it proposed the application of the common heritage principle in the administration of Antarctica. The issue has since been kept alive annually at the UNGA. In 1983, Malaysia hosted an international conference on the Question of Palestine in Kuala Lumpur. In 1987, it participated actively in the International Conference on Drugs and Illicit Trafficking at Vienna in which its Prime Minister, Dr. Mahathir Mohamad was elected as president of the conference. 1989 was an eventful year for Malaysia as far as multilateral relations were concerned: It hosted the Commonwealth Heads of Government Meeting (CHOGM) at Kuala Lumpur, was elected as member of the UN Security Council for the 1989/90 term and chaired the Group of 77 at the United Nations. In 1989, at the Non-aligned Summit held in Belgrade, the Malaysian Prime Minister, together with a group of leaders of the South, announced the creation of the South Commission in 1990 and the South-South Consultation and Cooperation Committee (or the Group of Fifteen). From that period onwards South-South cooperation became an important

aspect of Malaysia's foreign policy objectives, complementing its existing relations with the North.

UNCED provided another occasion for Malaysia to assume an active role in the international arena. This thesis shows how Malaysia set out to influence events at this UN special conference in defence of its economic and national interests as well as in promoting its image abroad.

An analysis of the UNCED diplomatic process and the role assumed by Malaysia in that process merits study. UNCED has made many sectors of the Malaysian population aware of the importance of protecting the environment. At the time of writing, a number of Malaysian scholars are also writing on the various aspects of environmental protection such as environmental impact assessment and other related fields including sustainable development, a concept popularised by UNCED. Together with these studies, it is hoped that the analysis of the international relations aspect of UNCED attempted in this thesis will prove useful and provide a comprehensive understanding of the subject to scholars and practitioners alike.

METHODOLOGY

This thesis is a case study of a UN special conference. It describes, narrates, analyses and interprets UNCED and the role assumed by the players in a chronological and thematic manner. Each issue found in Chapter III stands alone, enabling the reader to understand the situation described in its own terms. Only at a later stage in the analysis, in Chapter V, is it

possible for the reader to compare and contrast cases as well as to see how they are linked to one another.

The data collected for this thesis is based on primary sources and a literature review. The main source of reference is the official records of the United Nations pertaining to UNCED. Resolutions (both in their draft and final form), reports of experts meetings, reports of the Intergovernmental Negotiating Committees (INCs) on the two Conventions signed at Rio, the 800-page document of Agenda 21 and all agreements reached at Rio have been carefully scrutinised. In addition, speeches, intervention notes, media reports, and press interviews pertaining to UNCED provide useful information on the conference proceedings and discussions that took place.

To understand the position of developing countries, reports of the regional meetings held prior to UNCED such as the ASEAN Ministerial meeting on the Environment, the Beijing Ministerial Conference on the Environment and the Second Ministerial Conference of Developing Countries held in Kuala Lumpur are important sources of reference.

Information on Malaysia's participation and national position are found in the intervention notes which now form part of the official UN documents, in the speeches made at the relevant meetings, seminar reports, the National Report as well as from interviews and media reports. The researcher's position as a participant in the UNCED process and as a member of the Malaysian negotiating team forms an important primary source of information.

Draft resolutions would form a basic source of reference if one were to understand fully the UNCED negotiating process. However, since the conference documentation reports only the formal decisions, usually as General Assembly and ECOSOC resolutions, it is difficult to know precisely which actors initiated a particular process. Corridor agreements, important as they may be in conference diplomacy, do not constitute formal deliberations, while official speeches do not always reflect the underlying negotiation strategies. Press releases, personal interviews and discussions with those who participated at the conference thus become useful.

The study is strengthened by a chapter on the conceptual framework on UN special conferences which provides the foundation of the thesis. There is a growing literature on international organisations written by authors in the field such as Johan Kaufmann, Peter Willetts, Paul Taylor and A.J.R. Groom, to whom the chapter makes reference. On the area of substance, the writings of Stanley Johnson, Michael Grubb, Caroline Thomas, Marc Williams, Jacqueline Roddick, Richard Gardner, Gareth Porter and Janet Welsh Brown, Richard Benedick, Hurrell and Kingsbury, Patricia Birnie, Wolfgang Sachs and Matthias Finger, to name a few, provide interesting analyses as well as important sources of information. Journals and periodicals such as the *Third World Resurgence*, *Ecologists*, *Environment*, *IIED Perspectives*, *International Environmental Affairs* and *Environmental Politics* also afforded useful and interesting observations. The *Earth Summit Times*, *Terra Viva* and *Earth*

Summit Bulletin gave a day-to-day account of what happened at the preparatory committee meetings and at Rio.

On the aspect of negotiation behaviour and the process, the writings of Gilbert Winham, Roger Fisher, Fred Iklé, H. Raiffa, Knut Midgaard and Arild Underdal have been found to be very useful. Finally, journals such as **International Organisation** and **World Politics** regularly publish articles on multilateral negotiations. Here, the analytical assessment of Oran Young, William Zartman, Peter Haas and Susan Strange provided the researcher with a wider perspective.

CHAPTER ONE

A CONCEPTUAL FRAMEWORK: CONFERENCE DIPLOMACY AND UNCED

The purpose of this chapter is to provide a foundation for the thesis. Many elements make up what was commonly referred to as "diplomacy by conference".¹ Today, contrary to what Sir Harold Nicolson predicted, conference diplomacy has become an integral part of the state's external activity which governments cannot afford to ignore. This chapter begins with an explanation of certain common concepts and elements of conference diplomacy, using the special United Nations conferences on the environment as an illustration. The second part of this chapter discusses the debate that sparked off the 1992 Rio Conference on the Environment and Development, commonly referred to as the 'Earth Summit'.

THE CONVENING OF SPECIAL CONFERENCES

The past twenty-five years have witnessed the unparalleled growth of special conferences initiated by the United Nations General Assembly or the Economic and Social Council (ECOSOC). The emergence of a new agenda of international issues has popularised the convening of such conferences. New discoveries brought about by the rapid change in science and technology have created a growing awareness about the problems confronting the world. Global problems such as nuclear proliferation, population

¹ Sir Harold Nicolson, Diplomacy, (UK: Home University Library, 1963).

growth, pollution, food production, refugees and poverty, call for global solutions and provide the stage for a multilateral approach to diplomacy. Many of these problems so transcend national boundaries that states are not in a position to resolve them bilaterally. A common international interest therefore imposes the need for international cooperation.

Before delving any further, it is necessary to provide a working definition of the term 'special conference', since it is nowhere envisaged in the UN Charter. Article 61 of the UN Charter merely states that the Economic and Social Council 'may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence'. A.J.R. Groom argues that the essence of the matter is not therefore constitutional, legal or bureaucratic; it is political in the sense that if a sufficient degree of consensus on relevant values does not prevail, nothing effective can be done. And, in so far as special conferences are concerned, this means that its members should be convinced that self-interest necessarily involves a modicum of community interest.²

Peter Willetts contends that although the UN has been conducting specialised conferences since its early years, the special conference first emerged as a major phenomenon in the 1970s. Before that period, the United Nations could not be considered as a global organisation because one whole region, Africa, had very limited membership. In addition, the UN did not

² A.J.R. Groom, 'Reflection on a Changing System', in Global issues in the UN Framework, ed. by Paul Taylor and A.J.R. Groom, (New York: St. Martin Press, 1989).

approach universal coverage of the world's population until the Beijing government took the Chinese seat at the UN in 1971.

The conference is 'special' because it deals with a specific range of questions. It is limited to one issue-area and is convened on an ad hoc basis, rather than part of the regular work of the UN. To be truly global it must be opened to all governments. In addition, the impact of transnational pressure groups and the attention of the world media adds to its universality.³

LeRoy Bennett facilitates a clearer understanding of such conferences by pointing to a number of features. The typical pattern of each conference is to select a single topic for attention, set a time period and meeting place for the conference, arrange for preparatory work by existing or specially created agencies, hold a conference of two or more weeks' duration generally open to all states, and adopt a set of principles and an action plan requiring implementation through new or existing United Nations or related agencies.⁴ Added to these features is the fact that the composition of national delegations is somewhat different from the delegations normally found in UN meetings. Delegations of special conferences are made up not only of diplomats from the foreign ministries and the UN permanent missions, but also of experts from the various home ministries. This is reflective of the mere

³ Peter Willetts, 'The Pattern of Conferences', in Global issues in the UN Framework, ed. by Paul Taylor and A.J.R. Groom, (New York: St. Martin Press, 1989).

⁴ A. LeRoy Bennett, International Organizations, (Prentice-Hall Inc. 3rd edn., 1984).

problem-solving character of the conference rather than the usual UN power bargaining system.⁵

Fortunately by 1982, a report prepared by the Secretary-General of the UN came up with a definition of special conferences as those arranged outside the regular framework of the United Nations and its agencies and normally initiated by the General Assembly or the Economic and Social Council. They occur when new problems are identified, demanding action which is not under the jurisdiction of any particular Specialised Agencies and requiring separate and additional budgetary provisions. They are intended to be unique occasions and therefore require an extensive level of planning and servicing.⁶

The following conferences fit inter alia, the above definitions of UN special conferences: The Stockholm Human Environment Conference held in 1972, the UN conferences on Food in 1974, on Population in 1974, 1984 and 1994, on Women in 1975, 1980, 1985 and 1995, on Human Settlement in 1976, on Water in 1977, on Desertification in 1977, on the Environment and Development in 1992, on Human Rights in 1993 and on the Third UN Conference on the Law of the Sea which extended over ten years from 1972. More recently, the General Assembly also endorsed the convening of the UN conference on Population in Cairo in 1994 and a conference on Social Development in 1995.

⁵ A.J.R. Groom (1989), op.cit.

⁶ Joint Inspection Unit, 'Secretariat Organization and Procedures for Preparation of United Nations Special Conferences', prepared by Mark Allen et al., JIU/REP/82/2, p.1.

The increase in the number of special conferences conducted by the UN since 1972 reflects the importance given to conference diplomacy despite the pressure on the limited resources. In this regard, the General Assembly took heed of the call by the Secretary-General made in 1963 urging that 'as a general rule and until it has been possible to rationalise the normal programme of the United Nations meetings, no more than one major special conference be scheduled annually'.⁷

Contributory studies on the evolution of special conferences within the UN system point to a number of factors leading to the convening of such conferences. Special conferences are seen as a result of the growing awareness of the necessity to confront problems which the individual actors on their own cannot resolve without the help of the larger international community. The dimension is extended from government to non-governmental participation as pressure groups, scientists and experts converge as informal partners with their own internal political systems and relationships. Special conferences, in addition to generating knowledge, also provide opportunities for those who are ready to benefit from them. In such cases certain individuals and organizations, in the pursuit of their narrow self-interest, demonstrate in these conferences the determination to apply new knowledge to solve practical problems. Another reason for calling such conferences is attributed to a moral dimension that has become overwhelming in today's international society. Paul Taylor, in explaining this

⁷ UN General Assembly Resolution 1987 (XVIII) of 17 December 1963.

phenomenon, stressed that the problems of maldistribution rather than the inadequacy of resources was the powerful energizer in the convening of such conferences.⁸ The fact that there is damage and deficiency in one area and excesses in another reinforces interaction and interdependence. Charles Beitz argues that the belief in interdependence reinforces a preparedness to accept transnational linkages, and concomitantly the perception that maldistribution involves moral considerations.⁹ These beliefs cultivate the view that someone is responsible for someone else's problems, and that, therefore, something should be done. This is particularly reflective of the special conferences on development, food and the environment.

A common view shared by many international organisations' critics is that special conferences are a product of certain weaknesses in the UN system. It has been observed that the economic and social international organisations of the UN's system have failed to develop procedures for identifying and tackling new problems as a matter of routine. Existing Specialised Agencies are seen as far too narrow and detached to absorb the new problems that emerge over time. Proposals suggesting changes in the existing system are taken defensively by such organisations and there appears no means of harmonizing the thinking of the executive heads of the different agencies. Even the Economic and Social Council, which would have been the

⁸ Paul Taylor, : International Organisations in the Modern World, (London, New York: Pinter Publications, 1993).

⁹ Charles R. Beitz, Political Theory and International Relations, (Princeton: Princeton University Press, 1979), cited in Paul Taylor's 'Process and Reform in the UN system', (1993), op.cit., Chapter V.

appropriate body to coordinate and control the activities of the Specialised Agencies, has failed to live up to the expectations of its founders. The reports of the various institutional committees such as the Administrative Committee on Coordination (ACC), the Advisory Committee on Administrative and Budgetary Questions (ACABQ) and the Joint Inspection Unit (JIU), hard hitting though they may be, remain advisory as the agencies' heads resist change in defence of their agencies' interests.¹⁰

A further weakness is that the General Assembly has no authority to instruct the agencies and no means to monitor effectively their performance. The underlying problems according to Paul Taylor are that the system has become polycentric, and that it has no organisation within it which coordinates and manages its wide range of economic and social activities. The polycentric character, and the resulting failure in management mean that it is always easier to respond in an ad hoc fashion to new problems - to create ad hoc conferences - rather than to adapt rationally within the system.¹¹

According to Paul Taylor, special conferences would not be necessary if the system were effectively managed. But we are after all dealing with sovereign states in international society and with institutions which have the Weberian characteristics of bureaucracies.¹² Although, as this thesis will indicate, 'conference fatigue' will set in as states stumble from one

¹⁰ Houshang Ameri, 'Politics and Process in the Specialized Agencies of the United Nations,' (Aldershot, 1982), cited in Paul Taylor (1993), *ibid.*, Chapter V.

¹¹ Paul Taylor (1993), *ibid.*, Chapter V.

¹² Paul Taylor (1993), *ibid.*, Chapter V.

conference to another, it is unlikely that we will see the end of special conferences in the near future.

SPECIAL CONFERENCES ON THE ENVIRONMENT

The Stockholm Conference on Human Environment

The United Nations Conference on Human Environment (UNCHE) held in Stockholm on 5 - 16 June 1972 was an unprecedentedly important event by UN conference standards. It was a one off special conference and, for the first time in the history of the UN, a new dimension - the environment - was introduced into its programme.

John McCormick asserts that the role of the single issue of 'acid rain', brought forward by Sweden, triggered the need for such a conference.¹³ The developing countries, on the other hand, were drawn in by their fear that western desire for a narrow environmental conference would marginalise and hamper their economic aspirations.

The General Assembly's Resolution 2398 (XXIII) of 1969 provided the mandate to convene UNCHE. The Preparatory Committee (Prepcom) was set up immediately and held sessions in New York in 1970 and in Geneva in 1971. Maurice Strong, a Canadian official, was appointed as the Under-Secretary-General in charge of the Secretariat in Geneva. At the same time, numerous UN regional seminars took place to discuss the subject in Bangkok, Addis Ababa, Mexico and in Beirut. Governments were required to prepare a comprehensive report on their environmental positions

¹³ J. McCormick, The Global Environmental Movement: Reclaiming Paradise, (London: Belhaven, 1989)

and policies while the various UN Specialised Agencies such as the WHO, WMO, ICAU, FAO, UNESCO and IAEA, uncoordinated as they were, were requested to provide reports on the environmental aspects of their work.¹⁴

Six subjects were placed on the conference agenda: planning and management of human settlements for environmental quality; environmental aspects of natural resource management; identification and control of pollutants and nuisances of broad international significance; educational, informational, social and cultural aspects of environmental issues; development and environment; international organisational implications of action proposals.¹⁵

Unlike UNCED, the Cold War dispute brought a number of political disagreements into the Stockholm preparatory process. The USSR and the East European countries boycotted the conference because of the dispute over the international status of East Germany. UNGA Resolution 2850 on rules and procedures enabled all members of the UN and its Specialised Agencies to participate in the conference. However, while neither the Federal Republic of Germany (FRG) nor the German Democratic Republic (GDR) were members of the UN, the FRG was a member of many Specialised Agencies and was therefore eligible to attend,

¹⁴ Ingrid Detter de Lupis, 'The Human Environment: Stockholm and its Follow-up', in Paul Taylor and A.J.R. Groom, Global Issues in the UN Framework, (New York: St. Martin Press, 1989).

¹⁵ Patricia Birnie, 'The UN and the Environment', in Adam Roberts and Benedick Kingsbury (eds.) 2nd edn., United Nations, Divided World, (Oxford: Clarendon Press, 1993), Chapter 10.

whereas the GDR was not. There was also disagreement as to whether the environmental aspects of the war in Vietnam should be discussed; whether testing of nuclear weapons should lead to any recommendation and whether apartheid and colonialism should be formally condemned.¹⁶

Another set back faced during the preparatory process was the luke warm attitudes of the developing countries towards the conference. There was such concern about how many developing countries would eventually participate that efforts were made to convince them that the conference agenda would extend beyond the environmental problems of industrialised countries. Thus, as part of the preparatory process, a number of key developing countries rapidly unfolded their own approach to the UNCHE agenda. Their position was summed up in the 'Founex Report'¹⁷ which created echoes right up to Stockholm. In summary, the Report argued that the current environmental concern was pollution and the disruption of the natural system caused by the high levels of industrialisation in the developed countries. The developing countries also had a stake in these issues as they impinged on their own economic relations with the industrialised world, and to the extent that the developing countries themselves confronted these problems in the course of their own economic development. However, the main environmental problems

¹⁶ Ingrid Detter de Lupis (1989), op.cit.

¹⁷ UNEP Publication: 'Development and Environment: Report and Working Papers of a Panel of Experts convened by the Secretary-General of the Conference on Human Environment, held in Founex, Switzerland, 4-12 June, 1971'.

facing developing countries stemmed not from pollution but from poverty, disease, hunger and exposure to natural disasters. The solution was to be found through the process of economic development itself. In the rich countries industry might be the problem; in poor countries it was the solution.¹⁸

The developmental twist given by the developing countries to the environment issue took the industrialised countries by surprise. They found the agenda broadened to include such issues as poverty and financial aid. The developing countries held that in order to compensate for the costs of meeting higher environmental standards, they would need extra funding and modern technologies from the industrialised North. The North's reaction to compensation and 'additionality' was not positive. The United States maintained firm opposition against any form of aid or compensation.¹⁹

The Stockholm Conference was attended by 113 governments, gathering about 1,200 delegates. It was held at the ministerial level and apart from Olaf Palme from the host country, the only Head of Government who attended UNCHE was Indira Gandhi from India. The Conference selected a theme 'Only One Earth'. UNCHE had two distinct features which were to become characteristic of subsequent UN special conferences. The first was the extent of media interest and coverage, which raised public interest on environmental issues. The second was the involvement of NGOs,

¹⁸ Tony Brenton, The Greening of Machiavelli, (London: RIIA, Earthscan, 1994), p. 9.

¹⁹ ibid., p.39.

mostly from the North, in a parallel 'Environment Forum', officially sanctioned and encouraged by the UN Secretariat and the Swedish government. The NGOs were able to follow the conference proceedings and were permitted to make a formal statement to the conference. They published a daily newspaper *Eco*, edited, produced and financed by **The Ecologists** and the **Friends of the Earth**. Their activity at Stockholm was subsequently looked upon as a precedent and encouragement to the NGOs themselves.

UNCHE adopted a 26-point Declaration on Human Environment and a 109-point Action Plan. An Environment Fund was established by voluntary contributions from governments. Following the Conference, the General Assembly established the United Nations Environmental Programme (UNEP) to pursue the Conference's objectives. UNEP's programmes included Earthwatch, an international surveillance network with three main components. The first is the Global Environmental Monitoring System (GEMS) which monitors, measures and interprets selected environmental variables to provide governments with the information necessary to anticipate and combat adverse environmental changes. The International Referral System for Environmental Information (INFOTERRA) serves as a worldwide register of sources of environment information and the International Register of Potentially Toxic Chemicals (IRPTC) provides scientific and regulatory information on potentially toxic chemicals that may be dangerous to health and the environment.

None of the decisions taken at Stockholm had any binding obligations upon governments. Yet they were significant as they

set the scene for international environmental agreements and created the legal and political basis for the Rio conference, twenty years later.

UNCED

In terms of organisation, UNCED was in many ways a repeat of the Stockholm Conference held twenty years earlier. The Secretariat was headed by the same person, Maurice Strong, who was invited to organise a conference secretariat in Geneva which had the responsibility of setting the agenda and seeking potential areas of consensus. The Secretary-General's role included developing the first drafts of the documents for UNCED as well as coordinating the Preparatory Committee (Prepcom) meetings. Based on past experiences, it was found useful for governments to prepare 'National Reports' outlining the situation and the policy in their own country. Background papers were written and research studies were commissioned for the purpose of conference documentation. A wide range of regional meetings took place during the preparatory period corresponding to the regional commissions of ECOSOC. Expert group meetings on particular topics were also conducted in different capitals in order to diversify awareness.²⁰

Like Stockholm, which had a theme, "Only One Earth", UNCED also had a theme "Survival of Earth and Humanity" and went through the same preparatory process with the establishment of working groups and Preparatory Committees. Four Prepcoms were

²⁰ Peter Willetts (1989), op.cit., pp.35 - 63.

held - the first in August 1990 in Nairobi, the second in March/April 1991 in Geneva, the third in August 1991 in Geneva and the fourth in April 1992 in New York. UNCED had a Declaration, a Programme of Action, it established an institution (Commission on Sustainable Development) and was participated in by member-states as the main actors. The NGOs were also accommodated and provided with a parallel 'Global Forum' and like Stockholm, it attracted a great deal of media attention. What was unusual was that, unlike Stockholm, UNCED was sponsored not only by the donor governments but also by major companies (e.g. ICI, Swatch) and foundations (e.g. MacArthur and Rockefeller).²¹ This new phenomenon is significant as the involvement of big corporations in the UNCED process has been seen by some to have been, in many ways, responsible for shaping the UNCED agenda and influencing its outcome.

Before the conclusion of UNCED, it was hoped that the Conference would conclude conventions on Climate Change and Biological Diversity. Negotiations on the two conventions continued in parallel groups. The convention on Climate Change was assigned by the General Assembly to an Intergovernmental Negotiating Committee (INC) which met in Nairobi, Virginia, Geneva and New York. The Biological Diversity Convention had its own INC, for which UNEP served as the Secretariat. Negotiating sessions were held in Madrid, Geneva and Nairobi.

UNCED was also to consider the possibility of a convention on Forests, to produce an "Earth Charter" that would set the principles of conduct on environmental protection and

²¹ Patricia Birnie (1993), op.cit., Chapter 10.

sustainable development, to adopt a programme of action for the implementation of these principles and to study the 'cross-sectoral issues' such as finance, transfer of technology, poverty, human settlements, the role of women, health and education.

ELEMENTS OF CONFERENCE DIPLOMACY

Johan Kaufmann defines conference diplomacy as 'that part of the management of relations between governments and of relations between governments and intergovernmental organisations that takes place in international conferences'.²² This section will attempt to discuss the elements that constitute conference diplomacy in relation to the UNCED process. These include the actors, the decision-making process, the politics and paradigm shift.

The Actors

UNCED, which took place at Rio de Janeiro from 3 - 14 June 1992, was attended by over 8,000 officials representing 172 member-states of the United Nations, 700 UN officials and 116 heads of government. This estimated count, not including the 9,000 media representatives and over 26,000 individuals representing several hundred international governmental bodies (IGOs), NGOs, multinational corporations (MNCs) who in one way or another, participated in related meetings at Rio, represent the actors in the UNCED process.

²² Johan Kaufmann, Conference Diplomacy, (2nd edn; Netherlands: Martinus Nijhoff Publications, 1988), p.2.

A.J.R. Groom observes that in normal UN diplomacy, members of the permanent mission in Geneva or New York attend meetings not because they are particularly knowledgeable about the subject but because they are there.²³ This cannot apply to special conferences such as UNCED where special delegations consisting of officials and experts from the relevant home ministries may have to be appointed to negotiate issues that are multidisciplinary and multithematic. In some instances, parliamentarians form part of the official delegation. Their presence has two purposes: to expose them to the international scene and to follow discussions at the NGO fora.

The growing interest and participation by non-state actors at UNCED meetings is another unusual feature which differentiates UNCED from the Stockholm conference. Although state actors are seen as the primary determinants of issue outcomes, NGOs and powerful corporations do, to a certain extent, influence the setting of agenda, regime formation and policy formulation. Initially, NGOs which were recognised as having consultative status with ECOSOC were invited to participate in UNCED proceedings but with no negotiating role. By the Fourth Prepcom, the doors to NGO participation were opened wider to include those which had no consultative status with ECOSOC. As a result, UNCED attracted a wide range of NGOs - from the Green movement in the North and South which included deep ecologists, political ecologists, social ecologists and New Age environmentalists, to the environmental lobbying organisations which originated around issues of nature

²³ A.J.R. Groom (1989), op.cit.

protection and environmental conservation. Among these organisations it is important to note that **Greenpeace** has a budget bigger than the United Nations Environmental Programme (UNEP) (approximately US\$150 million), the 'Big Ten' including the **Sierra Club**, the **National Audubon Society**, the **National Parks and Conservation Association**, the **Izaak Walton League**, the **Wilderness Society**, the **National Wildlife Federation**, the **Defenders of Wildlife**, the **Environmental Defense Fund**, **Friends of the Earth** and the **Natural Resources Defense Council** represents the wealthiest environmental organisations in the United States and probably the world.²⁴

These organisations normally engage in their own administrative and substantive consultations to ensure maximum impact at conferences. It has been a standard practice for the conference secretariat to provide basic facilities for NGOs to run their parallel meetings, forum, debates, lectures and exhibitions alongside the main diplomatic conference. Communication between the official conference and the NGO forum occur through recognised NGOs and official delegates mutually gaining access to each other's meetings as well as by newspapers sponsored by some of the leading NGOs. At UNCED, the **Earth Summit Times** published by Theodore W. Kheel with Katsuhiko Yazaki and the **Kyoto Forum**, the **SUNS**, a bulletin servicing the Group of 77 and the **Third World Resurgence**, published by the **Third World Network**, were published on a daily basis for the duration of the conference and distributed free of charge to the

²⁴ Pratap Chatterjee and Matthias Finger, The Earth Brokers, (London, New York: Routledge, 1994),

official delegates. These newspapers, written by professional journalists, provided useful information on what other delegations were doing. Through these, the NGOs have been able to influence considerably the perception of their governments and their citizens on the environment issue.

Corporations were influential actors where UNCED was concerned. Big corporations such as Swatch of Switzerland, UK-based ICI, USA-based Minnesota Mining and Manufacturing (3M), Coca-Cola, USA-based Atlantic Ritchfield Oil (ARCO), Fiat of Italy, Lintas, Volkswagen, Xerox and Asahi Glass Co. of Japan helped to finance the Summit and the Global Forum through their contribution to the EcoFund. A fifth of the financing of the Summit came from these corporations which helped to pay the salaries of Summit staff and sponsor events such as the cultural gala and reception for negotiators at the New York Prepcom meeting.²⁵

Having sponsored UNCED, it was in their best interest to take advantage of the opportunity opened to them. Many of the corporations had appalling environmental management records yet, because of this well-defined interest, they often have sufficient technical knowledge of the issue to be able to veto international regulations through transnational alliances and their ready access to the secretariat and other decision makers. So powerful were these non-state actors that some argued that

²⁵Pratap Chatterjee and Matthias Finger (1994), op.cit.

the nation-state itself was challenged as they tried to manipulate and control the outcome of events.²⁶

The decision-making process

The decision-making processes in special conferences such as UNCED do not differ very much from that of the normal UN meetings. Decisions take the form of resolutions which are arrived at by consensus. Draft resolutions are prepared based on the agreed agenda items during the Prepcoms at New York or Geneva rather than at national capitals. These drafts normally take the form of a preliminary working document and are discussed ad referendum.²⁷

At UNCED, negotiations were mainly conducted between groups, not between individual countries. Among them, the Group of 77 (G 77) did a considerable amount of caucusing in order to develop common positions on important agenda items. Throughout the prepcoms and during UNCED proper, the Group of 77 met regularly without fail, prior to the plenary or main committee sessions. Draft resolutions, initiated either by the Group or by another outside the Group, would be circulated and extensively discussed before the position was made known by its spokesperson at the main committee. Apart from the main groups which included the European Union (then referred to as the European Community) and the Western group, there were a number

²⁶ Matthias Finger, 'Politics of the UNCED Process', in Global Ecology, ed. by Wolfgang Sachs (London & New Jersey: Zed Books, 1993).

²⁷ An ad referendum agreement is an unbinding agreement contingent on settlement of issues to be negotiated subsequently.

of smaller groups formed by the Arab states, the small island states, the CANZ Group made up of Canada, Australia, and New Zealand, and the former East European group which found it necessary to develop common positions on matters affecting their common interests.

Over the years, it has become a common practice at the UN to arrive at decisions by consensus rather than by a vote. The one-country-one-vote system has proved to be less than effective as more like-minded members of the UN, particularly the developing countries, can easily acquire a qualified but meaningless majority. However, consensus-building has proved to be not only more time consuming, as shown by the large amount of 'square brackets' or disputed issues in draft resolutions which remain right up until each conference, but also ineffective, as it tends to reward the obstinate players, as subsequent chapters will show.

The UNCED prepcoms were conducted in a business-like manner, following the UN's standard 'line-by-line' negotiation method. No formal speeches or general debates were allowed during sessions unless it was unavoidable, as in the case where an Environment Minister happened to be in New York and would like to deliver a statement before the main committee. At Rio, the occasion for speeches was provided at the plenary while the various committees met simultaneously to 'remove the remaining square brackets'. Due to the overwhelming attendance by heads of governments at the Summit, only seven minutes were allotted to each speaker. An interesting point to note was the Conference's decision to deny the Japanese Prime Minister, Mr.

Miyazawa, who was unable to attend the Summit, the opportunity to deliver his speech via satellite link. The granting of such a request would undoubtedly have set a precedent for future UN Summits.

UN decisions appear in various forms, the main ones being resolutions, declarations and conventions. Resolutions are formal, written texts in which the conclusions of debates are formulated and the unanimous or majority views of the member-states are expressed. In an attempt to clarify their legal status, Nico Schrijver contends that most resolutions have quite often a purely political or factual content and have nothing to do with international law at all. On the other hand, declarations still have the status of a recommendation and norms contained in declarations are accepted as binding legal norms.²⁸ Verwey suggested that in appraising the legal value of a specific resolution it is necessary to take into account such factors as its contents (whether they are legally relevant), its form (a declaration suggests greater value than an ordinary resolution), the wording (whether it is compulsory or recommendatory, vaguely or concretely formulated), the voting results (whether it was adopted unanimously, by consensus or by a majority - large or small) and whether states expressed reservations or made interpretative statements (with respect to important paragraphs).²⁹

²⁸ Nico Schrijver, 'The Role of the UN in the Development of International Law', in Jeffrey Harrod and Nico Schrijver (eds.), The UN Under Attack, (England: Gomer Publications Co. Ltd., 1988), pp. 33 - 54.

²⁹ ibid., Chapter IV.

Conventions on the other hand, are first-step agreements which allows countries to "sign on" at the outset even if there is no agreement on the specific actions that must be taken. They are not legally binding in that, subsequent legislatures in those countries are free to abrogate them. The Framework Convention on Climate Change and the Biodiversity Convention signed at the conclusion of the Earth summit are examples of these.³⁰

Subsequent chapters will show that the decisions taken at UNCED incorporated vague language and avoided the politically difficult task of defining specific terms. This made it possible for reluctant countries to agree but undermined the chances of successful implementation. At the convention-drafting stage, the goal appeared to be to stay at a very general level so that all countries would at least agree that some unspecified action was needed to solve a problem. As agreement could only be possible if there was a give-and-take among countries, most of the decisions taken at UNCED were weak and without enforcement provisions.

Environmental politics

Environmental politics is considered 'low politics' given the nature of the issues involved. 'Low politics' issues are described by Peter Willetts as those involving social, economic, environmental and humanitarian matters, which are within the

³⁰ Lawrence E. Susskind, Environmental Diplomacy, (New York, Oxford: Oxford University Press, 1994), p.31.

coverage of the UN's Second and Third Committees.³¹ The characteristics of 'low politics' as opposed to 'high politics' is that military power cannot be used to influence the outcomes of specific international environmental issues although military power may indirectly be used to divert resources and reduce the ability of a state to play a lead role on an environmental issue.³²

Another characteristic of global environmental politics is that governments differ in their perception, interest and influence over the subject. Some countries that are still endowed with idle natural resources would willingly exploit them for economic and financial gains. Other countries, which are less fortunate, with no further water and land, face a shrinking frontier and are affected and concerned over environmental degradation. Some become defiant because they have been singled out as major contributors to global degradation. Most countries began the day as indifferent to UNCED, partly because they were neither accused of contributing significantly nor felt exclusively threatened by the global environmental crisis.³³ Countries that saw themselves as unfairly targeted during UNCED discussions exerted 'veto' power over agreements and became more effective as they formed 'veto' coalitions with other like-minded governments. As all countries have a right of veto over

³¹ Peter Willetts (1989), op.cit., p.48.

³² G. Porter and J.W. Brown: Global Environmental Politics, (Oxford: Westview Press, 1991), p. 19.

³³ Tariq Banduri, 'The Landscape of Diplomatic Conflicts' in Wolfgang Sach (ed.) Global Ecology, (London: Zed Books, 1993).

decisions of which they disapprove, an economically powerful government may not be able to impose rules on a much weaker government if the latter is strongly opposed to it.³⁴

Paradigm shift

It is relevant to consider the concepts of social paradigms in discussing environmental diplomacy because an understanding of these concepts influenced the debates on the issues discussed at UNCED. Willis Harman explains that in times of relative social stability, there is a dominant social paradigm, a set of beliefs, ideas and values from which public policies and whole systems of behaviour flow logically. However, every dominant paradigm is ultimately challenged by its anomalies - the contradictions between assumptions and observed realities - so that its usefulness wanes, giving way to a new paradigm in a process called a paradigm shift.³⁵

As economic and environmental policy are interrelated, the social paradigm that has dominated public understanding of environmental management during a period of rapid economic growth has been essentially a system of beliefs about economics. This has been referred to as the 'exclusionist paradigm' because it excludes human beings from the law of nature. It has also been called 'frontier economics', suggesting that, given a free market, there is not only an unlimited supply of natural

³⁴ G. Porter and J.W. Brown (1991), op.cit., p.17.

³⁵ The concept of dominant social paradigm is developed by Willis Harman, 'An Incomplete Guide to the Future' (New York: Norton, New York, 1979,) cited in G. Porter and J.W. Brown (1991), op.cit., p.26.

resources but also of 'sinks' for disposing of the wastes from the exploitation of those resources. Accordingly, as long as technology is given free rein and prices are allowed to fluctuate enough to stimulate the search for substitutes, absolute scarcity can be postponed to the indefinite future. Environmental consideration is irrelevant in this paradigm.³⁶ Subsequent chapters will show that the Bush Administration held strongly to this exclusionist paradigm as reflected in their arguments and isolationist position at UNCED.

Since the early 1960s, this dominant paradigm has come under steadily mounting attack from scientists and later from economists, practitioners and scholars. The publication of Rachel Carson's **Silent Spring** in 1962 stirred the public about the invisible threats to the environment. She talked of the indiscriminate use of modern chemical pesticides, fungicides and herbicides on the land and warns of the ensuing environmental damage.³⁷ During the 1970s and 1980s two studies, **The Limits of Growth** conducted by the Club of Rome and published in 1972 and **The Global 2000 Report to the President** released by the US Council of Environmental Quality and the Department of State in 1980, influenced the shaping of an alternative paradigm. Both studies forecast the depletion of natural resources and the degradation of ecosystems and suggested that economic

³⁶ See Harold and Margaret Sprout, The Ecological Perspective in Human Affairs (New Jersey: Princeton University Press, 1965); Kenneth Boulding, 'The Economics of the Coming Spaceship Earth', in H.G. Jarett, (ed.), Environmental Quality in a Growing Economy (Baltimore: John Hopkins University Press, 1966).

³⁷ Rachel Carson, Silent Spring, (Harmondsworth: Penguin, 1965).

development and population growth were on a path that would eventually strain the earth's "carrying capacity". Garrett Hardin's writings on the **Tragedy of the Commons** also received wide acceptance. Hardin suggested that as populations grow, the earth's major natural systems and resources (the commons) - the oceans, atmosphere, lands and climate - are being degraded and destroyed as economic actors, in the process of maximising profits, dispose of toxic wastes in the oceans and other dangerous chemicals in the atmosphere. At this point, the inherent logic of the commons relentlessly generates tragedy.³⁸

By the early 1980s, sustainable development was emerging as an alternative paradigm. The publication in 1987, of the Brundtland Report, **Our Common Future**, popularised the term 'sustainable development', defining it as development that is 'consistent with the future as well as present needs'.³⁹ It criticised the dominant paradigm for failure to reconcile those needs, asserting that the existing economic policies risk irreversible damage to natural systems on which all life depends.

The sustainable development paradigm emphasises the need to redefine the term 'development'. It posits that economic growth cannot take place at the expense of the earth's renewable and nonrenewable resources. This implies that the world must radically reduce energy use, that is, reduce fossil fuel per

³⁸ Garrett Hardin, 'The Tragedy of the Commons' in Garrett Hardin & John Baden (eds.), Managing the Commons, (San Francisco: W.H. Freeman and Co., 1977).

³⁹ The World Commission on Environmental and Development, Our Common Future, (Oxford, New York: Oxford University Press, 1987).

unit of GNP and shift to a greater reliance on renewable energy sources over the next several decades.

The sustainable development paradigm further assumes the need for greater equity not only between the rich and poor countries but also within societies and between generations. It recognises that developing countries must meet the basic needs of the poor in ways that do not deplete the countries' natural resources, and it also points to a need to reexamine basic attitudes and values in industrialised countries regarding the unnecessary and wasteful aspects of their material abundance.

The discussion on sustainable development was central to UNCED. While it received wide support, this paradigm shift may take years to complete because within the most powerful institutions in the industrialised countries, the attitudes and assumptions of the exclusionist paradigm are still intact.

EVENTS LEADING TO THE ADOPTION OF THE UNGA RESOLUTION 44/228 ON UNCED

On 22 December 1989, the forty-fourth session of United Nations General Assembly (UNGA) adopted a resolution on the United Nations Conference on the Environment and Development which provided the mandate for discussion and debate during the UNCED preparatory process leading to the Rio Summit. The resolution, popularly referred to by the delegates as 'Resolution 44/228' was initiated by the members of the United Nations following the report of the World Commission on the Environment and Development in 1987. This report and that of the Secretary-General entitled 'Environmental Preparation to the Year 2000 and

Beyond', were adopted by the United Nations General Assembly in its resolutions 42/186 and 42/187 of 11 December 1987, respectively. Both these resolutions stressed the concern for the continuing deterioration of the state of the environment and the serious degradation of the global life-support system which, if not attended to urgently, would disrupt the global ecological balance and lead to an ecological catastrophe.

Following the recommendations of the above reports, the UNGA adopted resolution 43/196 on 20 December 1988 entitled 'United Nations Conference on the Environment and Development' in which the General Assembly, among others, requested the Secretary-General, with the assistance of the Executive Director of the United Nations Environmental Programme (UNEP), to obtain urgently the views of governments on the objectives, content, title and the scope of the conference as well as the appropriate ways of preparing for the conference which included the modalities, suitable dates and place to convene it. The views of the appropriate organs of the United Nations system and the relevant international governmental organisations and non-governmental organisations were also to be obtained and made available to the Governing Council of UNEP for its consideration and comments for submission to the forty-fourth UNGA through the Economic and Social Council (ECOSOC). The Governing Council of UNEP, in its report at its fifteenth session on 25 May, 1989, identified the following issues to be discussed during the proposed conference: atmosphere (global warming), fresh water resources, deforestation and desertification, transportation studies and energy, transboundary movement of hazardous wastes,

strengthening of institutions on environmental matters, health and poverty.

Subsequently, the ECOSOC decided to devote one plenary meeting at its second regular session from 5 to 28 July, 1989 in Geneva to a discussion on the convening of a United Nations conference on the environment and development. A resolution to that effect was passed by the Council on 26 July 1989 (Resolution 1989/87).

The Forty-Fourth session of the UNGA set aside a date for a general debate on its agenda item on the environment and development. The report of the Secretary-General (A/44/256 and Corr.1, Add.1 and Add.2) provided the basis for a discussion in which, on 23 October, 1989, eighteen countries debated.⁴⁰ A number of Heads of Government also spoke on the subject during their plenary speech at the Forty-fourth session of the General Assembly. Outside the General Assembly, regional groupings came up with the recommendation to convene the proposed conference in 1992. These included the Nordic group (the Bergen conference in Norway), the Commonwealth Heads of Government Meeting in Langkawi, Malaysia, the Ninth Summit of the Non-aligned Movement (Belgrade) as well as the Group of 77 Ministerial Meeting held in New York in October 1989.

⁴⁰ These countries are Sweden, France, Canada, Mexico, USSR, China, Venezuela, Japan, Argentina, German Democratic Republic, Austria, India, Brazil, Uruguay, Barbados, Bangladesh and Romania.

The debate

The views of the different countries, both North and South, at the first debate on UNCED provide a yardstick against which one is able to measure the intentions and the end-results.

During the debate on the agenda item on the environment and development set aside by the General Assembly on 23 October, 1989⁴¹ Sweden, speaking on behalf of the Nordic countries emphasized the significance of convening the United Nations conference in 1992, twenty years after the Stockholm conference. It called upon the Assembly to assist developing countries which were badly hit by global warming, lacking in access to freshwater resources, adversely affected by transboundary movement of hazardous wastes and economically displaced due to deforestation and drought. It also called upon the Assembly to address the problems of poverty and health which it considered related to environmental degradation.

Speaking on behalf of the European Union (EU), France⁴² emphasized that the environment and development were inextricably linked and therefore it would be difficult to conceive of the future without development for the least developed countries. Canada, on the other hand,⁴³ emphasized the need for industrialised countries to shoulder their full responsibility and for the developing countries to understand that in their own interests they must decide in favour of

⁴¹ United Nations document: A/44/PR.36 dated 23 October 1989 on the Environment Debate at the 44th UNGA.

⁴² ibid.

⁴³ ibid.

sustainable development. It added that there was as much a moral as an environmental and economic imperative and agreed that problems such as debt, population growth and poverty created enormous environmental pressures on developing countries and therefore should be corrected.

While several developing countries expressed their views on the subject, China and India's remarks during the debate comprehensively explained the position of the South. According to the Chinese delegation⁴⁴, the acute imbalances in the production and consumption patterns between the developing and developed countries had to be addressed with a view to bringing about an international economic environment that was just and conducive to sustainable development in all countries. It stated that the developed countries were the main contributors to present day environmental damage and therefore should bear the responsibility for improving the global environment. This could be done by transferring capital and technology and providing new funds to developing countries without imposing additional conditionality on the grounds of environmental considerations. It stated that poverty remained an important cause of deterioration of the environment in the developing countries and it was unrealistic to pressure these countries into protecting their environment without at the same time addressing their developmental concerns. It pointed out emphatically that environmental protection should not be pursued at the expense of the growth of the developing countries and still less should it be used as an excuse for wilful interference in the

⁴⁴ ibid.

development strategy of those countries or encroachment upon their permanent sovereignty over their natural resources. Full account should also be taken of the special difficulties and needs of the developing countries when formulating relevant laws and statutes on the environment. Equally important, it was necessary to ensure that the obligations and commitments of member-states were commensurate with both their responsibility and their capability.

India⁴⁵ repeated the same concerns of the Chinese delegation. It drew attention to the fact that the environment could not be improved in conditions of poverty nor could poverty be eradicated without development and the transfer of environmentally safe technologies. The proposed conference should therefore not only focus on technical questions relating to the environment which were important in themselves but should also equally underscore the developmental dimension. Environment and development, it emphasized, were facets of the same coin and were interlinked and should be viewed as an integral part of the other. On account of their state of poverty and underdevelopment, developing countries had far less capability to deal with problems of environmental degradation. In this regard, it welcomed the decision adopted at the second regular session of ECOSOC (resolution 1989/101) on 27 July 1989 regarding the provision of new and additional financial resources to developing countries for environmental programmes and projects to ensure that their development priorities were not adversely affected.

⁴⁵ ibid.

Many of the arguments above were incorporated into the draft resolution 44/228 which was adopted on 22 December, 1989.

CONCLUSION

One conclusion to emerge from this conceptual framework chapter is that while numerous elements constitute a UN special conference, the decision-making process follows an almost similar pattern. Although member-states are the main actors and the main decision-makers who determine the problems to be addressed, they are expected to act in accordance with the decision-making process that has been established by the UN system and perfected over the years.

The rules of procedure determine how the conference will be organised, which agencies are to be involved, what financial arrangements are to be established and how the official members of the bureau are to be elected. Subsequently, the members of the bureau, with the help of the Secretariat will decide on matters such as the agenda of the meeting, the pre-conference and during the conference arrangements, the credentials of the participating countries and the documents to be prepared. Also relevant are questions pertaining to whether there is a need for a debate and if so, its scope and duration, whether decisions are to be voted upon or to be arrived at by consensus and whether member-states are expected to initiate an Action Programme, a resolution or sets of resolutions, a declaration or a convention at the end of the conference.

The elements and process of the UNCED negotiations will be further addressed in Part I of Chapter III. While as a matter

of practice, member-states are accustomed to the UN decision-making process that has evolved as a result of a genuine growth of the UN system, individually, member-states work quite differently when they are within the confines of their national boundaries. The subsequent chapter illustrates how decisions are taken on the domestic front and how those decisions are translated into action for the purpose of confronting the negotiators at the international level.

CHAPTER TWO

PREPARATION AT THE NATIONAL LEVEL

THE INTERNAL DECISION-MAKING PROCESS

The constituents of the UNCED negotiations held in New York, Geneva and Nairobi were nation-states which possessed their own distinctive decision-making structures. For each state, the negotiations represented only half the problem, as behind the formal interaction was an internal intragovernmental process needed to support the external negotiation. This internal process itself often takes the form of a negotiation, as conflicting positions have to be conciliated before the national negotiating teams set out to get the best deal out of the multilateral conference. These internal negotiations can be traced through debates among government officials, inter-office memoranda, committee meetings, cabinet sessions and discussions with legislators and interest groups. It is the internal arena where officials negotiate among themselves to formulate the national interest and where decisions are reached about how much the nation-state can accommodate the interests of other participating countries. During this process, news media and the wider public participate to various degrees.¹

¹ See Winham, Gilbert R, International Trade and the Tokyo Round Negotiation, (New Jersey: Princeton University Press, 1986) and Iklé, F.C, How Nations Negotiate, (New York: Harper and Row Publications, 1985).

In preparing the national position, committees are often formed on an ad hoc basis consisting of officials from the government agencies and observers from the interest groups. It is from these committees that the national negotiating team is formed. Iklé, and to a great extent Winham, observed that national governments often face difficulties in managing their internal negotiations. This is due to the diversity of forces at work within the governmental bureaucracy brought about by diverse personal motives, various public pressures and the bureaucratic preferences of different departments. One US negotiator remarked that about nine-tenths of his negotiating was done with his own side² while another observed that success abroad cannot be had without success at home.³ The negotiating team confronts problems that are often new in substance and in procedures. In the process, the team acquires various kinds of organisational learning, including how other countries perceive the problems that are up for negotiation, and what priorities these countries place on different issues.

The following section will illustrate how Malaysia prepared itself for UNCED. In many respects, the characteristics of the internal decision-making process described above were representative of the Malaysian experience. Additionally,

² Robert W. Barnett, 'Observation in International Negotiations', (Transcript of an informal conference, Greenwich, Conn, June, 1971) cited in World Politics, 30, October, 1977, p.91.

³ John Midgeley, 'Linkage Revisited', New York Times, 4 April, 1979, cited in Winham, Gilbert (1986), op.cit., p.343.

Malaysia under took the process without being quite sure that its Prime Minister would attend the Rio Summit.

The National Steering Committee on UNCED

Several weeks following the adoption of UN resolution 44/228, the Ministry of Foreign Affairs of Malaysia presented a proposal to the Cabinet on the need to establish a National Steering Committee (NSC) on UNCED as well as its related meetings. The main task of the Committee was to formulate national positions and advise the Government on policy matters relating to UNCED and the two Intergovernmental Negotiating Committees (INCs) on the Framework Convention on Climate Change and on the Biological Diversity Convention. In addition to UNCED related matters, the NSC was responsible for formulating and coordinating strategies and policies on other environmental issues and legislation outside the UNCED negotiations such as the Montreal Protocol on Substances that Deplete the Ozone Layer and the Basel Convention on the Transboundary Movement of Toxic and Hazardous Wastes.

The other main task of the NSC was to liaise with the UNCED Secretariat on matters relating to procedures and processes including meeting deadlines for various tasks and preparing substantive inputs to the Prepcom meetings for the 1992 Special Conference.⁴

The NSC was formally set up in March 1990 following a Cabinet decision. The committee was chaired by the Secretary-General of the Ministry of Foreign Affairs and included

⁴ Country Report, Malaysia: National Steering Committee, Ministry of Foreign Affairs, 1992, Appendix A.

senior members of the various ministries, universities, and research organisations. The ministries included the Ministry of Science, Technology and the Environment, the Ministry of Finance, the Ministry of Primary Industries, the Ministry of International Trade and Industry, the Ministry of Education, the Ministry of Health, the Ministry of Agriculture, the Ministry of Energy, Telecommunication and Posts and the Ministry of Transport. Other members of the NSC included officials from the Attorney-General's Chambers, the Economic Planning Unit of the Prime Minister's Department and the State Secretariats of the State Governments.⁵

The secretariat of the NSC, located at the Ministry of Foreign Affairs, was supervised by the International Organisation and Multilateral Economic Division. Three officers at the level of Under-Secretary, Principal Assistant Secretary and Assistant Secretary attended to the Secretariat while at the same time assumed other responsibilities required of the Division. The Deputy Secretary-General II assumed the chairmanship of the NSC in the absence of the Secretary-General.

Matters that required detailed examination were either handled by the technical committees set up by the NSC or commissioned to various experts from institutions of higher learning, research bodies and other relevant ministries and organisations within the country. Depending on the specific issues dealt with by the NSC, non-governmental organisations and representatives from industries were also invited to participate

⁵ ibid., Appendix A.

in the various technical committees to assist in the formulation of national policies.⁶

After its formation, not less than seventeen NSC meetings were held to formulate and coordinate strategies and policies for the negotiations at UNCED and the two INCs.⁷ The NSC reported regularly to the Cabinet for guidance and decisions on policy issues.⁸

National Seminar on UNCED

One of the first activities of the NSC was to organise a national seminar on UNCED. In July 1990, the NSC, the National Institute of Public Administration (INTAN) and PETRONAS (the national petroleum authority) jointly organised a national seminar which was attended by a diverse group of participants from a wide range of relevant sectors and the public at large. The objective of the seminar was to encourage public participation, promote public awareness and stimulate a national discussion on the subject with a view to formulating proposals and approaches for the UNCED process. Until recent years, the environment had not been an important preoccupation of the

⁶ ibid., Appendix A.

⁷ 'Malaysia and UNCED: The Road from Rio', Seminar Report, National Steering Committee, Ministry of Foreign Affairs, Malaysia, 1992.

⁸ The Cabinet consist of a council of Ministers who meets regularly, generally once a week under the chairmanship of the Prime Minister to formulate the policy of the government. The Ministers hold different portfolios and are collectively responsible for all decisions made by the Cabinet, which is the highest policy-making body in the country.

public in the country. Surveys carried out in the 1970s indicated prevalent public apathy. A study conducted in 1986 found that the public ranked the environment as second to last from a list of eight public issues. There was also scant media coverage and little public discussion of such issues.⁹

However, during the last few years, the press and electronic media have stepped up coverage on the more serious environmental problems in the country such as river pollution, haze, open burning and the management of toxic and solid wastes. Investigative media reports also increased public awareness on the importance of environmental protection. Consumer groups and other non-governmental organisations also contributed to environmental awareness in the country. These organisations engaged in discussions with the relevant government agencies in fora on environmental management at the local level. Special events to mark World Environment Day, the National Environment Day, World Forestry Day organised by the government were aimed at encouraging public participation and interest. Environmental education was introduced in the upper primary schools and several environmental courses were introduced in the local universities. Environmental research by the academic community has largely been dependent on government funding and overseas funding agencies.¹⁰

Thus, the national seminar on UNCED was able to pool a wide range of the public who had been adequately informed of the impact of environmental degradation. Papers and discussions at

⁹ Country Report, Malaysia (1992), op.cit., p.43.

¹⁰ ibid.

the seminar were organised into two sections. The first concerned policy thrusts covering four main areas namely, legal and institutional frameworks, trade, technology transfer and related economic issues, finance and funding mechanisms and scientific and technical issues. The second discussed sectoral issues such as the concept of sustainable development, atmospheric pollution, land, water and marine resources, forests, biological diversity and biotechnology, waste and toxic waste management, poverty, health and development.¹¹

A follow-up workshop was held five months later organised by the Ministry of Science, Technology and the Environment together with the Economic Planning Unit of the Prime Minister's Department, the Attorney-General's Chambers, the Ministry of Primary Industries and the Ministry of Foreign Affairs. Its main objective was to evolve recommendations on the national position with regard to the sustainable goals of planning and management practices. The discussion covered areas of forestry and biological diversity, air pollution, marine living resources, hazardous wastes and the conservation of resources. The issues of Climate Change and the related conventions were also discussed. The recommendations of the seminar were considered by the NSC for preparation of the National Report for UNCED.

¹¹ 'Environment and Development: Malaysian Perspectives - A Collection of Papers and Report of the National Seminar on UNCED, 9 - 11 July, 1990', National Steering Committee, Ministry of Foreign Affairs, 1990.

The National Report

In accordance with resolution 44/228, the Preparatory Committee was requested to invite all governments to take an active part in the preparations for the Conference and to prepare national reports, with the official deadline for submission extended from 31 July 1991 to 21 November 1991. In the exercise, countries were encouraged to promote broad-based national cooperation involving the scientific community, industry, trade unions and concerned non-governmental organisations.¹² The Institute of Strategic and International Studies (ISIS) of Malaysia was commissioned by the NSC to coordinate the task of preparing the national report with financial assistance from the UNDP while the Ministry of Science, Technology and the Environment provided the chairmanship role. The drafting of the National Report only began in June 1991. A core group of experts was allocated the task of approaching the study in an integrated manner, taking into account the guidelines provided by the Prepcom during its first substantive meeting in Nairobi in August 1990.¹³ The views from the NGOs and the public at large, as reflected in the output of the National Seminar, were incorporated into the report. References were made to the **Six Malaysia Plan (1991-1995)**, the **Second Outline Perspective Plan** and the **National Development Policy** which provided the policy framework and strategies for sustainable development. Extensive research and

¹² See paragraph 11 of UNCED resolution 44/228.

¹³ See UN document: A/151/PC.8. add.1 dated 20 June, 1990.

studies on specific areas were carried out and their inputs were synthesized into a national report.

The committee went to great lengths in preparing the national report, showing particular enthusiasm about the preparatory process. In the midst of the research, the committee was able to view the environment in a more comprehensive manner as it undertook to study over 40 pieces of environment-related legislation in Malaysia, some of which dated as far back as the early years of the century and covered an extensive range such as water resources, soil conservation, forest resources, air pollution, solid waste, rivers and seas resources. The Ministry of Science, Technology and the Environment, which for several years had appeared to remain passively in the background, suddenly found itself in the limelight of public attention as it began to assume a rejuvenated role.

The National Report was finally ready by the Fourth Prepcom meeting in March 1992. Prior to the meeting, it was presented to the Cabinet for approval. Thus began Malaysia's unprecedented effort to pool its diverse resources towards the formation of a unified national position.

Shaping the Malaysian position

A series of interagency meetings continued to take place, chaired by the relevant technical committees as well as the NSC. These meetings discussed the UNCED Secretariat documents that were prepared for the Prepcom meetings. An average of three meetings were held weekly at the various ministries and other governmental agencies to deal with more specialized issues

involving legal matters, trade provisions and matters discussed at the INC on the Framework Convention on Climate Change and the INC on Biological Diversity. The Economic Planning Unit of the Prime Minister's Department presided at meetings on sustainable development, the Ministry of Finance on financial institutions and the Ministry of Primary Industries on forest issues. The Attorney-General's Chambers undertook the task of scrutinising the UNCED Secretariat document on the Earth Charter and the two Conventions. NGOs such as the **Friends of the Earth, Malaysia**, the **Third World Network** based in Penang, Malaysia, the **Environmental Protection Society of Malaysia** and the newly established **Business Council for Sustainable Development of Malaysia** were occasionally invited to present their views at these meetings on the subjects of concern to them. To ensure coordination and continuity, the Ministry of Foreign Affairs was represented in all of these meetings. The technical agencies such as the Forest Department, the Meteorological Department, the Department of the Environment, the Wildlife Department, the Attorney-General Chambers, PUSPATI (the center for nuclear energy research) and the International Trade Division of Ministry of International Trade and Industry contributed papers for circulation during these meetings. Situation reports were updated and Ministers from the relevant ministries were constantly briefed on the issues discussed.

As the weeks passed, the outlines of a possible Malaysian position began to emerge. A series of meetings generally attended by the same officials had generated a great deal of momentum towards formulating a Malaysian negotiating position.

The Ministry of Foreign Affairs appointed Ambassador Tan Sri Razali Ismail, Malaysia's Permanent Representative to the United Nations in New York to lead the Malaysian negotiating team in the UNCED preparatory process. Ambassador Dato' M.M Sathiah, the Deputy Secretary-General of the Ministry of Foreign Affairs, headed the national delegation to the INC meetings on the Framework Convention on Climate Change while Ambassador Ting Wen Lian, Malaysia's Ambassador to Italy and Permanent Representative to the Food Agriculture Organisation (FAO), led the national delegation to the meetings on the INC on the Convention on Biological Diversity. The other members of the Malaysian negotiating team were identified according to the functions they assumed in the NSC or its technical committees.

To ensure continuity and effectiveness, the Cabinet agreed to the suggestion of the NSC that the same personalities represent the Malaysian government throughout the UNCED negotiating process.¹⁴ Such a decision was crucial as it ensured commitment on the part of the involved ministries and departments to participate fully throughout the UNCED process. With the never-ending series of meetings at home and abroad, it had been difficult for heads of departments to release officials to attend the UNCED related meetings as environment was not the only important item under their portfolio. In fact, before the UNCED process started, environment was not even in most of the officials' portfolios. Thus, while the commitment on the part of the various government agencies was lacking at the beginning, it grew as the UNCED process progressed. The initial problem was

¹⁴ Internal document.

the inability of the representatives from both the domestic sector and the foreign office to come to terms on how to approach the whole range of issues. There was also some degree of uneasiness on the part of the domestic sector to see the Foreign Ministry taking the lead. On this aspect, the diplomats claimed that the UNCED process could not be left to the ecologists alone. Because of its close ties with a whole range of human activities, the environmental issue had become political and too serious a matter to be left to the ecologists. To the Foreign Ministry, the environmental issue was to be handled in terms of national interests and in terms of promoting the national image. To the domestic sector, it was a question of planning, implementating and monitoring projects specified by the national development plans. However, the continuous interaction among the officials and the opportunities opened for them to attend the Prepcoms and the two INCs meetings abroad, provided them with a better understanding of the issues at stake. One official from the domestic sector commented that UNCED had successfully transformed the environment officials into diplomats and the diplomats into environmentalists.¹⁵

Diplomatic Strategy

Having shaped the Malaysian position, the Ministry of Foreign Affairs began to devise a strategy to gain acceptance of the Malaysian position by as many countries as possible. Over the next months, over 60 Malaysian diplomatic missions were

¹⁵ Personal interview.

regularly apprised via circular telegrams about UNCED and Malaysia's stand on the issues involved. The Malaysian diplomatic missions were instructed to engage their host governments in a continuous dialogue to inform, influence and to gain acceptance of the Malaysian position. A constant flow of telexes between Kuala Lumpur and the missions abroad enabled the Ministry of Foreign Affairs to be au courant of subtle changes in foreign attitudes and to provide new information sensitive to other governments' concerns.¹⁶

As the Malaysian position evolved, the Malaysian Permanent Missions at New York and at Geneva were instructed to shoulder a predominant role in closely coordinating these diplomatic initiatives with other like-minded countries, beginning with the ASEAN countries, the members of the Non-aligned Movement and the Group of 77 and China. Among these countries, Malaysia worked very closely with India, China, Algeria, Ghana, Bolivia and Kenya, all which showed exceptional interest in taking an active role in the UNCED process. The objective of the Malaysian Ministry of Foreign Affairs was to move the developing countries of the South towards a consensus on issues.

In addition to the diplomatic contacts, the Malaysian diplomatic missions were instructed to gauge public opinion in their host countries. Press and electronic media reports on the environmental issues of the host countries as well as their reaction to the issues propagated by the South were to be monitored and relayed home. Heads of Missions were encouraged to accept invitations to fora and seminars conducted by the

¹⁶ Internal document.

academic community or the business sector of the host country as a means to clarifying the Malaysian position on various issues of contention such as the forest issue, global warming and the cross sectoral issues. At various international meetings, the Malaysian chief negotiator encouraged the members of the negotiating team to accept press, radio and television interviews as an integral element of diplomatic strategy.¹⁷

Another area of diplomatic strategy was carried out at the personal ministerial level. The Prime Minister and other Cabinet Ministers were constantly provided with updated briefs and talking points on the UNCED issues, which became useful during their meetings with their foreign counterparts. The Prime Minister, Minister of Foreign Affairs and the Minister of International Trade and Industry regularly receive foreign dignitaries and during these calls, the Malaysian ministers took the opportunity to impart the Malaysian stand while at the same time they attempted to influence the other side.

As the dates of the UNCED Summit drew nearer, the Malaysian parliamentarians became equally involved and interested in the UNCED issues. Debates during the Parliamentary sessions of the **Dewan Rakyat** (House of Representatives) and the **Dewan Negara** (Senate) touched on the question of the environment as well as Malaysia's stance on certain issues. Questions were posed, for example, on what efforts Malaysia was taking to allay the possibility of a foreign boycott of its tropical timber products; on whether the haze problem in the country which originated as a result of open burning from a neighbouring state

¹⁷ Internal document.

(Indonesia) would be settled bilaterally; and whether the Government had any plan to check the illegal discharges and accidental oil spills occurring in the Straits of Malacca. As parliamentary questions increased, officials, particularly from the Ministry of Foreign Affairs and the Ministry of Science, Technology and the Environment became occupied with preparing draft answers and sitting in on parliamentary duties to assist their ministers. With the assistance of the Ministry of Foreign Affairs, the Malaysian parliamentarians participating in the ASEAN Interparliamentary Organisation (AIPO) meetings seized the occasion to initiate debates on the subject.

The local media gradually stepped up coverage on environmental problems at home while at the same time relating them to the international scene. Under the New Straits Times Press Environmental Education Project, schools enthusiastically started their campaigns on planting trees and collecting discarded newspapers to assist in the recycling process. Two million kilogrammes have been collected since the project started in 1991. The local press featured schools which initiated the **Sekolah Dalam Taman** ('School in the Garden') projects in which pupils were encouraged to start a garden in the school compound from an environmental and educational point of view.¹⁸

As the subject of the environment became a household word, public complaints on environment transgressions also increased. Industries were being questioned about their commercial ethics

¹⁸ 'Environmental Education Project Widely Acclaimed', New Straits Times, 22 February, 1995.

as they continued to operate without taking into account the need for instituting pollution control measures and installing anti-pollution devices. The media focused the environmental deterioration occurring in the squatter areas in the urban and semi-urban areas where the problem was even more serious as various types of wastes were disposed of indiscriminately. In activities related to the exploitation of natural resources such as timber and mangroves, the media played an important role in emphasizing the importance of preserving the national heritage by setting aside areas as protected forests, marine and coastal recreational parks, wildlife sanctuaries and nature reserves.¹⁹

How successful all these efforts were in determining Malaysia's final position at UNCED remains uncertain. It is also unclear whether there was any correlation between the increasing public awareness at home and the official contribution at UNCED. Unlike, the United States where the NGOs and the lobby groups can strongly influence the official position, there was practically no pressure group that mattered in the case of Malaysia. If there were criticisms, (and there were many), they were within the confines of the bureaucracy. Gurmit Singh, President of the **Environmental Protection Society, Malaysia** (EPSM) criticised Malaysians in general for their environmental apathy; claiming that only when something major happens would they get excited and start doing something about it. He cited the example of the RM100 million project to clean the Klang River as ineffective and slow. While a large number of towns have greenery, drains did not dramatically become

¹⁹ Country Report, Malaysia, (1992) op.cit., pp. 44-45.

cleaner. In addition, while lead levels were reduced in petrol, the continuing increase in private vehicle use offsets any possible air quality improvement in the cities. The biggest challenge, he believed, was to get more people to become interested in the environment movement. People had become discouraged fighting for environmental causes after a while because they do not get to see immediate results.²⁰

MOBILISING THE SOUTH

This section describes the initiatives undertaken by Malaysia and a handful of like-minded countries towards mobilising the support of developing countries for a common position on the UNCED issues. This issue was addressed in regional and political groupings and at various regional conferences.

UNGA Resolution 44/228 stressed the importance of holding regional conferences on the environment and development, with the full cooperation of the regional commissions. It recommended that the results of such regional conferences be introduced into the preparatory process for the Conference, bearing in mind that regional conferences should make important substantive contributions to the Conference.²¹

The UN General Assembly recognises a number of geographical groupings within the system. These include the African group, the Asian group, ASEAN (Association of South-east Asian

²⁰ 'Green Crusader's efforts pay off', New Straits Times, October, 1994.

²¹ See paragraph 13 of UNGA resolution 44/228.

Nations), the Latin American Group, the Nordic countries, the Western European and others and the former Socialist states. In addition, the UN also recognises political and economic groupings such as the Commonwealth, League of Arab States, NATO, the Non-aligned Movement, Organisation of African Unity, the OECD, the EU and the Group of 77 which is comprised of 129 developing countries.²²

Malaysia, together with a few like-minded countries saw in these groupings an opportunity to launch a platform for building solidarity among the countries of the South. In particular, it concentrated on the Group of 77, which has become an important institutionalised group within the UN system.

Marc Williams considers the G 77 as the central economic bargaining arm of the Third World coalition. It is concerned with reform of the international economic order and on international environmental issues, the G 77 approaches specific problems from the perspective of the poorer members of international society. It is based on the premise that the unfettered operation of market forces leads neither to efficiency nor equity and that this demands various interventions in the market in order to correct structural inequalities.²³

The G 77 has no permanent secretariat. The chairmanship in New York rotates among regions every twelve months and in

²² Johan Kaufman, United Nations Decision Making, (Netherlands: Sijhoff and Noodhoff, 1980), pp. 87-101.

²³ Marc Williams, 'Re-articulating the Third World Coalition: the role of the environmental agenda', Third World Quarterly, Vol. 14, No.1, 1993.

Geneva, every four months with the chairing countries providing minimal secretarial services.²⁴ During the UNCED meetings, the G 77 met privately to discuss common positions on the important agenda items. The North have become accustomed to waiting for position papers or statements from the Group and over a number of issues such as finance and forests, the G 77 has been able to persuade the conference to use their text as a basis of discussion.

In a coalition of 129 countries, there is bound to be conflict and a diversity of interests. But the fact that the G 77 as a group has survived and become more cohesive since its formation in 1964, shows that even if there were conflicts, they did not exist across the board. On the other hand, it is evident that where a country has no interest either way over an issue or where it has no antagonistic interest, it helps strengthen the coalition by supporting the stand of the group against its adversary. This is done not by remaining silent, but by attending the meetings and consultations and voicing its opinions. As an illustration, the issue of desertification is one that is felt strongly by the African countries, but the Group as a whole were unanimous in wanting a convention. As explained by C.Raghavan, none of the countries of the South have the capacity or weight to act on their own. All are weak but if they act together, they can collectively bring some weight to bear on important issues. If the South does not stand together, they will all be hung individually. While they might be hung

²⁴ Johan Kaufmann (1980), op.cit., p.99.

collectively in the long run, the other side would have too many bodies to dispose of.²⁵

It is important to note that Malaysia's initial effort at mobilising the South was not a calculated move aimed at getting the maximum advantage in what was considered a tough negotiation with the North. Rather, it was drawn into the scene when, by a system of rotation, it was made chair of the G 77 in 1989 - the crucial year when the debate on the environment led to the drafting of the UN resolution 44/228.²⁶ Malaysia assumed its expected role, which included articulating common positions on the agenda items and undertaking other initiatives proposed by the group. In the same year, Malaysia also chaired and hosted the Commonwealth Heads of Government Meeting (CHOGM) in Kuala Lumpur, further providing it with an opportunity to promote the environmental agenda at the Commonwealth Summit.

Malaysia's initial contribution to the UNCED debate

It is relevant to trace Malaysia's initial contribution to the UNCED debate before examining its role within the regional groupings in more detail. Malaysia's initial contribution to the debate on the proposed environment conference was reflected in the decisions of the Group of 77 Ministerial Meeting held in October 1989 and the Ninth Summit of the Non-aligned Movement held in Belgrade in September 1989. Both these meetings

²⁵ C. Raghavan, 'Uruguay Round and its Implications for the South', Third World Economics, No.61, 16 - 31 March, 1993 (Penang: Third World Network, 1993).

²⁶ Personal interviews.

endorsed the candidacy of Brazil as host for the United Nations Conference on the Environment and Development in 1992. At the Forty-Fourth session of the UN General Assembly, Malaysia's Deputy Prime Minister, Mr. Ghafar Baba emphasised that on an important question such as the environment, there should be shared responsibility. Constraints, he emphasised, should not be imposed upon the development process in the developing countries which are conscious of the need to maintain and preserve their own environment while coping with poverty, hunger, social depression and recurrent natural disasters. He highlighted that the United Nations could be a very useful forum in bringing about a clearer understanding of the world's environmental problems and therefore the work within the United Nations system should be encouraged.²⁷

For Malaysia, its first substantial contribution towards the UNCED process outside the United Nations was made when it hosted the Commonwealth Heads of Government Meeting (CHOGM) in Kuala Lumpur on 18 to 23 October, 1989. In preparation for the Summit meeting of the forty nine countries, the Ministry of Foreign Affairs of Malaysia formulated the initial drafts of what was later known as 'the Langkawi Declaration on Environment and Development'.²⁸ The Declaration spelled out a programme of action which incorporated concepts of equitable sharing of responsibilities and benefits of the developing countries' ability to respond to environmental challenges. It recognized that developing countries must be substantially assisted to

²⁷ UN document: A/44/PR.20, dated 5 October, 1989 .

²⁸ See UN document A/44/673 dated 21 October 1989.

sustain their development effort and that economic growth is a compelling necessity if sustainable development is to be attained. It further underlined that environmental concerns should not be used to introduce a new form of conditionality in aid and development financing or as barriers to trade. The Langkawi Declaration is said to constitute the first formal meetings of minds of leaders from both the developed and developing countries of the Commonwealth. In addition, it incorporated the fundamental concept of interlinking environmental and development issues, which was later to become part and parcel of the Rio Declaration on the Environment and Development.²⁹

It was against the background of these discussions held at the various fora that the UNGA resolution 44/228 was drafted and adopted on 22 December, 1989. The final draft resolution was based on a text prepared by the Group of 77 and China. As Chairperson of the Group, Malaysia found it daunting to synthesize the different positions of the three main sub-groups: Asia, Africa and Latin America. Having nursed a common platform, the challenge for the Chairman was to effectively enunciate the G 77's position in a manner that would establish understanding and compromise on the part of the developed countries. It was also necessary to temper enthusiasm and not to go overboard in championing the G 77 position to the extent of losing

²⁹ See Nicholas Robinson, (ed), Agenda 21 - the UNCED Proceedings (New York, London, Rome: Oceana Publications, 1992), pp. xcvi, xcvi, c.

credibility. Finding this balance was the test of Malaysia's chairmanship.³⁰

During the handing-over ceremony of the chairmanship of the Group of 77 from Malaysia to Bolivia on 3 January 1990, Malaysia's Permanent Representative to the United Nations, Ambassador Tan Sri Razali Ismail, stated that the common position on the environment which culminated in the adoption of the resolution was the highlight of the Group of 77 for 1989. He underlined that the agreement by the other partners to accept the Group's position on the environment during the General Assembly was a matter of satisfaction and that global interdependence would be judged by the results of the 1992 United Nations Conference on the Environment and Development.³¹

ASEAN meetings on the Environment

ASEAN's stand on the environment is formulated by the ASEAN Ministerial Meeting on the Environment (AMME) which meets biannually in the different ASEAN capitals. The AMME is preceded by the ASEAN Senior Officials Meeting on the Environment (ASOEN) which sets the agenda of the forthcoming AMME meetings. The AMME is headed by the Minister of the Environment of the ASEAN countries and its officials come from the respective Environment Ministries and Agencies. The Ministries of Foreign Affairs are represented in the meetings and advise their delegations on international issues particularly in areas of contention.

³⁰ New role of Malaysia in the UN', Foreign Affairs Malaysia, June, 1989, Vol.22, No.2.

³¹ See Foreign Affairs Malaysia, March, 1990, Vol.23, No.1.

The objectives of the AMME include initiating efforts on environmental and natural resources management, formulating policies and strategies on sustainable development, harmonising environmental quality standards, preventing and abating transboundary pollution practices and undertaking research and development and the promotion of the use of clean technologies.

Taking the cue from resolution 44/228, the six members of the ASEAN countries³² took the opportunity to include UNCED matters in the agenda items of its meetings. The emphasis on the environment had earlier appeared in the ASEAN Summit Communiqué in Manila in December, 1987 in which it adopted the principle of sustainable development and the incorporation of environmental concerns into the economic planning activities of ASEAN. On 18-19 June, 1990, the Ministerial Meeting on the Environment (AMME) held in Malaysia, deliberated to produce the 'Kuala Lumpur Accord on the Environment and Development'. The Kuala Lumpur Accord demonstrated the agreement of the ASEAN member countries to formulate a common ASEAN position to be presented to the Ministerial Level Conference on the Environment for Asia and the Pacific in Bangkok in November 1990 and to the 1992 United Nations Conference on the Environment and Development. ASEAN's formal position on UNCED appears in the 'Singapore Resolution on the Environment and Development,' which was adopted during the Fifth AMME held in Singapore on 18 February 1992.

³² Members of ASEAN: Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand.

During the ASEAN-EU Ministerial Meeting of 17 February 1990 held in Kuching, Sarawak, the members of ASEAN countries were able to engage the EU, which was its most active dialogue partner in terms of its economic cooperation programme, to consider assisting the upgrading of ASEAN's facilities, capabilities and expertise in the areas of management of natural resources and environment monitoring through technical and financial assistance. The ASEAN ministers also cautioned their partners against introducing new forms of conditionality in aid and development financing.³³ The latter's emphasis was particularly significant to tropical timber producing countries like Malaysia and Indonesia which were witnessing pressure from the European Parliament to ban the importation of tropical timber from Sarawak because of its allegedly excessive deforestation effects. The commitment made at the ASEAN-EU Ministerial Meeting was reflected in the ASEAN-EU Communiqué where a great deal of effort was made by both sides to agree on a text negotiated at length by their officials.

At the initial stages of the UNCED process, Malaysia appeared to be the only country among the members of ASEAN which was enthusiastic about the UNCED negotiating process. Although Singapore's Ambassador Tommy Koh was elected Chairman of the UNCED Prepcom meetings and displayed his diplomatic skills as brilliantly as he did as Chairman of the Finance Committee at the United Nations Conference of the Law of the Sea (UNCLOS), the other members of the Singapore negotiating team put on a low

³³ See ASEAN-EC Communiqué of 17 February, 1990: Foreign Affairs Malaysia, March 1990, Vol.23, No.1.

profile in terms of deliberating on the various issues. Indonesia's commitment to the UNCED process appeared less than serious at the beginning when members of its negotiating team not only changed at every meeting, but at times even contradicted its earlier positions. Brunei, Thailand and the Philippines appeared relatively late on the scene. It is not clear as to why these countries were initially indifferent to UNCED. One argument is that either they had no specific areas of interest to promote or defend, or because unlike Malaysia, they were not accused of environmental degradation by any sector in the international community. It could also be a reflection of the developing countries' limitations to participate in yet another international conference due to their lack of expertise and available resources.³⁴ These factors reappeared when the Ministry of Foreign Affairs decided to call for a day's debriefing for the heads of the diplomatic missions in Kuala Lumpur, the week following the Rio Summit. The debriefing was divided into two sessions, the morning, allotted for the Heads of Missions of the developed countries and the afternoon, allotted for the Heads of Missions of the developing countries. The morning session ended after four hours of discussion with many questions asked of the Malaysian delegation. On the other hand, although there were more representatives present in the afternoon session, the debriefing lasted for fifteen minutes as there were hardly any contributions across the table.³⁵

³⁴ Personal interviews with ASEAN delegates.

³⁵ Personal observation.

Malaysia's special interest in UNCED was attributed to the fact that among the ASEAN countries, Malaysia was the only country which saw itself as unfairly targeted during the UNCED discussions particularly on its alleged aggressive deforestation activities. The European Commission was under strong pressure to act on the resolutions of the European Parliament to ban the importation of tropical timber from Sarawak. The Municipal Councils in the Netherlands and in Belgium had started banning the use of Malaysian tropical timber products in the construction of their Municipal buildings. In Austria and the United Kingdom, pressure was rife among interested groups to introduce legislation on Ecolabeling³⁶ of tropical timber products which Malaysia conceived as being directed at restricting the imports of tropical timber from Malaysia. NGOs from the North, particularly in Germany, were advocating the boycott of tropical hardwood and promoting the use of temperate woods in view of the alleged large-scale deforestation and to the displacement of the Penans who dwelled in the forests of Sarawak. In Australia, the government had engaged a consultant firm in association with the Forestry Technical Service to assess the environmental and socio-economic impact of Australia's import of tropical timber products and to make recommendations on how Australia might adjust its role in the international timber market. The remarks made by Prince Charles at a meeting with scientists and environmental groups in London alleging that Brazil and Malaysia were involved in

³⁶ The labeling of tropical timber products to ensure that they are from "sustainably-managed forests".

indiscriminate logging and genocide of forest inhabitants did not go unnoticed. At the United Nations, a petition initiated by the World Rainforest Movement was presented, proposing an immediate ban on all imports of tropical timber and wood products from the virgin rain forests. In addition, the call by the Group of 7 at Houston to have a world forest convention was seen by Malaysia as a move to restrict the exports of its timber products.³⁷

Being the world's largest producer of tropical timber, Malaysia saw the above moves as attempts to impede its timber trade on environmental pretexts.

Given the situation, Malaysia took every opportunity to introduce its text in every ASEAN resolution pertaining to the environment. In this regard, Malaysia made certain that the same negotiator attended the related ASEAN meetings. In exceptional cases where the negotiator could not attend, the leader of the delegation was fully briefed with an instruction to ensure that the Malaysian text got into the final document.

The Malaysian Missions abroad were instructed to consult with and to keep its ASEAN counterparts constantly informed of the latest developments within the UNCED discussions. In preparation for the first INC on the Framework Convention on Climate Change, the Malaysian Permanent Mission to the United Nations in New York convened a meeting of ASEAN member countries on 11 February, 1991 to discuss a possible common position on the subject. Malaysia drafted an informal paper on the ASEAN position for the consideration of the other ASEAN

³⁷ Internal document.

members. At the meeting, the ASEAN member states agreed that the scope of ASEAN cooperation would be on a geographical rather than on a political basis. Once an ASEAN position was adopted, it was agreed that ASEAN should solicit the support of the other non-ASEAN members in the region such as Indo-China, Myanmar and the small Pacific Island countries in the South.

It is worth noting that while on the whole the ASEAN member countries were willing to accept Malaysia's active role in developing a common stand for UNCED, there remained one issue in which Malaysia had difficulty right from the outset in promoting its views. This was the issue of marine pollution in the Straits of Malacca.

The Straits of Malacca is one of the most heavily travelled waterways in the world, ranking behind only the Straits of Dover in the English Channel and the Straits of Gibraltar.³⁸ Its position in the South China Sea makes it an important and strategic international sea lane and its susceptibility to pollution has become a major concern in recent years. This has been due to the increase in activity in this narrow Straits as a large number of ships, averaging 150 vessels, pass through the Straits daily. The pollution potential resulting from collisions, groundings, discharges from tank cleaning, leaks and oil spills has caused great concern to Malaysia as the main fishing and tourism facilities are located along the Straits.³⁹

³⁸ Mark Valencia, Malaysia and the Law of the Sea, (Malaysia: ISIS, 1991).

³⁹ ibid.

It was due to such apprehension that the Malaysian Prime Minister made a number of attempts to focus the attention of the world community on the problem. The concern was reiterated by the Prime Minister when he addressed the ASEAN Summit in Singapore in January, 1992:

Whose responsibility is it to keep the international sea lanes safe? The littoral states collect no dues. Nor are they rich. On the other hand, maritime patrols by sea and air are expensive. The maintenance of equipment and personnel to fight spillage and other damages are equally costly[...] Is it too much to ask that those who use the passage and the maritime nations contribute towards the cost of keeping them free and safe?

In formulating the ASEAN common stand on UNCED, Malaysia suggested at the Fifth AMME held in February, 1992 that littoral states enact and enforce strict vessel effluent standards in the Straits, make tanker pilotage mandatory at the vessel's expense, require vessel owners to contribute to a fund for maintenance of oil spill clean-up facilities and enforce regulations against land-based pollution. The suggestion received strong opposition from Singapore and to a lesser extent from the Philippines, both of whom subscribe to keeping the Straits open and free. Within minutes after the suggestion was made by the official head of the Malaysian negotiating team, the meeting room was crowded with officials from the Singapore Legal and Marine Department

as well as the Ministry of Foreign Affairs who were determined to ensure that the suggestions did not materialise. After a long and difficult debate with its ASEAN counterparts, Malaysia had to contend with the following vague formulation:

In addressing development and global issues, the AMME agrees that ASEAN member countries shall [...] explore the desirability of having flag States contribute to and help ensure safe navigation for the protection of the maritime environment.

On its own, Malaysia raised the issue of the Straits of Malacca at the various sessions of the UNCED Prepcoms. Its proposals for a universal management of coastal pollution were turned back by Europe which preferred the less constricting concept of regional control. Jacqueline Roddick observed that everywhere, Northern countries showed themselves conscious of the cost (to themselves) of a fundamental overhaul of the economic and technological system, cautiously willing to defend their own sovereignty on crucial issues, wary of accepting responsibility for past damage in a way which could encourage claims for compensation, and apprehensive of giving power to institutional mechanisms to manage a new development in which they might for once find themselves on the receiving end of good advice.⁴⁰

⁴⁰ Jacqueline Roddick, 'The Results of the Rio Summit', Science, Technology & Development, Vol.10, December, 1992, No.3., pp. 350 - 351.

Left with little choice, Malaysia had to be content with the final documents on Agenda 21 which made vague references to the protection of the oceans, all kinds of seas, including enclosed and semi-enclosed seas, coastal areas and the protection, rational use and development of their living resources.⁴¹

Summit-level Group for South-South Consultation and Cooperation (Group of 15)

On 3 June, 1990, Malaysia hosted the first Summit of the Group of Fifteen (G 15) in Kuala Lumpur. The G 15 was formally inaugurated in Belgrade during the Ninth Summit of the Non-aligned Movement held in September, 1989. At the Summit, a group of leaders from the South decided to form the Summit-level Group for South-South Consultation and Cooperation which was comprised of fifteen countries representing the Asian, African and the Latin American region.⁴² The rationale of the new grouping was that as the international economic environment became increasingly competitive and mercantilistic in nature, the interests of the developing countries became progressively neglected. In addition, the South professed that the agenda of the developed countries was being imposed upon the international economic and trading system at the expense of the developing

⁴¹ See Agenda 21, chapter 17.

⁴² Members of G 15 are India, Indonesia, Malaysia, Yugoslavia (suspended in 1991), Nigeria, Algeria, Senegal, Egypt, Zimbabwe, Venezuela, Peru, Mexico, Argentina, Jamaica and Brazil. Chile joined in 1991.

countries.⁴³ The Group of Fifteen thus aimed to bring about a collective voice and weight to bear on important global economic issues that affected them. It seeks to promote economic cooperation among developing countries to reduce its overdependence on the developed countries for both assistance and markets.⁴⁴

On the issue of the environment, the first summit of the Group of Fifteen affirmed that any global initiative aimed at overcoming environmental problems required concerted international cooperation based on an equitable sharing of responsibilities which took into account existing asymmetries between developed and developing countries. In this connection, the Group declared that developing countries required substantial additional resources for pursuing their goals of sustainable development, including access to environmentally sound technologies at affordable costs and the establishment of funding mechanisms. It also recognised the importance of coordinating its positions on issues of concern to them on the agenda of the forthcoming United Nations Conference in Brazil.⁴⁵

It is interesting to note that apart from making official declarations on the environment which were reflected in the Communiqué, the Group of Fifteen never really coordinated their positions on UNCED. This may be attributed to the fact that the Personal Representatives accompanying the Heads of

⁴³ 'Malaysian Foreign Policy in the 1990s': Foreign Affairs Malaysia, June, 1990, Vol.23, No.2, p.9.

⁴⁴ ibid., p.9.

⁴⁵ G 15 Communiqué dated 3 June, 1990: Foreign Affairs Malaysia, June 1990, Vol.23, No.2, p.20.

States/Government were either not au fait with the subject or did not consider the subject important enough to be deliberated in detail by the Group given the fact that there was already a permanent forum, i.e. the Prepcoms, to discuss UNCED. It was in such a situation that Malaysia was able to introduce its text on UNCED in the final documents of the G 15. Malaysia ensured that the same member of the UNCED negotiating team followed through all the meetings of the G 15. Malaysia even assisted the Technical Support Facility, which acts as the secretariat of the G 15, to prepare the background document on UNCED for the Summits.

The Beijing Ministerial Conference of Developing Countries on the Environment and Development.

On 18-19 June, 1991, China hosted the Beijing Ministerial Conference of Developing Countries on the Environment and Development which was attended by 41 countries. China had been an active member of the UNCED preparatory process and had contributed significantly to formulating the position of the South as reflected in United Nations resolution 44/228. Although a developing country, China is not a member of the Group of 77 but shares common views with the Group.

The Beijing conference was significant, as among the many caucuses the South had thus far, none had come closer to bringing relevant substantive inputs that could account for the South's contribution to UNCED. The ASEAN resolutions on the Environment and the G 15 common stand on the issue had dissipated by the time they arrived at the Fourth Prepcom. On the other hand, the Beijing Ministerial Conference brought to

light many differing aspects which were concentrated on until Rio: the concept of differentiated responsibility, the integrated approach to the environment and development, the concept of compensation, inputs and the approach of linkage politics.

Being a populous country with one-third of the reserves of coal in the world, China relied on coal for 77 percent of all primary energy in 1985 and expects to still rely on coal for 67 percent of its energy production until 2020.⁴⁶ Having abundant and therefore cheap fossil fuels, it has been a target of many NGOs' criticisms for carbon dioxide emission, which causes global warming. With the new wave of ecological awareness emerging in the 1980s, scientists, political leaders, NGOs and international organisations felt a common concern over the protection of the ozone layer. Failing to accept a share of responsibility and opting actively to aggravate the problem would not be an easy course for China to follow. It was against this background that China found it important to host the Ministerial Conference aimed at intensifying efforts to consult and coordinate the positions of developing countries so as to safeguard the interests of China and the other developing countries as a whole.

Malaysia did not miss the opportunity to participate actively at the Beijing Conference, particularly in drafting the Beijing Ministerial Declaration on the Environment and Development. The Beijing Declaration based its formulation on

⁴⁶ Porter and Brown: Global Environmental Politics, (Oxford, San Francisco: Westview Press, 1991), p.44.

United Nations resolution 44/228 which had originated from the text of the Group of 77. Being a special conference of developing countries, the emphasis was tailored to their needs and problems.

At the conference, the Ministers reiterated that environmental problems should not be viewed in isolation but addressed together in the process of development, by integrating environmental concerns with the imperatives of economic growth and development. Poverty in the developing countries, they emphasised, was hampering the efforts to meet the legitimate needs and aspirations of their people and exerting even greater pressure on the environment.⁴⁷

The Ministers also agreed that the special situation and needs of the developing countries should be fully taken into account with each country being allowed to determine the pace of transition, based on the adaptive capacity of its economic, social and cultural ethos and capabilities. In this regard, the least developed countries, disaster-prone as well as island and low-lying developing countries should be given special attention by the international community.⁴⁸

The Beijing Conference called upon the need for a new and equitable international economic order to correct the inequalities in the current economic relations confronting the developing countries particularly with regard to debt, financing, trade and the transfer of technology. It argued that

⁴⁷ Beijing Ministerial Declaration on the Environment and Development, adopted on 19 June, 1991, paragraph 3.

⁴⁸ ibid., paragraph 4.

these inequalities constrained their capability to participate effectively in global environmental efforts.⁴⁹

The Conference considered it important to stress that developing countries have the sovereign right to use their own natural resources in keeping with their developmental and environmental priorities. This right is inherent in Principle 21 of the Stockholm Conference (and later reiterated in the 1992 Rio Declaration) which accepts that States have, in accordance with the UN Charter and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies.⁵⁰ Related to this, the conference affirmed that environmental considerations should not be used as an excuse for interference in the internal affairs of the developing countries or to introduce any forms of conditionality in aid or development financing or to impose trade barriers affecting the export and development efforts of the developing countries.⁵¹

In order to deal with the rapidly aggravating environmental Problems of the developing countries, the Conference called for a special 'Green Fund' to be established to address problems not covered by specific international agreements, such as water pollution, coastal pollution affecting mangrove forests, shortages and degradation of fresh water resources, deforestation, soil loss, land degradation and desertification.

⁴⁹ ibid., paragraph 5.

⁵⁰ Patricia Birnie (1993), op.cit., p.349.

⁵¹ Beijing Declaration, op.cit., paragraph 6.

It stressed that the Fund should be managed on the basis of equitable representation from all countries, with easy access for developing countries.⁵²

The Beijing Conference continued to blame the developed countries for their unsustainable patterns of production and consumption and for over-exploiting the world's natural resources. It accused the developed countries for their excessive emissions of green house gases both in historical and cumulative terms and in terms of current emissions. It underscored that, in view of their main responsibility for environmental degradation, it must therefore take the lead in eliminating damage to the environment. This was to be done by providing adequate, new and additional financial resources and the transfer of technology on preferential and non-commercial terms to developing countries.⁵³

A very important aspect of the conference was that developing countries at Beijing agreed that on their part, they too should contribute to the process of environmental protection by stepping up technical cooperation and the transfer of technology among themselves. Developing countries were also invited to contribute on a voluntary basis, to the existing funds.⁵⁴

⁵² Beijing Declaration, op.cit., paragraph 13.

⁵³ Beijing Declaration, op.cit., paragraphs 7, 8, 12, 13, 21.

⁵⁴ Beijing Declaration, op.cit., paragraphs 10, 22, 30.

The Beijing Ministerial Conference constituted one of the early attempts by developing countries to consult each other with the objective of arriving at a common position on UNCED issues. However, these positions although significant, were not comprehensive as UNCED had just entered into its second substantive discussion at the Precom meetings. The draft conventions on Climate Change and Biological Diversity as well as the Earth Charter were still in the initial process of formulation at other fora and were therefore not discussed at the Beijing Conference. It was due to this limitation that the Chairman of the Conference informally suggested to the Malaysian Minister of Science, Technology and the Environment who headed the Malaysian delegation, that a follow-up conference was necessary and that Malaysia might wish to host a second conference as a follow-up to Beijing.

The idea was pursued informally among the members of the delegations attending the Conference. The Head of the Malaysian delegation was convinced that there was general support from the other developing countries that a second conference was necessary and cautiously welcomed the idea of Malaysia hosting it sometime during the months approaching the Earth Summit.

It was only in early 1992 that the matter was raised at the Malaysian Cabinet. The Environment Minister had not pursued the idea immediately after Beijing as the feeling was prevalent at home that the Malaysian Prime Minister intended to boycott the Earth Summit. The Prime Minister was not encouraged by the comments made by international NGOs and some sectors in the North that Malaysia was increasing its logging activities in

Sarawak and ignoring the needs of the Penan communities through its excessive logging. Interviewed by the local press on 26 August 1991, the Malaysian Prime Minister said it would be pointless for Malaysia to attend the Summit if the international environment movements had already decided to oust Malaysia from the world.⁵⁵ Echoing the views of the Prime Minister, the Minister of the Environment remarked that if the Prime Minister did not attend the Summit, neither could other officials.

When asked by the press to comment on the statement of the Prime Minister, Ambassador Razali Ismail, the Malaysian chief negotiator, admitted that the statement had caught the attention of the Summit Secretariat which felt that the problem could be discussed at the conference itself.⁵⁶ Malaysia had, by the Third Prepcom, played a predominant role and had been appointed as spokesman on Forests and Biological Diversity by the Group of 77. Its presence at Rio was crucial as no other country would want to defend Malaysia's interests at the Summit if it were absent. Ambassador Razali explained in a telephone press interview from Geneva where he was heading the Malaysian negotiating team at the Third Prepcom that the Prime Minister's statement was not a final decision and that it was a good tactical decision as it gave Malaysia the choice of attending the Summit or otherwise. He added that while the campaign by the NGOs was a concerted effort to embarrass Malaysia and to "make it squirm and lose economically" and which might continue at

⁵⁵ 'Dr.M's stand on Earth Summit causing big stir':
New Straits Times, 26 August, 1991.

⁵⁶ New Straits Times, 26 August, 1991.

Rio, the campaign was not a big issue and could be handled in due course. He added that the Malaysian delegation had to be resilient in facing such campaigns and continue to fight for what the country believed was important to be put forward in Rio as a number of countries were counting on Malaysia to highlight their problems. He continued that the Malaysian delegation at the UNCED discussions were also receiving a lot of support from its own NGOs attending the same meetings, which had helped to project a positive image of the country.⁵⁷

Meanwhile, as the dates of the Rio Summit were drawing nearer, the National Steering Committee continued its regular meetings to refine the Malaysian positions in preparation for Rio. The Cabinet continued to receive feedback on the results of the Prepcoms and the two INC meetings. Before Malaysia's formal announcement to attend UNCED, two Under-Secretary-Generals of UNCED and UNCED Secretary-General Maurice Strong himself had come to Malaysia to persuade the Prime Minister to change his mind. It was only at the close of the Second Ministerial Conference of Developing Countries on the Environment and Development which Malaysia hosted on 26-29 April, 1992 that the Prime Minister announced that it was necessary for Malaysia to be at Rio to formally present the views of the countries of the South.

⁵⁷ ibid.

The Second Ministerial Conference of Developing Countries on the Environment and Development.

The Second Ministerial Conference of Developing Countries on the Environment and Development was held in Kuala Lumpur on 26-29 April, 1992. The Conference was held along the lines of the Beijing Ministerial Conference, aimed at exchanging views and refining positions for the Rio Summit and the two INCs on Climate Change and Biological Diversity. It was intended to provide the opportunity for Malaysia to gather the support of other developing countries in addressing common concerns and ensuring that the outcome of UNCED would be beneficial from the perspective of developing countries. The Conference, which took place three weeks after the end of the final Prepcom, was convened to allow developing countries to make political calculations on what would be in store at the Rio Summit, as well as the implications, including the minimum position that the developing countries could agree upon that would constitute a successful outcome of the Summit from the point of view of the developing countries.⁵⁸

The Second Ministerial Conference was attended by 55 developing countries. Observers from Australia, Canada, the EU, Japan, Norway, Sweden and the United States had also flown in to Kuala Lumpur to attend the Conference. From the International Organisations, the UNCED Secretary-General, Maurice Strong and Mustaffa Tolba, the Executive Director of UNEP addressed the meeting on the last day. Other organisations such as the UNDP,

⁵⁸ Internal document.

WMO, ITTO, IFAD, the ASEAN Secretariat, the African National Congress and NGOs were also represented at the Conference.

The Conference provided the developing countries the opportunity to assess the results of the Fourth Prepcom which had shown identifiable progress in some areas, particularly relating to land and terrestrial-based environmental issues, toxic chemicals, hazardous wastes and water-related issues. Some progress had also been achieved in the area of institutions, legal instruments and the Rio Declaration on the Environment and Development but the overall progress on the critical cross-sectoral issues was limited.⁵⁹ The question of new and additional financial resources remained unresolved and proved to be the biggest disappointment for the developing countries. Commitments on financial resources were crucial for the developing countries as there was little faith that the environmental challenge could be met without adequate financial support. By the end of the Fourth Prepcom, the developed countries had remained uncommitted and unwilling to respond either in terms of actual numbers or other tangible commitments. Added to this, the developing countries had to compromise upon the insistence of the developed countries that the Global Environmental Facility (GEF) shall remain the sole mechanism for funding environmental projects within the framework of decisions to be taken at Rio as well as for the Framework Convention on Climate Change and the Convention on Biological Diversity. These

⁵⁹ 'Outcome of Fourth Preparatory Committee of UNCED - An Assessment', Conference document: SMCED/SOM/INF.3.

outstanding problems preoccupied the minds of the participants at the Kuala Lumpur Conference.

The Second Ministerial Conference of Developing Countries was set to insist that there should be new and additional funding and that it should be provided in addition to, and separate from, the Official Development Assistance (ODA) target commitments of the developed countries (i.e. 0.7 percent of GNP). A specific and separate fund for the implementation of Agenda 21 should also be established with developing countries contributing on a voluntary basis.⁶⁰

It is relevant to note that the above formulation of the Declaration was a result of a very difficult, exhaustive and strenuous negotiation which continued until the late hours of the three-day conference and appeared to divide the developing countries at the Second Ministerial Conference. Some countries headed by China, India, Kenya, Ethiopia and Malaysia insisted that the developing countries should maintain its position of additional and separate funds.⁶¹ These countries insisted that in the event that the GEF was to be another appropriate funding mechanism after Rio, there must be a major transformation of the GEF, with universal membership encouraged and access and disbursement provided under agreed criteria which should be democratic in nature. It also specified that in seeking

⁶⁰ 'Kuala Lumpur Declaration on the Environment and Development', 26-29 April, 1992, paragraph 12.

⁶¹ The decision of G 77 and China on Financial Resources submitted at the Fourth Prepcom appears in UN document A/CONF.151/PC/L40/rev.1.

modifications of the GEF, the role of the World Bank should be limited to that of being the repository of its funds.

Among the developing countries, Brazil and the other Latin American countries were not too happy with the above formulation. Brazil appeared determined that as host, it wanted to ensure a smooth conference at Rio and was therefore hesitant not to be harassed with difficulties of reconciling North-South positions particularly when it was aware that the developed countries were not at all flexible on the issue of funding. The Latin American countries on the other hand were reconciling their economic relations with the United States and the OECD, and, with NAFTA in the pipeline, countries like Mexico, Argentina and Chile appeared to be working on the assumption that by cooperating with the North, they would be able to make them more reasonable and responsive to the needs of the South. This assumption proved incorrect as seen from the outcome at Rio. The absence of any binding or specific commitment on new and additional financial resources to finance the programmes under Agenda 21 confirmed to the developing countries that the North were, right up to Rio, not willing to concede on the issue.

While the issue of financial resources was a difficult one to resolve, the Second Ministerial Conference had little difficulty in formulating the South's position on the other UNCED issues. These relate to the Rio Declaration on the Environment and Development, Agenda 21, transfer of technology, institutions, the proposed conventions on Climate Change and Biological Diversity and the issue of forests.

By the Fourth Prepcom, the Malaysian Prime Minister had become discouraged by the criticisms Malaysia was getting from the international community on its so-called large-scale deforestation activities. In his opening speech at the Second Ministerial Conference, he delivered his hard-hitting and frank views on the subject:

We in Malaysia are fully aware of the role that the tropical forests are playing in preserving the delicate balance in the environment. We are aware too of the thousands of species of flora and fauna that are to be found only in our forests. We are aware that trees absorb carbon dioxide and give back the precious oxygen without which we will all drop dead.[...] But we are also acutely conscious that we are a developing country which needs the wealth afforded by our forests. We do not cut down our trees foolishly. We need living space, we need space for agriculture, and we need the money for the sale of our timber. If it is in the interest of the rich that we do not cut down our trees then they must compensate us for the loss of income.⁶²

On the issue of the Penans, the Prime Minister remarked:

⁶² Keynote Address by the Prime Minister of Malaysia, Dato' Seri Dr. Mahathir Mohamad at the official opening of the Second Ministerial Conference of Developing Countries on Environment and Development, Kuala Lumpur, 27 April, 1992.

Stop making an issue of the Penans. Promote temperate timber if you must but accept competition by tropical timber. You advocate open markets and free trade. Now live up to your own creed. Stop linking trade and aid to developing countries. Stop arm twisting.⁶³

The extent to which the G 77 was able to rearticulate the South's common position at the Rio Summit can be seen in subsequent chapters. At this juncture suffice it is to say that on certain issues as Energy and Climate Change, there was a lack of unanimity.

MALAYSIA'S 'INITIATIVE FOR THE GREENING OF THE WORLD'

At the Second Ministerial Conference, Malaysia challenged the North by announcing a comprehensive programme for the greening of the world. In that proposal, known as the 'Initiative for the Greening of the World', it called upon the global community, in specific terms and as an initial step, to target at least 30 per cent of the earth's terrestrial area to be greened by the year 2000.⁶⁴ It considered the target achievable considering that the world has already 27.6 per cent of its land under forest cover and needed only an increase of 2.4 per cent, or an average hectare increase of 0.3 per cent per year for eight years.

⁶³ ibid.

⁶⁴ 'An Initiative for the Greening of the World' published by the Ministry of Science, Technology and the Environment, Malaysia, 27 April, 1992.

Towards this end, Malaysia called upon all countries to set national greening targets with those not having suitable land area instead contributing adequate funds to developing countries with available land. A Global Green Fund should be established which would serve to finance reforestation and afforestation programmes as well as forest rehabilitation and maintenance, to support the global greening target. In proposing the initiative, Malaysia announced that while the minimal national target that was being suggested was 30 per cent, Malaysia undertook to set a higher standard for itself. As a contribution to the global commons, Malaysia which had 56.2 per cent of its land mass under forest, pledged that at least 50 per cent of its land area would remain permanently under forest cover. The 50 per cent national target constituted the final challenge which Malaysia tabled before countries that were willing to back their strong words with real deeds. It hoped that the greening of the world would inspire a new spirit of international cooperation and partnership in which global resources could be fairly shared. If successful, it could solve at least partially an important environmental problem.⁶⁵

A considerable amount of effort was put towards the 'Greening of the World' initiative. To be acceptable to the international community, the intended proposal had to be substantiated by authentic data. In this context, research was carried out by ISIS of Malaysia and the Ministry of Science, Technology and the Environment on the practicality of the

⁶⁵ Dr. Mahathir Mohamad: Keynote Address, 27 April, 1992, op.cit.

initiative. Data on the total forest cover by country (see Appendix) was taken from the 1989 Environmental Data Report of UNEP, the 1990 FAO Report on Global Overview Status and Trends of World's Forests and the 1991 World Development Report of the World Bank. The figures showed that only five developed countries (Austria, Finland, Spain, Sweden and Japan) had more than 30 percent of their total land area under forest cover as compared to 45 developing countries.

There are some who saw the Malaysian proposal as an attempt to reprove the North which had largely destroyed their own temperate forests in the search for national economic development, and now sought to lecture the tropical forests countries to 'do as I say, not as I have done'.⁶⁶ Roddick, on the other hand, saw the Malaysian initiative as a willingness to look at principles which could provide the basis for international agreements.⁶⁷ Her view is shared by Grubb et al. Given the fact that countries differ greatly in their current and historic forest cover, land resources and population densities, Grubb et al. did not consider it a very practical proposal. Nevertheless, the willingness to talk in terms of targets, mechanisms and monitoring requirements contrasted sharply with other countries' refusal to countenance any such intrusion on their sovereignty. The fact that this proposal could in principle form an opening gambit for negotiations on

⁶⁶ Mark F. Imber, Environment, Security and UN Reform, (New York: St. Martin's Press, 1994), p.98.

⁶⁷ J. Roddick, 'Earth Summit North and South: Building a Safe House in the Winds of Change' mimeo, 1995.

a binding agreement, combined with the Malaysian advocacy of the need for strong international supervision of global environmental problems, served to emphasise that their government's intense opposition to a forest convention of the form proposed by the developed countries was not based upon an approach of absolute sovereignty, but in large part upon differing perceptions of equity.⁶⁸

Amidst intense opposition, Malaysia's initiative on "Greening of the World" found itself in the final formulation of the Rio text on Forests. The North had fought hard to ensure that this proposal did not get into the final document, particularly where the proposed funding was concerned. However, upon the insistence of Malaysia and the other developing countries supporting her, UNCED adopted a compromised text as follows:

Efforts should be undertaken towards the greening of the world. All countries, notably developed countries, should take positive and transparent action towards reforestation, afforestation and forest conservation, as appropriate.⁶⁹

⁶⁸ Michael Grubb et al., The Earth Summit Agreements: A Guide and Assessment, (London: Earthscan, 1993), p.36.

⁶⁹ Adoption of Agreements on the Environment and Development: Non-legally binding authoratitive statement of principles for a global consensus on the management, conservation and sustainable development of all types of forests; A/CONF.151/5/Rev.1 dated June, 1992.

MALAYSIA AND THE ISSUE OF ANTARCTICA AND THE ENVIRONMENT

Antarctica is an issue which Malaysia had tried to promote in the UNCED discussions and at regional conferences but without much success. At the First Prepcom at Nairobi, Malaysia took the floor to request that the Secretariat of UNCED report to the next Prepcom in Geneva on "Pollution-related problems and the status of living resources in Antarctica". Malaysia explained that the underlying fabric of resolution 44/228 was to provide the global opportunity within the United Nations to discuss all matters pertaining to the environment and development. In this regard, Malaysia claimed that there was sufficient scientific evidence of the specific role and influence of Antarctica on the global environment. In reiterating its request, Malaysia underscored the following arguments:⁷⁰

The ozone hole was indeed discovered over the Antarctica, thereby providing the international fillip to control Chlorofluorocarbons (CFCs). While the CFCs emanated from other parts of the world, Antarctica is now exposed to excessive ultra-violet radiation which is harmful to not only human beings but also adversely affects all other living and non-living resources. Antarctica holds about 70 per cent of the world's available fresh-water resources and about 90 per cent of the world's ice, which warrants discussion on the subject. The Antarctic is a fragile environment, vulnerable to the impact of human activities. The ability of the ecosystem to recover from

⁷⁰ Intervention notes by Malaysia at the First Prepcom, Nairobi, 5-31 August, 1990 on 'Antarctica: The need for relevant information on specific agenda items.'

change induced by humans is less than that of ecosystems elsewhere because of the extreme conditions and the simplicity of the ecosystem. Any change in the Antarctic environment would have unpredictable impacts on the climate and environment in other parts of the world. The threat to global environment and ecosystems posed by the destruction of the environment and ecosystem of the Antarctic would be beyond question.

Antarctica's importance also derives from its unique characteristic as the last wilderness of mankind. It is a global scientific laboratory of immense value, with its uncontaminated nature providing a baseline against which one can measure pollution and the extent and effects of global climate change. It enables research important to the study of global processes and the changing environment. The region holds many secrets of the earth's past. It may also be the best monitoring zone for global pollution from which to observe the degradation of the earth's natural system. The polar regions, being sensitive to changes in the environment may act as warning signals to changes in the total energy flux of the earth and to changes in the atmosphere.

Antarctica therefore serves as a crucial area for mankind's efforts in trying to understand such phenomena as global warming and the thinning of the ozone layer. The melting of the Antarctic ice alone would raise the sea level significantly, wiping out not only low level countries but centres of population at coastal areas in many parts of the world.

There were two underlying reasons why Malaysia raised the need to include Antarctica in the UNCED agenda. The first was

in keeping with the argument it started ten years earlier. At the 37th UNGA, the Malaysian Prime Minister asserted that the days when the rich nations of the world could take for themselves whatever territory and resources they had access to were over. Henceforth, all the unclaimed wealth of the earth should be regarded as the common heritage of mankind. The second reason was to counter the North's preoccupation with the forest convention. As early as the First Prepcom, the intention appeared to have been determined. Rio was going to be about forests. Biodiversity was going to be about forests. And so was the greenhouse effect.

Malaysia's statement on the subject stirred resentment particularly among the members of the Antarctic Treaty Consultative Parties (ATCP) who strongly refused to allow Antarctica to be discussed within the UNCED process. A number of countries within the G 77 were equally not keen to become embroiled in a debate which had proved futile as seen in the previous UNGA discussions on the subject. Members of the G 77 felt that it would be more worthwhile to concentrate on issues that were of concern to the developing countries such as the cross-sectoral and development issues.⁷¹

The Group of 77 as a whole was not supportive of Malaysia's initiative because Antarctica was not a North-South issue and because it would implicate many developing countries which were party to the Antarctic Treaty including Argentina, Brazil, Chile and India. At the same time, the Prepcom Chairman, Ambassador

⁷¹ Internal document.

Tommy Koh and the Permanent Representative of Indonesia to the United Nations informally advised the Malaysian negotiating team that it would be best if Malaysia did not pursue the matter which was not only difficult but also sensitive. Given the fact that it was the first substantive meeting to prepare for UNCED, Malaysia backed down to avoid a confrontation and long debate and even conceded that in any future discussion on Antarctica and the environment, the word 'Antarctica' would be replaced with 'Polar regions'.⁷²

CONCLUSION

In order to meet the challenges to its economic well-being and its sovereign right to development, Malaysia had no choice but to assume an active role in the UNCED negotiations. A pro-active role was no longer a luxury it could not afford, but a necessity it could not do without. Although it had not intended to take such a serious role at the outset, its position as the rotating chairman to the G 77 at the time the UN resolution 44/228 was drafted, its role as host of the Commonwealth Summit, and the G 15, motivated it to get the most out of the process.

As a developing country, the most valuable benefit of engaging in the preparatory process, from the national to the regional and the international level, was the contribution to the country's national experience. Whilst individually, the officers on the ground became seasoned in their trade and refined their individual skills at multilateral diplomacy, the

⁷² Internal document.

parts, i.e. the Ministry of Foreign Affairs, the participating missions and ministries mastered their lessons in cooperation, coordination and optimum utilisation of resources. For their well-earned effort, the Cabinet, in deliberating the impact of the Rio Summit, placed on record their satisfaction and congratulated the members of the National Steering Committee for having worked so well together as a cross-ministerial team.⁷³

The preceding account demonstrates that preparation at the national level was an important aspect of the UNCED negotiation. It shows that in order for a country to exert its influence at the international front, a considerable amount of groundwork is required at the domestic level. This chapter has shown how a small, developing country such as Malaysia can effectively organise and exert pressure in an international negotiation. Through its strategies of coalition-building, Malaysia entered the environmental negotiations with the purpose of defending its own corner of interests as well as exercising some form of global leadership. The subsequent chapter will further illustrate how, given its limited capacity, Malaysia was able to effectively negotiate issues which it had specific interests.

⁷³ Internal document.

CHAPTER THREE

THE PROCESS AND SUBSTANCE OF THE UNCED NEGOTIATION

INTRODUCTION

This chapter aims at explaining and analysing the process and substance of the UNCED negotiation. It is useful to analyse the negotiation in terms of its process, which was enormous. The preparations far exceeded almost all normal conceptions of a conference, as did the extensive documentation.¹ Weiss, Forsythe and Coate portrayed the process itself, which was begun in response to the Brundtland Commission Report and the UNGA Resolution 44/228, as the most significant product of UNCED. Maurice Strong remarked that in many important aspects, "the process was policy" and the "process of building consensus" was considered just as important as the outcome of UNCED or as any set of declarations or treaties.²

Described as the largest conference the United Nations had ever held,³ UNCED provided a valuable learning experience in multilateral negotiation. The agenda of the conference was

¹ See Shanna Halpren, 'UNCED: Process and Documentation'; Providence, RI: Academic Council on the United Nations System, 1992 cited in T.G. Weiss, D.P. Forsythe and R.A. Coate, The United Nations and Changing World Politics, (Oxford: Westview Press, 1994).

² T.G. Weiss, D.P. Forsythe and R.A. Coate, The United Nations and Changing World Politics, (Oxford: Westview Press, 1994), p.210.

³ See Tommy Koh, 'The Earth Summit Negotiating Process: Some Reflections in the Art and Science of Negotiation', in N.A. Robinson (ed.) Agenda 21 and UNCED Proceedings, (New York, London, Rome: Oceana Publications Inc., 1992), p.xiii.

extensive, the issues negotiated were complex and the large number of the participants to the conference affected the nature of the negotiating process. In addition, UNCED provided a rich laboratory for studying negotiating behaviour.

From the outset, the Preparatory Committee concentrated on drafting a comprehensive agenda for action (Agenda 21 comprising forty chapters and sub-headings), a declaration on the environment and development (The Rio Declaration) and a statement on forest principles. Alongside the negotiation process, two conventions on Biological Diversity and on Climate Change were being negotiated concurrently in time for signature at the Summit. These agreements were negotiated continuously over a span of two and a half years.

UNCED however was not confined to process alone. As Winham explained, in multilateral negotiations, there is an interplay between 'substance' and 'process' and while important lessons could be learned by studying the negotiation process, ultimately 'process' can never wholly be divorced from 'substance'.⁴ UNCED was also a negotiation of substance. The issues, which were built on technical foundations, were far more numerous and complicated than anyone had expected, thereby demanding enormous preparatory work on the part of the negotiators. Yet, the substance cannot be fully intelligible in the absence of an understanding of how the agreements came about.

UNCED was a diplomatic conference and almost all the members of delegation were diplomats. Practically every delegate

⁴ Gilbert R. Winham, International Trade and the Tokyo Round Negotiation, (New Jersey: Princeton University Press, 1986), p.351.

received instructions from their government, not only from their foreign offices but also from environmental agencies and other governmental bureau whose domains were affected by the decisions taken at the UNCED meetings.⁵ The complexity of the process and the substance of the UNCED negotiation were intensified by the involvement of the NGOs in the UNCED process. The contributions of the NGOs, particularly the scientific, business and the professional groups, and their interactions with the government delegations and the Secretariat provided a rich source of learning experience for all delegations, especially those of the developing countries.

However, in explaining the substance of the negotiation, only a selected number of issues will be discussed in this chapter. These issues have been selected on the basis of their importance to Malaysia in particular and to developing countries in general, given their limited capacity and varying interest in negotiating. Issues such as Institutional Arrangements, Transfer of Technology and Financial Resources and Mechanisms are cross-cutting issues which affected the whole agreement reached at Rio. The issues on Forests, Biological Diversity and Climate Change affected the national interests and challenged the sovereignty of these states while the negotiation on the Rio Declaration was important as it provided a basis and guideline for formulating future bilateral and multilateral arrangements on the environment and sustainable development.

⁵ Indian Ambassador Chinmaya Gharekhan interviewed by Earth Summit Times, 26 March, 1992, p.4.

PART I: ELEMENTS AND PROCESS

The UNCED Preparatory Committee (Prepcom) was organised into three working groups. Working Group I dealt with atmosphere, land resources (which included forests, soil loss and desertification), biological diversity and biotechnology. Working Group II was responsible for oceans, freshwater resources and wastes and Working Group III was involved with legal and institutional issues. Cross-sectorial issues such as technology transfer, financial resources, international economy, trade, health, education, poverty and population were dealt with in the plenary, chaired by Tommy Koh.

UN working groups meet in three types of sessions: formal, informal (also referred to in UN parlance as "formal-informals") and informal-informals. In formal sessions, delegations, particularly ministers, make for-the-record statements which are translated into the various UN languages and are open to NGOs. The formal-informal are negotiating sessions which are translated but not transcribed. Informal-informals, a terminology first used at UNCED, are conducted in English. They range from open-ended meetings held in conference rooms, without translation, to small meetings held in the Chair's office, involving a limited number of delegations and sometimes referred to as "Friends of the Chair". Deliberations in the informal-informals are usually confidential and are more confrontational because diplomats have a tacit understanding that all positions taken are tentative. In addition to these meetings, ad hoc meetings are held from time to time to discuss particular

issues. Informal contacts are also held in the coffee lounge where much of the real work of the Prepcom apparently occurs.⁶

Under ground rules proposed by the Prepcom chair, NGOs were allowed to speak at formal sessions and were also allowed into informal sessions but without speaking rights but were totally barred from the closed-door negotiation sessions of the informal-informals. The procedural rule determined that not more than two working group meetings could be held concurrently. This procedure was to enable countries with small delegations to keep up with the multitude of meetings held throughout the day.⁷ However, because of the size of the agenda and the limited time allotted to complete the negotiations, many of the ground rules and procedures were often ignored for the sake of expediency. As a result, countries with small delegations were unable to participate in some substantive discussions as more than one informal-informal meeting was taking place concurrently with other formal and informal meetings. In addition, because of the inconsistency of policy of the different working groups with regard to the access of NGOs to their informal sessions, tension grew between the NGOs and the governments as the sessions commenced. It was observed that informal-informal sessions of Working Group I and III varied in their hospitality to NGO observers, while those of Working Group II were consistently closed.⁸

⁶ Earth Summit Bulletin, Vol.0 No.1 dated 28 Aug, 1991, e-mail: written by lgoree in <en.unced.news> in igc:enb.library.

⁷ See Earth Summit Times, 5 March, 1992.

⁸ Earth Summit Bulletin, Vol.0, No.2, 3 Sept. 1991.

The Secretariat assumes an important role in determining the success of any multilateral negotiation. Within a short span of time, the UNCED secretariat under Maurice Strong had the arduous task of writing very complex, consensus documents and producing voluminous, detailed and integrative reports that provided the background for the Prepcom deliberations. During the UNCED negotiations, tensions between the Secretariat and the governments were manifest on several fronts. There was a great deal of suspicion and resentment on the part of the government delegations that the Secretariat appeared to have its own agenda and was playing too large a role in drafting the documents. At the Third Prepcom, many developing countries complained that the Secretariat documents spoke in a language that was essentially biased in that development aspects were being subsumed and neglected while more and more emphasis was given to environmental degradation in developing countries.⁹

The **Ecologist** claimed that the corporate sector enjoyed special access to the Secretariat throughout the UNCED process. This view was shared by the **Third World Resurgence** which asserted that the UNCED Secretariat under Maurice Strong ensured that references to the need for tighter regulation of companies were avoided or erased from official documents and replaced by clauses which enhanced the role and activities of the TNCs. This was particularly evident when Maurice Strong appointed the Swiss millionaire Stephan Schmidheiny, the Chairman of the newly created Business Council for Sustainable Development (BCSD), as

⁹ Third World Resurgence, published by Third World Network, Penang, Malaysia, No.14/15, Oct/Nov. 1991, p.25.

his personal advisor. Nicholas Hildyard illustrated how the special partnership with the Secretariat enabled the corporate interests to block discussion of the environmental impact of the transnational Corporations (TNCs). Recommendations drawn up by the UN's own Centre for Transnational Corporations (UNCTC), would have imposed tough global environmental standards on TNC activities. These were shelved and a voluntary code of conduct, drawn up by the BCSD was adopted instead as the Secretariat's input into UNCED's Agenda 21.¹⁰

Winham has explained that the negotiating process is in fact a programmed set of operations that has evolved from considerable experience. It consists of tabling a position, decomposing and aggregating the relevant information wherever possible, and then setting about, point by point, to reconcile the different positions of the parties.¹¹ The negotiators proceed towards agreement initially by tabling a position that is exploratory at best. To facilitate discussion, an interested party might produce a 'non-paper' or an 'approach paper' to explore the views of the negotiators. At this stage, negotiating teams rarely have a concept of what a final, acceptable agreement might look like, as serious thinking of what is acceptable is often done after serious negotiation has begun. Over time, and through a process of 'trial and error', the

¹⁰ On the influence of the corporate sector on the UNCED Secretariat, see The Ecologist: Whose Common Future?, (London: Earthscan Publications Ltd., 1993) p.1; Third World Resurgence, No. 24/25 Aug/Sept., 1992, p.3 and Nicholas Hildyard, in Wolfgang Sachs, Global Ecology, (London: Zed Books, 1993), p.28.

¹¹ Gilbert R. Winham (1986), op.cit., p.99.

negotiators accumulate a settlement which is acceptable to all. This is particularly true of the UNCED negotiations.

In an elaborate negotiation such as UNCED, one would consider strategy an important element in determining the success of a negotiator's position. However, this belief is disputed by the study conducted by the US State Department's 'Senior Seminar on Foreign Policy' held in April, 1977.¹² The Seminar produced a 'Checklist for Negotiators' which summarised the views of senior government officials on the actual conduct of negotiation. The Checklist reflected the practitioner's disinclination to think in terms of strategy. Practitioners tend to see negotiation as an application of common sense and are generally unwilling to commit themselves to any kind of strategy. This is because negotiations are not only fluid, unstructured and complicated, they are also too diverse across the board and even too diverse day by day for any planned strategy to be very useful. The first problem for the negotiator is to structure the situation; hence the emphasis on preparatory work and the establishment of a negotiating framework rather than on strategy.

UNCED progressed through this first stage quite typically and moved on to the second stage. Here, strategy becomes relevant after the negotiations succeed in defining and clarifying the main outlines of the interaction. As disagreements become apparent, notably as the deadline approaches, negotiators employ methods of bargaining, trade-

¹² See Gilbert R. Winham, 'Practitioners' Views of International Negotiation', in World Politics, 32, No.1, (Oct.1979), pp. 111 - 135.

offs, (also referred to as log-rolling or horse-trading) and linkages as tactics to resolve outstanding issues in a package deal.

As in most large scale negotiations, the UNCED process progressed in stages and moved expeditiously as the deadline neared. Winham considers the time dimension of crucial importance to a negotiation as it forces negotiators to think of completion of parts within parts of an overall agreement. An obvious deadline is likely to be advantageous to the process, lacking it, there is less pressure to resolve the issues. Deadlines are also necessary as senior members of the governments cannot be detained indefinitely in an exercise that sometimes appears to be leading nowhere.¹³

After five weeks of negotiation at the fourth and final Prepcom, held in New York in March/April, 1992, tension became apparent among the negotiators as many issues were still unresolved as the Summit in Rio approached. There were 32 documents which had to be considered and approved by the plenary and the negotiators were aware that bringing a large number of unresolved texts to Rio would put in question the success of the Summit as many heads of state and government might be discouraged from attending.¹⁴

In a negotiation as diversified and complicated as UNCED, the need for a chair or leader to conduct orderly and efficient interaction became extremely important. Ambassador Tommy Koh was

¹³ Gilbert R. Winham, 'Negotiation as a Management Process', in World Politics, 30, Oct. 1977, pp. 87 - 114.

¹⁴ 'Koh to Plenary: Time is running out', Earth Summit Times, 31 March, 1992.

elected as chair of the Prepcom and Main Committee of UNCED following the UN decision to convene the Summit. Koh brought some unusual credentials to the position. Educated in Singapore, Harvard and Cambridge, he had served as dean of the University of Singapore's law school in his early thirties. He had been the youngest ambassador ever appointed to the United Nations, and in 1978 was appointed to chair the special Law of the Sea negotiating group dealing with financial arrangements.¹⁵ Twenty years earlier, he had established a good working partnership with Maurice Strong in preparing for the Stockholm Conference on Human Environment.

During the last week of the Fourth Prepcom, Tommy Koh reminded the delegates that apart from the clean text of the Rio Declaration, the rest of the documents contained 350 bracketed points or disputed language. It was the task of the Main Committee to remove the brackets and to find acceptable language in time for the Summit. A number of ground rules were proposed to expedite this work. Koh suggested that all statements except those by visiting ministers be limited to three minutes. Silence means consent: delegates did not need to ask the floor if they agreed with a proposal. They were encouraged to let their spokesperson speak on their behalf and only to take the floor if there was no group position or if they disagreed with the group's representative. In addition, they were reminded to

¹⁵ Raiffa H, The Art and Science of Negotiation, (Mass: Harvard University Press, 1982), p.282.

concentrate on points of substance and to submit drafting changes in writing rather than take the floor.¹⁶

In reflecting on his task as chair of the Prepcom and Main Committee, Koh asserted that his strategy was to maintain pressure on the delegates until they agreed to compromise. As such it was not unusual for Prepcom sessions to continue through the night and end at 04:00 or 06:00 the following morning. Koh was aware that a good chair must avoid the temptation of keeping everything under his wings. When it becomes clear that delegates are unable to deliver, it is the responsibility of the chair to do the unpleasant job of replacing them with someone else. This was evident during the Fourth Prepcom when he replaced Ambassador John Bell of Canada as chair of the Finance issue with Deputy Foreign Minister Andres Rozental of Mexico. At the Summit, he replaced Rozental with Ambassador Ricupero of Brazil. He also replaced Ambassador Utheim of Norway with the Dutch Minister of the Environment, J.G.M. Alders to head the committee on Technology.¹⁷

¹⁶ Earth Summit Times, 31 March, 1992, p.8.

¹⁷ Tommy Koh, 'Some Reflections on the Art and Science of Negotiation' (1992), op.cit.

PART II: SELECTED ISSUES BEFORE UNCED**THE RIO DECLARATION ON THE ENVIRONMENT AND DEVELOPMENT**

In his opening statement at the First Prepcom in Nairobi in August 1990, UNCED Secretary-General Maurice Strong called upon governments to consider drawing up an agreement which could guide people and nations on their conduct, rights and obligations towards the environment. He pointed out that this agreement could be built from the Stockholm Declaration whereby consideration could be given to incorporating agreed principles into a brief document in the form of a Charter, "an 'Earth Charter' which could be presented at UNCED on a single page in clear and cogently worded language".¹⁸

Although conceived at the First Prepcom, it was only at the Third Prepcom that the drafting of the Charter began to take shape. This task was given to Working Group III which was concerned with legal and institutional issues. Bedrich Moldan of Czechoslovakia chaired the Working Group which was to formulate a Chair's consolidated draft based on the views presented by governments.

To assist the negotiation, the UNCED Secretariat had compiled pre-existing statements from relevant documents and previously adopted principles drawn from the United Nations and other regional agreements. These included the World Charter for Nature (1982), the Declaration on the Right to Development

¹⁸ United Nations document: A/CONF.151/PC 5/Add.1, 'Introductory Statement made by the Secretary-General of the Conference at the First Session of the Preparatory Committee, 6 August, 1990'.

(1986), the Stockholm Declaration on Human Environment (1972), the New International Economic Order (1974), the Brundtland Legal Principles (1987), the Langkawi Declaration (1989), the Basel Convention (1989), the Bergen Declaration (1990) and the Houston Summit Communiqué (1990).¹⁹

At the meeting, the G 77 reminded the delegations that the Earth Charter should incorporate the reaffirmation of the 1972 Stockholm principles as well as the relevant guidelines provided by the General Assembly Resolution 44/228. It stressed the importance of integrating environmental concerns with development issues and emphasised that the human person should be protected by a guarantee of rights to development and freedom from hunger, disease and poverty, underlining that no environment could be safe if the human state were in misery.²⁰

The G 77 reiterated that the right to development is an inalienable human right and therefore the development needs of all developing countries should be treated as a priority. Recalling principle 21 of the Stockholm Declaration, it stressed that all countries have the sovereign right to utilise their own natural resources pursuant to their own environmental policies

¹⁹ Nicholas A. Robinson (ed.), Agenda 21 - UNCED Proceedings, op.cit., (1992), pp.xcvii - cxxvii.

²⁰ For deliberations by the G 77 and the North, see Earth Summit Times, an independent newspaper published by Theodore W. Kheel with Katsuhiko Yazaki and the Kyoto Forum, New York, issues dated March 10, 11, 18, 19, 20, 26, 27, 29, 30, 1992; and Earth Summit Bulletin, e-mail, written by enb in igc:enb library and by lgoree in <en.unced.news>, New York, 1991, 1992, Vols.0 no.1, 0 no.2, 1 no.1 to no.27, 2 no.1 to 2; and the United Nations document, A/CONF.151/26 (Vol.IV) 'Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 28 September, 1992'.

and their development and economic priorities. It emphasised that the special situation and needs of the developing countries should be fully taken into account. Towards that end, access to and the transfer of environmentally sound technology at preferential concessional terms as well as research, free exchange and the transfer of scientific knowledge must be provided to developing countries to facilitate the solution of environmental problems and promote growth and development.²¹

The G 77 further stressed that while protection of the environment was in the common interest of mankind, the developed countries should bear the main responsibility on the basis of their historical and current contribution to global environmental degradation. It illustrated that the largest part of the current emission of pollutants into the environment, including toxic and hazardous wastes, originates in developed countries, and therefore those countries have the main responsibility for combatting such pollution. It further stressed that the protection of the environment is a common but differentiated responsibility of governments and its application to developing countries should be in accordance with their respective capabilities and responsibilities. On the subject of nuclear weapons, the G 77 underlined that countries are responsible for the damage caused to the global environment by the effects of nuclear weapons and all other means of mass destruction.²²

²¹ ibid.

²² ibid.

While the developing countries were emphasizing development and sovereignty rights, the North was acknowledging the importance of environmental concerns. The CANZ Group and the EU introduced the precautionary principle stating that where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In addition, proposed activities which were likely to have a significant adverse effect on the environment should not be undertaken without prior assessment of the environmental risks.

There was also a call for countries to acknowledge responsibility over activities that damage the environment of neighbouring countries, referring particularly to the problem of acid rain, and to pay adequate compensation to the victims of international or transboundary environmental interference. The EU continued to stress the importance of including the polluter-pays principle, underlining that the polluters should bear the costs of the pollution they cause, including the expenses of carrying out the necessary pollution prevention and control measures to protect the environment.²³

The North also spoke of the need for the democratisation of both the environment and decision-making. To this end, wider participation from the public was essential and communities should have access to information and legal redress including Government and industry information concerning the environmental consequences of their planned actions. The United States in particular made continual reference to the need for market

²³ ibid.

mechanisms to attain sustainable development. Under the influence of their NGOs, the United States called for the harmonisation of regimes for international trade and environmental protection.²⁴

Following these general statements, the UNCED Secretariat was given the laborious task of incorporating the views and proposals into a Chairman's Consolidated Draft (L.8).²⁵

At the Fourth Prepcom

At the first meeting of the Fourth Prepcom held on 5 March, 1992 in New York, Bedrich Moldan tabled the outline of his own reference text of the Earth Charter which was developed from government proposals and circulated during the intersessional period. Moldan had hoped that his text would provide a useful reference point which could expedite negotiations and improve the chances that the Fourth Prepcom would agree on an Earth Charter.

However, there was little support from the developing countries who viewed his text as favouring the viewpoints of the developed countries. Developing countries maintained that negotiations should resume around the Chairman's Consolidated Draft (L.8) document, which they argued had properly addressed development concerns, while the G 77 came up with a new text which they insisted should serve as the negotiating text. This

²⁴ ibid.

²⁵ United Nations document, A/CONF.151/PC/WG 111/L.8 entitled 'Rio de Janeiro Charter/Declaration on the Environment and Development'. The "L" code which appears at the end of the document number denotes a limited and draft document to be tabled for discussion.

spurred the North, particularly the United States and the EU, to come up with their own drafts.

On the second day of the negotiations the G 77 tabled their document (L.20) and requested that it be used as the exclusive negotiating document while at the same time inviting other countries to include their proposals in the G 77 text. The G 77 text was received with ambivalence by the North which argued that while giving first reading to a G 77 text might be the standard practice, they could not accept the argument that the G 77 text should automatically be relied on to the exclusion of others - let alone without a formal reading of any other country's proposed text. By then, the United States had tabled its document (L.21), together with Japan (L.22), Canada (L.23), Australia (L.24), EU (L.25), Argentina (L.26), Norway, on behalf of the Nordic countries (L.27), and the United Kingdom and Denmark (L.28). As the heated discussion continued, Prepcom Chair Tommy Koh was called in to help to mediate the procedural wrangle. After hours of closed-door talks held between Tommy Koh and the authors of the draft texts, a compromise was reached under which the G 77 document was accepted as the main basis for discussion "with all other texts to receive equal consideration."

Negotiations on an Earth Charter resumed the following day in an informal session with the G 77 L.20 being used as the starting point. It drew harsh criticism from the United States and Canadian delegations who saw it as not conducive to productive negotiations. According to the North, the G 77 text was as negative as it was accusatory, singling out the

industrialised countries for 'unsustainable' patterns of production and consumption', categorising warfare that causes environmental damage as 'a serious war crime', calling for developed countries to pay 'liability and compensation' to the victims of environmental damage. It was also perceived as unbalanced as it tended to over-emphasise the development issues. The most contentious was the principle pertaining to the protection of the environment and natural resources of people under occupation. Many delegates felt that the injection of political considerations was inappropriate when discussing UNCED. The North maintained that the G 77 revised text was too detailed, too accusatory and politicised. Many in the North felt that the position of the South had been sufficiently covered and that they were in favour of a more balanced document. There was also a need to frame principles in a positive language as the revised text continued to apportion blame on the developed countries. The Chair enforced a tight deadline for amendments before commencing the next operating procedure.

On 24 March, the Working Group moved into an informal-informal session to discuss the next course of action. It was decided that Co-Chairs should be appointed to oversee the process in an informal contact group. Mukul Sanwal of India and Ole Holthe of Norway were elected for the task. The contact group was to elect its spokesperson and meet continuously in a closed session until negotiations were complete. By 26 March, the two Co-Chairs were able to identify twelve areas of agreement. A smaller group was established to start drafting the

precise wording of the so-called agreed principles while the larger contact group continued to discuss the still contentious principles.

The drafting process proved to be an extremely difficult task as the negotiations entered into a deadlock over North-South differences, especially the North's complaint against, and the South's insistence on, including repeated references to each State's common but differentiated responsibilities for the environment and overemphasising the industrialised countries' responsibility for damaging the environment. The complexity of the task of drafting a workable charter is illustrated by the following paragraph taken from an informal document circulated on 21 March, 1992 (Proposed deletions or text for replacement are shown in square brackets, and proposed additions and alternative wording in bold):

[The [special (delete, Poland)] situation and needs of [developing (delete, Poland)] countries, particularly the least developed countries, **and those most vulnerable to environmental change (AUS)**, [their right to achieve [their (delete, Poland)] [full economic potential], **sustainable development (Austria)**], and the eradication of poverty (delete EC)], **and the protection of their environment (AUS, NZ)** shall be fully taken into account in [any international (delete EC)] action taken with respect

to environment and development. (delete, CAN, Japan, Russia, USA)].²⁶

Richard Nusser described the progress of the working text as "short on inspiration and long on hyperbole, weighted with brackets, proposed additions, revisions, deletions, alternative wordings, boldface, italics and parentheses".²⁷

By 30 March, the only principle approved had been that 'women have a vital role in environmental management and development and their full participation is therefore essential to achieve sustainable development'. With barely three working days left to the close of the Fourth Prepcom, the negotiation on the Earth Charter had reached a crisis point. Apart from the difficulties regarding the principles to be agreed, there were also fundamental differences on whether the text should be called the 'Earth Charter' or the 'Rio Declaration on Environment and Development'. Added to that, there was still disagreement on whether the Earth Charter should be a separate, free-standing document or if it should form a preamble to Agenda 21.

As serious differences remained, the Chair announced that a final effort to negotiate the Charter would be made through a bargaining session at which States were expected to find a way of balancing conflicting interests in a 'horse-trading' session in which the two principle factions would develop a 'trade-off

²⁶ 'Charter battle is fought by inches', Earth Summit Times, 23 March, 1992, p.3.

²⁷ ibid., p.3.

package' for the remaining controversial issues, with each faction entitled to put forward roughly fifty percent of the principles that they favoured.

The contact group met immediately to commence 'horse-trading' but the exercise proved futile. While the North was willing to compromise on certain principles such as the right to development, the G 77 was unwilling to trade any of its preferred principles. On the morning of 31 March, the Co-Chairs reported to the Prepcom Chair that they had gone as far as they could and were unable to make any further progress. They suggested that he take over the negotiation.

Tommy Koh was prepared to chair the negotiation provided that the Co-Chairs prepared a compromise text to serve as a basis for the next drafting session.²⁸ Only 16 countries would be represented in the small, closed group, eight to represent the North and eight to represent the South. The North was represented by the United States, Portugal, the Netherlands and Germany (EU), Australia (CANZ), Norway (alternating with Sweden), Japan and Russia. The South was represented by Pakistan, India, Iran, Brazil, Mexico, Nigeria, Tanzania and China. Tommy Koh insisted that the group produce a negotiating text by 18:30 on 1 April, 1992. By 18:15 of 2 April, a clean text containing 27 principles, (A/CONF.151/PC/WGIII/L33/Rev.1) was agreed upon ad referendum. Ironically it became the only unbracketed text of the Fourth Prepcom to go to Rio.

²⁸ Tommy Koh, 'Some Reflections of the Art and Science of Negotiation' (1992), op. cit.

Although Working Group III was relieved to have been able to negotiate an unbracketed text for Rio, many delegations expressed disappointment with the language, the overall content and the hasty manner in which numerous principles were addressed. But far from being a perfect text, each side did achieve success in enshrining those principles that were of particular importance to their respective political agendas.²⁹ Middleton, O'Keefe and Moyo were more critical of the outcome. They commented that with the exception of principle 3 on the right to development, principle 4 on the integration of environmental protection and sustainable development and principle 5 on the essential task of eradicating poverty, the rest of the document reflected an environmental bias where the Northern infatuation with the 'market' prevailed. This is particularly evident in principle 16 of the Declaration which reads:

National authorities should endeavour to promote the internalisation of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.³⁰

²⁹ Stanley P. Johnson (ed), The Earth Summit, (London, Dordrecht, Boston: Graham & Trotman/Martinus Nijhoff, 1993), p.117.

³⁰ Neil Middleton, Phil O'Keefe, Sam Moyo, The Tears of the Crocodile, (London, Colorado: Pluto Press, 1993), p.25.

Before the text was adopted at the 19th plenary meeting on 14 June, 1992 at Rio, there were strong rumours that the United States would reopen negotiations on the Declaration.³¹ The United States had objected strongly to principle 23 which called for the protection of the environmental and natural resources of 'people under oppression, domination and occupation.' However, in a late compromise involving the United States, Israel and the Arab states, this phrase was retained in the Declaration but all (ten) references to people under occupation were removed from Agenda 21. The United States accommodated its other objections by issuing a statement of its reservation to several principles. It maintained that development was not a right (principle 3) but a goal which could be misused to justify human rights violations. It also could not accept any interpretation of principle 7 that would imply a recognition or acceptance by the United States of any international obligations or liabilities, or any diminution on the responsibilities of developing countries. On principle 12, it argued that in certain situations, trade measures may provide an effective and appropriate means of addressing environmental concerns.

Malaysia's Assessment

Malaysia assumed a moderate role in the negotiations on the Earth Charter. Although it participated in the deliberations, it did not take a leading position when negotiating with the North, usually allowing the spokesperson of G 77 to negotiate on its behalf and on behalf of the developing countries.

³¹ Stanley P. Johnson (1993), op.cit.

Malaysia did not want the text reopened at Rio unless other Groups reopened it for discussion. In the event that the text was to be reopened, Malaysia was prepared to consider appropriate amendments such as strengthening principle 12 which related to international economic systems and unilateral action by member states. It considered the draft text a weak delineation of the commitment of the North, favouring that these commitments be more clearly defined, particularly with regard to principle 7 on the common but differentiated responsibilities of States.³²

When asked to comment on the South's attitude of apportioning blame on the North and insisting on accusatory wording throughout the Earth Charter negotiations, a member of the Malaysian negotiating team³³ for Working Group III explained that such an attitude reflected the reality of North-South negotiations. He added that this was the sad thing about the dynamics of negotiation, which many of the pragmatic and moderate members of the South realised but could not do much about as the decisions made were based on consensus. He explained that it was difficult to take a realistic approach as the South would eventually be left with nothing to defend as the North continued to cut down its position further. It was for this reason he added that the South was compelled to take the 'maximalist' approach and proceed to negotiate downwards.

In its feedback to the Government, the National Steering Committee reported that Malaysia found the exercise of

³² Internal document.

³³ Personal interview.

negotiating for an Earth Charter a rewarding task. It explained that although the Declaration was not a legally binding document, it was adopted at the UNCED Summit level and therefore would have the moral authority of the international community. Although the declaration of principles did not envisage precise action to be undertaken, it provided the guidelines which States could follow, particularly in relation to formulating and adopting legislation. The Declaration could also be the basis for formulating bilateral and multilateral arrangements which Malaysia might find useful.³⁴

FOREST PRINCIPLES

At the G 7 Houston Summit held in July, 1990, the United States proposed a convention on the world's forests to be negotiated expeditiously in time for UNCED. This call was taken up by Maurice Strong during the First Prepcom. He suggested that forestry could be considered as a protocol in either the Climate Change Convention or the Convention on Biological Diversity. His suggestion sparked the debate on Forests which was to become the most contentious and disputed issue in UNCED. It was also to become the only issue in which Ministers took over negotiations from the diplomats.

At the First and Second Prepcom

As early as the First Prepcom, the developing countries became conscious that the developed countries in general, and the United

³⁴ Internal document.

States in particular, were making attempts to deflect the deliberations on the environment and development in favour of global legal instruments on the environment. An instrument dealing with forestry topped the agenda, ostensibly based on the claim that deforestation constituted the most serious environmental problem currently facing mankind and, in the process, implying that the threat of greenhouse gas emission was second to deforestation.

Caught in their own web of varying and often conflicting priorities compounded by poor preparation, the developing countries were faced with an onslaught to which they were uncertain how to react. Among the developing countries, Malaysia initially suspected that the enthusiasm of the G 7 constituted an infringement of the country's sovereign right to exploit its forests and was therefore a question of paramount national interest. India, on the other hand argued that the G 7 initiative had something to do with their reluctance to take firm action to reduce their own greenhouse gas emissions and that they were using the tropical forests as a convenient carbon sink for their own gaseous wastes.³⁵ A few developing countries, notably Chile, Mauritania and Mexico were already in favour of a global forest convention although none had yet put forward a clear and unambiguous definition of what the convention would entail.³⁶

Porter and Brown noted that although Brazil, which is the home to about 30 percent of the world's intact tropical forests,

³⁵ Stanley Johnson (1993), op.cit., p.103.

³⁶ Internal document.

was the natural leader of this veto coalition, the role had actually been exercised by Malaysia. Malaysia's leadership role may be explained by the fact that it had been increasingly singled out by the NGOs as the worst offender in the destruction of tropical forests. Malaysia also has long had a flair for strongly criticising the economic policies of industrialised countries in international fora.³⁷

Thus at the First Prepcom, Malaysia led the discussion on forests on behalf of the developing countries. In trying to mobilise the developing countries to accept a common position, Malaysia reminded the G 77 meeting held during the First Prepcom at Nairobi that the issue of deforestation must be placed in a balanced perspective. An analysis and assessment of the Preparatory Committee had indicated an overwhelming trend, in an effort by the industrialised countries, to focus on deforestation. This was evident in their insistence on a legal instrument and the establishment of a small group within this Prepcom to pursue this subject. While they were not forthcoming on a binding instrument on technology transfer and funding, the industrialised countries had insisted that deforestation deserved a special committee. Malaysia elaborated that these countries had come under strong domestic pressure through their own NGOs and interest groups, both public and vested, on environmental pollution. These pressure groups had become vote banks and

³⁷ See Porter G and J.W. Brown (1991) *op.cit.*, p.102; Similar views are expressed by Michael Vitikotis, 'The Mahathir Paradox', *Far Eastern Economic Review*, 20 August, 1992 and by Chatterjee and Finger, *The Earth Brokers* (1994), *op.cit.*, p.61.

political leaders have had to respond. It pointed out that industrial pollution caused over the centuries in these countries had been the leading and major factor in the deterioration of the global environment. However, since they could not agree among themselves on how to address the issue of carbon dioxide emission, they had found common cause in deforestation, with the emphasis on tropical rainforests. This helped to remove the pressure on them and to deflect it to tropical rainforest countries, which were all developing countries. Their underlying message was that developing countries did not know how to manage their forest resources and therefore they would have to take the lead. In its effort to gain solidarity with the South, Malaysia warned the members of the G 77:

The issue is of interest to all of us. We need total and full support to strengthen your hand at the meeting with those outside our group. Our position should be to first obtain relevant data and encourage dialogue through existing mechanisms. Any legally binding instruments such as the proposed forest convention should not be concluded in haste without taking into consideration their implications on developing countries.³⁸

³⁸ Introductory statement made by Malaysia at the G 77 meeting on the subject 'Combatting Deforestation', Nairobi, 25 August, 1990.

An engrossing observation made at the First Prepcom was the interest projected by the FAO on the forest debate.³⁹ The FAO made an offer to provide a forum for negotiation and drafting of a global forest convention although it had received no clear mandate, either from its Committee on Forestry (COFO) or from within the UNCED process. It went on to produce a document entitled 'Possible Main Elements of an Instrument for the Conservation and Development of the World's Forest' which it tried to push at two of its meetings in Rome in September and November 1990. The FAO's document highlighted three basic principles which should form the basis of a forest convention: sovereignty, stewardship and burden-sharing in which countries with tropical forests undertake to act as global stewards over their forests on behalf of the international community, which in turn undertakes to share the burden of conservation.

Malaysia resisted the initiative made by the FAO, suspecting that it had been manipulated by the developed countries. The suspicion grew when at the Second Prepcom, the UNCED Secretariat produced a draft document A/CONF.151/PC/65 which drew heavily on and replicated exactly the language used in the FAO draft.⁴⁰ The PC/65 document repeated the three principles of the FAO draft and highlighted the ability of forests to act as 'sinks' and 'reservoirs' for carbon and other greenhouse gases. Malaysia's Ambassador to Italy and the FAO, Ambassador Ting Wen Lian, who

³⁹ Caroline Thomas, The Environment in International Relations, (London: Royal Institute of International Affairs, 1992), p.265 and internal document.

⁴⁰ See David Humphreys 'The Forest Debate of the UNCED process', Paradigms: The Kent Journal of International Relations, Vol. 7.1, Summer 1993, pp. 43 - 54.

by then had received instruction to lead the Malaysian negotiating team on Forests issues, commented that Malaysia was perplexed as to why important technical agencies like FAO were being utilised to promote the hasty agenda of some countries to formulate a forest convention. She reminded participants that UN agencies including the FAO should confine their role to providing technical inputs when requested and not to taking decisions on principal issues considered in the main UNCED process.⁴¹

The decisions taken at the Working Group I of the Second Prepcom were significant for Malaysia and other developing countries as they highlighted two main points, namely that all steps should be taken towards a "non-legally binding authoritative statement of principles for a global consensus on the management, conservation and development of all types of forests" and "the United Nations Conference on the Environment and Development process was the most appropriate forum for conclusive decisions pertaining to global consensus on forests".⁴²

As the United States continued to press for a forest convention at the Second Prepcom, Malaysia, with strong support from the G 77, created its own ad hoc working group on forests. Their mandate was not to negotiate an agreement but to determine what aspects of the issue needed further study. Malaysia insisted that the tropical forest countries be compensated by developed

⁴¹ See Intervention made by H.E Ting Wen Lian in 'Technical Workshop to Explore Options for Global Forestry Management, Bangkok, 1991, Proceedings', p.246.

⁴² See UN Document A/CONF.151/PC/WG1/L.18 Rev.1, Revised decision submitted by the chairman on the basis of informal consultations.

countries for all direct and opportunity costs forgone to the extent that any convention would commit these states to halting or substantially slowing deforestation by reducing timber extraction, agricultural development projects, or simple conversion of forests for subsistence farming. With the support of the G 77, Malaysia repeated the point made at the first official negotiations on Climate Change in February 1991 that tropical forest countries would oppose negotiation of a forest agreement until developed countries, including the United States, had committed themselves to reducing energy consumption and to providing funding and technology transfer for developing countries to control their greenhouse gas emissions. It also called upon the UNCED Secretariat to produce more balanced information about the importance and rate of loss of tropical forests on one hand, and of temperate and boreal forests, on the other.⁴³ On the principle of compensation, the United States and the other industrialised countries indicated their unwillingness to provide tropical forest countries with the resources they would need to forgo development of their forests, arguing that the sustainable management of forests was in the economic interests of tropical countries.

At the Third and Fourth Prepcom

At the Third Prepcom held in August-September 1991 in Geneva, Ghana, the chair of the G 77, presented a proposal, L.22 entitled 'A non-legally binding authoritative statement of principles for a global consensus on the management, conservation and

⁴³ Porter G and J.W. Brown (1991), op.cit., p.103.

development of all types of forests'. The title of the G 77 draft repeated verbatim the text used in Decision 2/13 of the Second Prepcom.

The L.22 document emphasised that the subject of forestry was related to the entire gamut of the environment and development issues including the right to development. It called for efforts towards the 'greening of the world' by all countries, particularly developed countries, and stressed the need for new and additional financial resources to be provided for developing countries through a global fund to enable them to manage sustainably, conserve and develop their forests. There was also a call for the transfer of environmentally sound technology to developing countries and international cooperation in the areas of scientific research as well as the removal of tariff barriers and all forms of unilateral actions to restrict or ban the use of timber and other forest products.⁴⁴

The significant outcome of the forest negotiation at Prepcom Three was the marriage of two documents, PC/65 and L.22. This was also the beginning of a long series of difficult and strenuous negotiations between the developed and developing countries which lasted until the final days of UNCED at Rio. Although the Working Group agreed that negotiation should from then on "take place on a set of authoritative principles on the management, conservation and sustainable development of forests", there was

⁴⁴ See UN Document A/CONF.151/PC/WG1/L.22 dated 16 August 1991 entitled 'A non-legally binding authoritative statement of principles for a global consensus on the management, conservation and development of all types of forests'.

still significant support from developed countries to negotiate basic principles upon which a subsequent convention could be based. This was reflected in the consolidated document A/CONF.151/PC/WG1/CRP.14/Rev.2 which read as follows:

The UNCED process is the most appropriate forum for conclusive decisions pertaining to global consensus on forests [which should form the basis for [any subsequent preparations and adoption of a legal instrument on forests] [all other negotiations involving forests]].⁴⁵ (The proposals in dispute are highlighted in the square brackets).

As the debate proceeded, the position of the North and South began to harden. The South began to formulate language which apportioned blame on the North while the North emphasised the concept of forests as global commons. The text that was taken to the Fourth Prepcom was heavily bracketed around clauses which reflected aspects of North-South contention.

The negotiation on the forest principles resumed on 17 March 1992 in New York during the Fourth Prepcom. After a faltering start due to procedural problems over the method of applying the consolidated text (CRP.14), the open-ended informal-informal

⁴⁵ See UN Document A/CONF.151/PC/WG1/CRP.14 Rev.2 preamble paragraph (c) dated 13 December, 1991 entitled 'A non-legally binding authoritative statement of principles for a global consensus on the management, conservation and development of all types of forests'.

contact group began a paragraph-by-paragraph discussion on the seventeen principles of the consolidated text.⁴⁶

After ten days of political rhetoric, the contact group resumed negotiation on the second reading of the principles. Although the meeting agreed to avoid mutual recriminations and finger-pointing, there were still difficulties with the principles pertaining to compensation, financial resources, trade, and the transfer of technology.⁴⁷

Three days before the close of the Prepcom, there was a turn of events which disrupted the entire effort of the Working Group. Gary Larsen, the delegate for the United States, pushed aside the Statement of Principles by proposing the possibility of a future convention. Canada and Austria strongly backed the United States' position. Interest groups were mounting pressure on their governments to introduce legislation against indiscriminate logging and deforestation. In calling for the negotiation of a forest convention after the Rio Summit, the North demonstrated its lack of interest in the completion of the negotiations on the Forest Principles. Malaysia's Ambassador Ting Wen Lian, recognised as the leading spokesperson for G 77 on the forests issue, responded that the G 77 would not entertain the idea of a convention and did not want it mentioned in the text, even in brackets. Infuriated by the latest United States move, Ambassador Ting said that this was yet another indicator of how the

⁴⁶ A day to day account of the forest debate during the Fourth Prepcom appears in the Earth Summit Times and Earth Summit Bulletin, op.cit.

⁴⁷ ibid.

developing countries had been treated during the entire discussion. "We have been resisting this since Nairobi, but they keep bringing it up every time. If the non-legally binding principles don't work, then we can think about a convention - but this is preempting the process. They are not even giving us a chance."⁴⁸

In explaining why the bracketed portions could not be resolved, Ambassador Ting elaborated:

We are not here to score points along the North-South divide. The subject of our forests is above such polemics. We wish to underline the supremacy of our sovereignty over our forests. We are certainly not holding them in custody for those who have destroyed their own forests, and now try to claim ours as part of the heritage of mankind [...] Our message is clear; we are prepared to play our part in the great environmental effort. We are prepared to sustainably use our sovereign forest resources. However, we require financial resources and technology to carry out our environmental obligations. But we are not prepared to accept such outright pressure, which completely ignores the fundamental principle of sovereignty.⁴⁹

⁴⁸ See Earth Summit Times, New York, 30 March, 1992.

⁴⁹ Statement by Ambassador Ting Wen Lian at the United Nations Briefing for the Press on 2 June 1992 at Rio de Janeiro.

The final Fourth Prepcom text contained 73 sets of square brackets. As negotiations had reached an impasse, the heavily bracketed text was taken to Rio to be negotiated. The text did not carry any provision for a negotiation on a future forest convention. An examination of the forest debate at that point focused on whether the state or the wider international community should have the more legitimate stake in combatting deforestation. Caroline Thomas⁵⁰ anticipated that agreements would be difficult to reach because of too many conflicting interests at the international, national and commercial levels. The motives for a convention also varied among developed countries: some were concerned over the contribution of tropical deforestation to global warming. Some countries were concerned over its impact on biological diversity while the Northern NGOs considered the protection of the lands of the indigenous people to be important..

At Rio

Negotiations on the forest principles began on 4 June 1992 and ended at 03:00 on 12 June when agreement was finally reached. The acceptance of the principles was welcomed by many at the Rio Summit as there were increasing doubts that there would ever be a consensus on the issue.

In the run-up to the Summit, pressure was mounting on the need to reach an agreement on financial resources, technology transfer, the unilateral boycott of "unsustainable" forest products, the Malaysian initiative on the "greening of the world"

⁵⁰ Caroline Thomas (1992), op.cit., p.280.

and on forests playing the role of carbon sinks. But the single most contentious issue was over the preamble: the North insisted that it should include a commitment to an enforceable future forest convention.⁵¹ By 11 June, the negotiation had again reached an impasse. Klaus Topfer, the German Federal Minister for the Environment, was invited to preside over negotiations at the ministerial level.

A new turn of events, which was intended to influence the decision for a post-Rio convention, came with President Bush's announcement on 1 June that the United States would immediately commit US\$150 million to international forest aid and would be willing to increase the amount to US\$2.7 billion if other countries followed suit. In reiterating Bush's commitment, William Reilly, the head of the US official delegation informed the plenary that reaching an international accord on principles to preserve all forests was the top priority of the United States at the Rio Summit.⁵² The announcement did little to entice the hardliners like Malaysia and India which continued to stick firmly to the line that if the world had the forest principles, it would not need a forest convention.⁵³

Another captivating development that took place in the midst of the forest debate at Rio was the tactic employed by the United Kingdom to link a convention on desertification with a forest convention. The African countries had been pressing for a desertification convention since the First Prepcom but without

⁵¹ Financial Times, 15 June, 1992

⁵² New Straits Times, 5 June, 1992.

⁵³ Stanley Johnson (1993), op.cit., p.108.

success. The UK had in mind that by offering a desertification convention, the African countries would break rank with the other developing countries in opposing a forest convention.⁵⁴ The hardliners which included India, Indonesia and Malaysia had been observing the move nervously as the UK approached Gabon and Benin in particular, on the possible 'trade-off'. Both these countries had no intention of accepting the deal but did not indicate this openly to the UK. Meanwhile, the United States, tired of being vilified as Conference's 'bad guy', came out in favour of the desertification convention. The UK rapidly dropped the idea of linkage and changed its position in support of the convention. This, according to Ambassador Ting Wen Lian, was an instance where developing countries were standing absolutely united.⁵⁵

Malaysia's Assessment

Few realised that while Malaysia had been leading the G 77 on the forest debate since the first Prepcom, it quietly stepped to the rear of the formation during the negotiation at Rio. Throughout the Prepcom process, Ambassador Ting Wen Lian had been adamantly defending the sovereign rights of states to manage their own forests and had resisted attempts by the North to establish an international treaty on forests. Her fiery rhetoric had earned her the name "Dragon Lady" by the western media.⁵⁶ But when the

⁵⁴ ibid., p.110.

⁵⁵ Interview with Ambassador Ting Wen Lian, Kuala Lumpur, 1 October, 1994.

⁵⁶ See Washington Post, 7 June, 1992; Globe and Mail, 6 June, 1992, The Daily Telegraph, 9 June, 1992, Financial Times, 11 June, 1992 and The New York Times, 12 May, 1992.

debate resumed at Rio, Malaysia decided that it was time for other developing countries to step forward. Malaysia felt that the North had mistakenly seen Malaysia as standing alone against the convention.⁵⁷ The leading role was taken over by India and Indonesia, which continued to defend the position of the G 77. The attempt to resort to a convention was eventually dropped by Klaus Topfer when Amir Salim, Indonesia's Minister for the Environment, demanded an explanation as to why the Chair was still insisting on a convention when the Group of 77 had clearly and repeatedly said that it was not interested in one.

The Forest Principles were quickly condemned by the NGOs as a "chain-saw charter" for fostering the conversion of forests to plantations and other commercial uses without setting any targets for conservation. The principles were said to ignore the rights of local peoples and instead legitimised the policies of the transnationals, multilateral banks and UN agencies - those who had contributed most to the crisis of all types of forests.⁵⁸

Commenting on the difficulty of having a forest convention, Ola Ullsten, the former Swedish Prime Minister remarked:

In the long run, the disappearance of forests is a political problem. These issues touch on national sovereignty. We cannot impose our views on how we

⁵⁷ Debriefing by Ambassador Razali Ismail to the Malaysian delegation at Rio, 11 June, 1992.

⁵⁸ See Third World Resurgence, No.24/25, Aug/Sept, 1992; Chatterjee and Finger, The Earth Brokers (1994), op.cit., p.47.

believe forests should be husbanded, we can only convince and advise.⁵⁹

The failure on the part of the industrialised countries to secure a forest convention at Rio indicated that they had failed to convince the developing countries of the need for one. Malaysia's proposal on the initiative of "greening the world" required that countries commit themselves to having 30 percent of their land mass covered with trees. (See Appendix) The difficulty for the North lay in the fact that while Malaysia already had 56.2 percent of its land mass under forest cover, Europe and the United States did not really have a "log to stand on" in lecturing the Third World about the fate of the rainforest.⁶⁰

A small international conference of ecologists and scientists held at Wood Hole Centre in Virginia in February, 1992, examined the obstacles blocking an effective international convention. While most people agreed that forests were necessary, there was no understanding of the scale of the need for forests, the kind of forests, the areas required, whether plantations might serve the same purpose, whether all the existing forests were required or whether some forests were more important than others. There was also no agreement about how to value any of the public uses of forests as opposed to selling them off as timber and whether such uses could and should compete with profits from

⁵⁹ Caroline Thomas, (1992), op.cit., p.267.

⁶⁰ Daily Telegraph, 9 June, 1992.

timber.⁶¹ A similar view was expressed by the Malaysian Prime Minister during a BBC interview at Rio:

The thing is that you really do not know how much and which part of the forest needs to be saved or which square inch of the forest would yield this wonderful substance [biological diversity]. But if you are specific about it, then we can save that part of the forest. Losing species has been going on since the beginning of time. We don't have dinosaurs now. I don't know that if we did have them we might regard them as a very essential part of the ecology. But we don't have them and we still survive. So we may lose some things, but to say that just in case something might be there we must save everything, I think that's not on.⁶²

INSTITUTIONAL ARRANGEMENTS

Unlike the debates on the Rio Declaration or on the forests principles, the negotiation on Institutions was less contentious and more straight-forward. When the issue was presented by Maurice Strong at the First Prepcom, the majority of countries appeared uncertain and therefore not inclined towards the early formation of the Third Working Group to discuss any institutional

⁶¹ Earth Summit Times, 19 March, 1992.

⁶² Dr. Mahathir with Jonathan Dimpleby, BBC interview at Rio, 1310 hours, 13 June, 1992.

arrangements for the period after UNCED. At the Third Prepcom, states still did not make any radical proposals for institutional reforms and were more inclined to 'wait-and-see'. The G 77 was able to forge a common position only on generalities rather than on specifics, while no concrete proposals emerged from the industrialised countries.⁶³ Such negotiation behaviour is not uncommon, according to Winham who argues that negotiators enter into negotiation precisely to find out what the issues are; it is largely a matter of trying out new combinations of ideas in an effort to move the negotiation along.⁶⁴

To facilitate discussions on the subject, the Secretariat prepared a document on Institutions⁶⁵ which made suggestions on the possible need to examine the role of existing institutions such as UNEP, the World Bank, IMF, UNDP and regional institutions as well as the NGOs. The document was intended to be an 'eye-opener' for the Prepcom in their discussions about the post-UNCED period, with a view to drafting a chapter on Institutional Arrangements for Agenda 21. The Prepcom was invited to consider the extent to which the UN system could be strengthened to enable it to integrate the environment and development dimensions into their programmes and to see how such agencies could best be made accountable for the environmental impacts and implications of their activities.

⁶³ Internal document.

⁶⁴ See G. Winham, in World Politics, 30, Oct, 1979, p. 101.

⁶⁵ UN document, A/CONF.151/PC/36 entitled 'Progress on Institutions' dated 31 January, 1991.

At the Third Prepcom, a large number of delegations expressed themselves against the creation of new institutions which might run the risk of extra administrative overhead costs and duplicate existing United Nations agencies. The meeting instead called for the revitalisation and reform of existing institutions to meet the challenges of UNCED.

As the central agency of the United Nations system on matters of the environment, there was general agreement and support for strengthening the mandate, operations and funding of UNEP. UNEP, which was the creation of the Stockholm Conference twenty years earlier, had not been able to take on operational responsibilities due to lack of funds and expertise particularly with respect to the developmental side of the environmental questions. To this end, some delegations suggested that the UNDP, as the central UN funding agency, be fully utilised to assist and integrate the development aspects in all environment-related activities undertaken in developing countries with UN funding. It was also suggested that UNEP take steps to reinforce and intensify its liaison and interaction with UNDP and the World Bank.

As the discussion proceeded into the Fourth Prepcom, the meeting agreed that attention should be given to the need for programme coordination and a high-level body to provide policy coordination. Some delegations expressed support for the General Assembly remaining in charge of overseeing new global initiatives on the environment and development. Others argued that UNGA negotiations on the environment had too often focused on procedural issues and rhetoric rather than on useful debate.

They added that General Assembly involvement was most effective when limited to giving 'umbrella' approval for a broad area of work, with the detailed work pursued in the relevant technical forum. One possibility was strengthening the link between the General Assembly and UNEP by having UNEP report directly to the General Assembly rather than through the Economic and Social Council (ECOSOC).⁶⁶

The idea of setting up a new Commission was first suggested by the delegation from Bangladesh, who envisaged that at the global level the General Assembly could exercise its authority through ECOSOC and a new Commission which might be called the "Commission on Sustainable Development"(CSD). The Commission would coordinate the entire range of activities relating to the interpretation and implementation of Agenda 21.⁶⁷ It was ironic that while many countries found the suggestion attractive and politically feasible, Malaysia, which was later to be elected as the first Chair of the newly created Commission on Sustainable Development, strongly opposed the idea which it considered "premature if not a disturbing trend, given the view that ecological considerations provide a basis for intervention in the internal affairs of sovereign states."⁶⁸

The idea of creating the Commission on Sustainable Development received the support of many delegations during the

⁶⁶ See 'Institutional Proposals': Report by the Secretary-General of the Conference, UN document A/CONF.151/PC/102, Aug. 1991.

⁶⁷ ibid., para 85.

⁶⁸ Earth Summit Bulletin, e-mail (Written by enb in igc:enb.library and by lgoree in <en.unced.news>, New York, 1991, Vol.0, no.1.

final days of discussion at the Fourth Prepcom. Malaysia's Ambassador, Razali Ismail, who was appointed by Tommy Koh to chair the Committee on Institutions during the Fourth Prepcom, invited the meeting to focus its attention on the mandate and operations of the proposed Commission. It was generally agreed that the Commission would monitor implementation of Agenda 21 within the entire UN system. It would also coordinate periodic national reports on environmental performance and the implementation of Agenda 21, focusing particularly on issues of financial resources and technology transfer.

When Malaysia was approached by the Prepcom Chair to lead the Committee on Institutions, Ambassador Razali took the task of putting up a 'non-paper', drawing upon the ideas of the various delegations. Determined to minimise the critical areas of disagreement, he identified the 'difficult' and potential key players and devoted time to tackling them on a one-to-one basis. He conducted informal discussions and led them through the 'core group-approach' which he maintained even after UNCED. By the end of the Fourth Prepcom, the committee completed its work of drafting a chapter on International Institutional Arrangements for Agenda 21. His success in getting an early resolution was attributed to the trust that the group had for him. The network that he had built over the years, his credentials in the Security Council and his positive attitude had helped to make his chairmanship effective.⁶⁹

Negotiations on Institutions proceeded smoothly throughout the Fourth Prepcom with only a few disputed areas left to be

⁶⁹ Personal interview.

settled at Rio. The difficult areas pertained to the power of the proposed Commission to compel national reporting on environmental performance. Earlier at the Fourth Prepcom, the developed countries had argued that the creation of a new bureaucracy in the form of a commission could only be justified by new worldwide reporting obligations. The proposal was met with reservations by certain countries, particularly China and India which, according to Ambassador Razali Ismail, were worried about "exposing the machinery of their governments" to the review of an international organisation. They expressed fears that it might be used as a "weapon to knock the South into shape" as the existing Human Rights Commission had tried to do.⁷⁰ The final wording of the text thus resulted in a weak provision on national reporting, in which the Commission was:

to consider information provided by Governments, including for example, information on the form of periodic communications or national reports regarding the activities they undertake to implement Agenda 21.⁷¹

Another area of dispute concerned the power of the Commission to report directly to the General Assembly rather than to the Economic and Social Council. Some delegations felt that a Commission reporting to ECOSOC would not be effective and

⁷⁰ Comments by Ambassador Razali Ismail made to the Earth Summit Times, Rio de Janeiro, 7 June, 1992.

⁷¹ See paragraph 38.13 (b) of UN document A/CONF.151/L.3/Add.38 dated 11 June, 1992, entitled 'International Institutional Arrangements'.

independent, given the fact that ECOSOC oversees more than 200 bodies. Prior to the Summit, the Chair offered a compromise text which allowed the Commission to report to the General Assembly through the Economic Council.

Many delegates from the developing countries were equally unhappy with the provision on the appointment of a high level body of eminent people to advise the Intergovernmental bodies, the Secretary-General and the United Nations system on the environment and development. Such a role was considered an invasion of sovereignty, as frequently happens in the Human Rights Commission. UNCED nevertheless accepted in principle the need for an expert advisory body, but left the Secretary-General to make recommendations leading to appointments.⁷²

The Committee on Institutions was the first to complete its work at Rio. In what was being hailed as "a quiet but crucial triumph", UNCED approved the framework for a high-level commission on sustainable development on 9 June 1992.⁷³ The speed with which the entire negotiation on Institutions was concluded was attributed, in part, to the issue itself, which was comparatively less difficult and less controversial. A glance across issue areas indicates that the substance negotiated in the debate on Institutions accounted for the differences in the negotiation process.

The *Earth Summit Times*, however, commented that the debate on Institutions simply did not reflect the quality of imagination and the level of ambition needed to develop new forms of

⁷² *ibid.*, paragraph 38.18.

⁷³ See *Earth Summit Times*, Rio de Janeiro, 10 June, 1992.

governance to guide the planet through the next few turbulent decades. Too much time was spent on the ECOSOC question - should the high level body be ECOSOC, report to ECOSOC or report to the General Assembly through ECOSOC?⁷⁴

Matthias Finger⁷⁵ commented that UNCED did not produce any institutional outcome, neither did it lead to the strengthening of UNEP, which was an institutional outcome of Stockholm, twenty years earlier. As governments did not want any new institutions emerging from UNCED, the new CSD would have to deliver the impossible task of monitoring Agenda 21, which was comprised of over 2,500 recommendations in about 150 programme areas. Chatterjee and Finger commented that one year after the Rio conference, even the most modest hopes had been disappointed. The monitoring of what is believed to be the solution to the global crisis was handed over to a powerless commission that has no money and is bogged down in the UN bureaucracy. What is more, governments have asked the Commission to report to ECOSOC, which has a reputation among the NGOs as "a moribund and useless body".⁷⁶

Malaysia's Assessment

In response to the above comments, Ambassador Razali Ismail clarified that the CSD was thought of by some, including the NGOs, as a kind of an international ombudsman that could level

⁷⁴ Earth Summit Times, New York, 3 April, 1992, p.13.

⁷⁵ 'Politics of the UNCED process', in Global Ecology, edited by Wolfgang Sachs, (London, New Jersey: Zed Books, 1993).

⁷⁶ Chatterjee and Finger (1994), op.cit., pp. 151 - 163.

charges here and there. This was an ideal, but unworkable situation which could not work in a world with much disparity and inequality. The South was obviously not prepared to barter away its independence and sovereignty to an international vehicle which might be dominated by the North. But as the discussion evolved the CSD became, not a body that governs the activities of others, but a monitoring body with sufficient political support.⁷⁷

Recalling Malaysia's contribution to the deliberations on Institutions, Ambassador Razali admitted that at the beginning Malaysia had considered the idea of a Commission "premature" and a "disturbing trend".⁷⁸ Malaysia, he commented, might have taken very strong and firm positions on issues but had never been obstinately uncompromising; when it had seen that there was something good emanating from the deliberations, it adapted accordingly. Thus, when it accepted the responsibility of putting together the institution, it built into the CSD enough provisos to ensure that it would not become a commission on global governance.⁷⁹ The outcome was that the CSD became a working

⁷⁷ Interview with Ambassador Razali Ismail, Permanent Representative of Malaysia to the United Nations in New York and Chairman for the Committee on Institutions and consequently Chairman of the Commission on Sustainable Development for 1993 -1994, in Kuala Lumpur, 17 August, 1994.

⁷⁸ See paragraph 88 of the UN document on 'Institutional Proposals', op.cit.

⁷⁹ Chatterjee and Finger explain global governance as a societal phenomenon which emerged in the West and is associated with the New Age. It is based on the idea that all individuals are connected together because they share a common global environmental awareness which in turn leads to some sort of global management that is a-political, a-sociological, a-cultural and a-radical., op.cit., pp.72-73.

commission, monitoring the excesses of the South and at the same time allowing it to look at the 'backyard' of the North.

Ambassador Razali remarked that the CSD needed time to win the confidence of governments. This would be better served as it progressed. This, he said was already evident as national governments were voluntarily beginning to provide reports of their activities to the Commission.⁸⁰

It comes as no surprise that the CSD received so much criticism from the NGOs. The CSD was in the first place a creation of practitioners who belong to the UN network. Most of the negotiators were diplomats from New York who were familiar with the activities and the problems of the UN and had stayed long enough to feel a sense of belonging to the organisation and to upholding the nation-state system. As the new Commission began its work, the Chair underlined the fact that the Commission was a body of governments and that while the NGOs participation in the CSD was welcomed, they would not replace governments as the voice of the people.

TRANSFER OF TECHNOLOGY

The negotiation on technology transfer is a clear example of where the South conceded to the North before it barely had started negotiating. Unlike the negotiations on Forests, Finance or the conventions on Climate Change and Biological Diversity, the South had no clear position on technology transfer beyond

⁸⁰ Personal interview with Ambassador Razali Ismail.

reiterating the concept agreed upon in UNGA Resolution 44/228 (15(m)):

To examine, with a view to making recommendations on effective modalities for favourable access to, and transfer of, environmentally sound technologies, in particular to developing countries, including on concessional and preferential terms, and on modalities for supporting all countries in their efforts to create and develop their endogenous technological capacities in the field of scientific research and development, as well as in the acquisition of relevant information, and, in this context, to explore the concept of assured access for developing countries to environmentally sound technologies, in its relation to proprietary rights, with a view to developing effective responses to the needs of developing countries in this area.

Unlike the negotiations on issues such as Forests or Finance, the G 77 did not insist that its text A.CONF/151/PC/L.46 be used as a basis for negotiation. Instead, it allowed the Chair, Ambassador Bjomar Utheim of Norway to come up with a consolidated text based on the discussions held in previous meetings on the issue. As late as the Fourth Prepcom, the contact group on technology transfer was still unsure of how to proceed with the overlapping proposals received from the various delegations. It was the United States which came forward to

assist in formatting and rearranging the ideas presented into a negotiating document.

There were three areas of disagreement that could not be resolved by the end of the Fourth Prepcom. The first concerned intellectual property rights (IPR), in particular the North's insistence that they be safeguarded. The second was on the terms of transfer in which the North would continue to support transfer at commercial and market rates through the concept of "technology cooperation". The third area of difficulty, which spilled over from the negotiation on Atmosphere during the last week of the Fourth Prepcom, was Saudi Arabia's insistence on including the word "safe" to mean environmentally "safe" and sound technology so that "safe technology" would be implicit in all subsequent references. The Saudis' proposal was opposed by the United States as it implied an anti-nuclear approach to the North's nuclear technology.⁸¹

From the very beginning, the idea of "preferential and non-commercial" transfer of technology posed a challenge to the industrialised countries. Industries in the North were reluctant to invest huge sums in research and development of new products only to have their results given away to companies in developing countries that could then undercut potential markets. The United States was representing its industry when it insisted that the concept of "technology cooperation" be applied in discussing the issue of technology transfer. The concept was introduced by the Business Council on Sustainable Development (BCSD) under the

⁸¹ Earth Summit Bulletin, e-mail, Vol.1 No.27 dated 23 April, 1992.

chairmanship of Stephan Schmidheiny. It advocated that a sustainable transfer would occur as the parties entered into a more complex and evolving relationship, establishing a form of partnership for technological cooperation through an increase in direct investment, joint ventures and joint R & D programmes. This implied the need to facilitate the roles of market mechanisms, the private sector, trade expansion, and intellectual property rights (IPR) in promoting further advances in technology development, cooperation and transfer.⁸² The South on the other hand, was suspicious of the term "technology cooperation", arguing that it was not possible to have cooperation as advocated by the United States unless countries were on an equal footing.

The contention on the above areas was reflected in the alternative titles of the chapter which were taken to Rio in brackets. They were:

[Environmentally [safe and] sound technology: transfer, cooperation and capacity-building]

or

[Transfer of environmentally [safe and] sound technology: requisite cooperation and capacity-building thereunder]

or

[Cooperation in and related to the access to and the transfer of environmentally [safe and] sound technology]

or

⁸² Stephan Schmidheiny, Changing Course, (Cambridge, Mass.: M.I.T Press, 1992).

[Cooperation in and related to the transfer of environmentally [safe and] sound technology].⁸³

The final title agreed at Rio was the "Transfer of environmentally sound technology, cooperation and capacity - building", which reflected the consensus reached on 13 June 1992. The entire text was a weak reflection of the negotiating position of the South on the subject. From the outset, the South had glaringly left many contentious phrases unbracketed. An obvious example was paragraph 34.4 which read:

There is a need for favourable access to and the transfer of environmentally sound technologies, in particular to developing countries, through supportive measures that promote technology cooperation and that should enable transfer of necessary technological know-how as well as building up of economic, technical, and managerial capacities for the efficient use and further development of transferred technology. Technology cooperation involves joint efforts by enterprises and Governments, both suppliers of technology and its recipients. Therefore, such cooperation entails an iterative process involving Government, the private sector, and research and development facilities to ensure the best possible results from transfer of technology. Successful long-term partnerships in technology cooperation

⁸³ UN document: A/CONF.151/4 (Part IV) dated 27 April, 1992.

necessarily require continuing systematic training and capacity-building at all levels over an extended period of time.⁸⁴

In spite of the South's opposition to the concept of "technology cooperation", it allowed the above language to prevail. Neither the Chair of the G 77 nor any of its members sat down to draft an alternative wording, or even to insist that the paragraph be retained in brackets.

Another contentious paragraph, which was left unbracketed from the beginning, related to the issue of IPR. Paragraph 34.10 on the need to promote patent protection and IPR reflected the interest of the North. Again, the G 77 neither made any effort to suggest alternative language to counter the North's draft, nor insisted on brackets.

By the time the contact group on Technology Transfer finalised its work on 10 June, 1992, the South had acquiesced to the North on three more issues. These related to the negotiation on paragraph 34.11 on the South's demand for "assured access to environmentally sound technologies"; paragraph 34.14 on the terms of transfer and paragraph 34.18(e)(iv) on the abuse of IPR in the case of privately owned technologies. The South announced that it was willing to accept the suggested watered-down language in these paragraphs in order to arrive at a consensus. The end result was a document on technology transfer which uses loose terms such as "mutually agreed on" measures of technology

⁸⁴ See UN documents A/CONF.151/4 (22 April, 1992) and A/CONF.151/L.3/Add. 44, (13 June, 1992).

transfer, and the promotion, facilitating and financing of enhanced access to environmentally sound technologies "as appropriate".⁸⁵

The outstanding issue on "safe technology" as suggested by Saudi Arabia was resolved in the compromised text on Atmosphere. All references to the phrase "safe and" were deleted against the Saudis' will, but the latter were given the right to place on record their formal reservations to the section. The Saudis were given an earlier option to accept the solution of deleting the phrase with a reference inserted in the chapter to Agenda 21 to state that wherever technology was referred to in the document, it should be assumed that such reference implied environmentally safe and sound technology. They, however, chose the former option which made their stand less effective.⁸⁶

The meeting on technology transfer broke down on 31 March when the G 77 complained that there was no reason to resume the meeting as there was no political will to resolve issues. The United States delegations were under explicit orders from the White House to do everything possible to keep any North-South issues involving resource transfer or other demands for reform of the global economic system off the agenda. The United States prevailed.⁸⁷ This does not explain why the South had to concede so early in the negotiations, as reflected in their less

⁸⁵ Environment, Vol.34, No.8, October, 1992, p.28.

⁸⁶ Earth Summit Bulletin, Vol.2 No.13 dated 16 June, 1992.

⁸⁷ See G. Porter and J.W Brown (1991), op.cit., p.134.

determined attitude compared to the negotiations on the other issues such as Forests or Finance.

The answer perhaps lies in the fact that many who were present at the technology transfer meetings lacked the authority to negotiate seriously the contentious issues on IPR and the terms of transfer. One of the obvious things about the suitability of the delegations from the developing countries, beyond a handful of countries, was that there was very little technical backup to assist them in the negotiations. This was particularly the case of the African delegations in which one could see a delegate switching from one contact group to another, listening and not contributing very much. This consequently led to the dilution of their positions and interests. As for the substance negotiated, it must be asked, for example, whether the South had any idea of what information it wanted or what it would do with the state-of-the-art technologies it demanded. Middleton, O'Keefe and Moyo⁸⁸ commented that the transfer of technology to the South was not a simple matter. Much contemporary technology cannot just be transferred like a lump of ore; it needs an industrial environment in which it can be used and developed and, above all, a supporting climate of indigenous research and development. Even in the most advanced of developing countries, the latter exists only in fragmented and sectoral form, and it is frequently not to be found at all in the poorer states.

It could be observed in the UNCED Prepcoms that the official negotiators of the South often "tapped the brains" of the Southern NGOs in formulating their positions on the various

⁸⁸ Middleton, O'Keefe and Moyo (1993), op.cit., p.103.

issues.⁸⁹ However, the position of both differed on the issue of technology transfer. The G 77 has been cautioned by the Southern NGOs that long-term relationships, as advocated by the North, were not particularly a good thing as they would put the South in an adverse position from which it could not escape. The unquestioning call for more technology might result in more financial commitment which would further lead to more reverse transfers of finances from South to North, thus aggravating the indebtedness and dependency of the South. The NGOs' way out was to go slowly and to scale down the industrialisation process. The direction to take was deindustrialisation: encouraging local communities to manage their own socio-economic activities and resources. The Southern NGOs also reminded the delegates from the South of the need to bring the parallel process of the Uruguay Round into the UNCED discussion. Although UNCTAD had been working for two decades on a code of conduct on the transfer of technology, no efforts were made by the official delegates to incorporate it formally into the UNCED process.⁹⁰

A possible explanation of the South's weak bargaining position on the technology issue lies in the fact that a number of developing countries were representing the governments of the

⁸⁹ These Southern NGOs include the Third World Network, APPEN (Asia Pacific People's Environmental Network) ANEN (African NGOs Environmental Network) and ANGOC (Asian NGO Coalition). For further detail on Southern NGOs, see Chatterjee and Finger, The Earth Brokers (1994), op.cit., pp. 73-77.

⁹⁰ See Chee Yoke Ling, 'Technology transfer will not solve environmental crisis', Third World Resurgence, No.14/15, October/November, 1991, and Chatterjee and Finger, op.cit., p.135.

"Southern elites" whose main consideration was to boost trade and economic growth in the South. As for newly industrialised countries like Brazil, Mexico, Singapore and to a certain extent Malaysia, there was a matter of principle involved: technology transfer was a separate issue from financial aid. They were already industrialising; therefore what was needed was guaranteed access to new technologies, on terms they could afford.⁹¹

Malaysia's Assessment

As it was difficult to get the technical agencies to attend all five weeks in the last round of the Prepcom, their technical briefs became increasingly relevant. This was in fact the case for Malaysia. The Malaysian delegation was not big enough to be represented in all the meetings, including the ones on technology transfer. In addition, the Malaysian delegation was already convinced that the North would not concede the demands of the South and therefore decided to focus its efforts on making technology transfer a condition for its participation in the Biological Diversity and Climate Change conventions.⁹²

Gurmit Singh, NGO President of the Environment Protection Society, Malaysia, (EPSM) who attended the Fourth Prepcom commented that there were a number of views about the technology debate which the EPSM could not share with the official Malaysian delegation. He commented that it would not do Malaysia any good to continue blaming the North for their excessive CO2 emissions

⁹¹ R.E. Benedick, Ozone Diplomacy, (London: Harvard University Press, 1991), p.157.

⁹² Porter and Brown (1991), op.cit., p.134.

when Malaysia, with its current life style and consumption, is copying the development pattern of the North. The technology debate, he asserted, tended to focus on the transfer of environmentally sound technology in terms of 'high technology' which must be transferred from the North to the South. He emphasised that not all environmentally sound technology is 'high technology' and neither is it a monopoly of the North. Agenda 21's chapter on technology has actually taken the big countries of the South off the hook from sharing their technology with the other South countries or even with the North.⁹³

FINANCIAL RESOURCES AND MECHANISMS

The negotiation on financial resources and mechanisms required for the successful implementation of the UNCED decisions proved to be the most difficult of all UNCED negotiations. Negotiations which took shape during the Fourth Prepcom continued at Rio with agreements reached only at 19:00 on 13 June, 1992. By then, most of the Heads of States and Governments had left.

The Secretariat estimated that an annual average level of US\$125 billion would be required to implement Agenda 21 during the 1993-2000 period. This represented US\$70 billion more than the present Overseas Development Assistance (ODA) flows of US\$55

⁹³ Personal interview with Gurmit Singh, President of EPSM, on 4 October, 1994.

billion per year, thus reinforcing the need for "new and additional financial resources."⁹⁴

To ensure the prompt implementation of Agenda 21, Maurice Strong suggested that countries take the following measures:

- Replenishment of the Global Environmental Facility (GEF) at four to five times its present level of funding;
- New funds in the form of an "Earth Increment" to increase International Development Association (IDA) funding;
- Increased funding to UNDP for technology transfer;
- More funding to UNEP, the relevant UN agencies and the Regional Economic Commissions;
- Increased bilateral assistance to developing countries;
- A programme of debt reduction for developing countries;
- Incentives for private investment in sustainable development;
- Private support for NGO programmes.⁹⁵

The fundamental question was: where would the money come from?

Drawing from the agreement reflected in UNGA Resolution 44/228, the developing countries tabled a document on financial resources (A/CONF.151/PC/L.41) which they insisted should be the basis of discussion at the Fourth Prepcom. Document L.41 called for new and additional funding which did not constitute a

⁹⁴ See UN Document A/CONF.151/PC/101: Financial Resources and Mechanisms, Report of the Secretary-General dated 23 January, 1992.

⁹⁵ 'Strong Delivers Keynote Address to Plenary', Earth Summit Bulletin, Vol.1 no.2, 3 March 1992.

reallocation of existing multilateral or bilateral financial flows for development purposes. It called for a separate fund for each convention and a general fund (Fund for the promotion of sustainable development or "Green Fund") to cover activities not included in the separate conventions or the GEF drawn from mandatory contributions of developed countries. It asserted that the governance of the funding mechanisms should be transparent, democratic and unconditional and would be of a compensatory nature. Resources were to be made available through greater market access, better terms of trade, remunerative commodity prices, transfer of technology on preferential and non-commercial terms and the efficient and urgent addressing of debt problems and the alleviation of poverty.

While industrialised countries acknowledged the need for new and additional financial resources, they saw it as proceeding through the GEF mechanism. The resources, they argued, were new in that the GEF was a new fund and that the resources were not diverted from elsewhere. They were not inclined to increase the levels of development assistance and, despite making general commitments to meeting the UN target of 0.7 percent GNP for ODA, were unwilling to agree on a schedule to meet the target. Japan and the United States called for better deployment of existing resources, and like most developed countries, were opposed to the creation of new funds including the "Green Fund" or separate funds which the G 77 proposed.

The Nordic countries, on the other hand, took a moralistic view of the issue. At the Fourth Prepcom, they proposed a "financial package" which called for established targets of ODA

as a percentage of GNP, the use of existing mechanisms for implementing Agenda 21 and the strengthening of the Multilateral Development Banks and UNDP. They also urged the implementation of the Paris Club agreement of December 1991 for debt relief to the poorest countries, new and additional resources to be administered by the GEF and meeting agreed contributions to the Montreal Protocol fund.⁹⁶

John Bell, the issue coordinator for Finance, allowed countries to conduct informal consultations while he held private consultations with the chairs of the regional groups in an attempt to craft a compromise document based on the views of both the industrialised and developing countries. However, after two days of informal consultations, Bell resumed an informal-informal meeting on finance without a Chair's text. Instead, he allowed the G 77 to table their negotiating text, L.41/Rev.1. The revised text did not differ very much from the earlier text and the industrialised countries expressed disappointment that it did not reflect the full extent of discussions carried out earlier. The United States referred to it as "one-sided, unbalanced and unrealistic" thus compelling John Bell to request written comments in order to improve the L.41/Rev.1 text.

Negotiations resumed a week later in a small contact group at Ambassadorial level. It was hoped that elevating the representational level of the meeting would induce more commitment on the part of the negotiators. However, as it entered its final weeks, negotiations at the Prepcom became more difficult as positions from both the North and South continued

⁹⁶ Earth Summit Bulletin, 8 March, 1992.

to harden. Bell summed up by saying that there was a strong signal by almost all the industrialised countries that they were not interested in a new fund to support Agenda 21, but that there would be greater availability of funds through all existing channels of bilateral and multilateral development assistance.⁹⁷ Bell conceded that the negotiation had come to a stalemate and that he was unable to resolve the problems in time for the plenary of the Fourth Prepcom.

Prepcom Chair, Tommy Koh took over the negotiations and called upon a group of countries to draft a 'non-paper' to resume negotiations. He appointed Mexican Ambassador Andres Rosental to coordinate the new round of talks and to come up with the results before the close of the Fourth Prepcom. Representatives from Japan, EU and the Nordic countries met to draft a new text which was transmitted to the G 77. Realising the difficulties of getting the North to agree to their demands, the G 77 agreed for the first time to drop their demand for a separate fund but explicitly urged that a "properly restructured" GEF be one of the channels for funding projects. They also agreed to lengthening their demanded time frame for achievement of 0.7 percent of GNP going to ODA from 1995, as in previous G 77 proposals, to the end of the century.

Unfortunately, talks broke down following the EU's insistence on its formula identifying the GEF as the only multilateral mechanism. The G 77 decided that it was pointless to resume negotiations and that it would take its own text to Rio.

⁹⁷ Earth Summit Times dated 31 March, 1992.

At Rio

Tommy Koh replaced Ambassador Andres Rosental with Brazilian Ambassador Rubens Ricupero, whose task at Rio was to seek consensus on the 'Means of Implementation' section of the Financial resources chapter of Agenda 21. The other remaining sections of the chapter were coordinated by the Brazilian Finance Minister Marcelo Marques Moreira under a separate sub-contact group. Meanwhile, discussion on the financial passages in the various chapters of Agenda 21 was deliberately avoided, pending the outcome of general discussions on the financial question.

On 4 June, 1992, Ambassador Rubens Ricupero opened the first meeting by presenting a Chair's working paper for consideration. The working paper contained the following points: i.e. special efforts must be made to meet the full incremental costs for developing countries; economic conditions for free trade were essential; developed countries should 'reaffirm' commitments to reach 0.7 percent of GNP for ODA (with no mention of a target date); mechanisms and sources of funds should include multilateral development banks and such funds as the IDA replenishment; multilateral institutions for capacity-building and technical cooperation; strengthening of bilateral assistance programmes; debt relief; private funding and private investment; innovative financing; a transparent and accountable GEF; funding for incremental costs of Agenda 21 activities; and review and monitoring of Agenda 21 financing.⁹⁸ The industrialised countries reacted favourably to the Chair's text and were hopeful that it would be used to propel, rather than protract, discussions over

⁹⁸ Stanley P. Johnson (1993), op.cit., p.444.

the G 77 L.41/Rev. 1 text. Much to the surprise of the North, the G 77 did not totally reject the Chair's draft. Instead, it responded by requesting the North to comment on a series of issues which included: credible assurances for new and additional funding; commitments to reach 0.7 percent of GNP for ODA by the year 2000; a pledging conference to be called at the next UNGA; a monitoring mechanism for financial flows to developing countries; and the need for a supportive international economic climate.⁹⁹

With four days left before the Summit was to come to a close, a decision was taken to reduce the size of the informal-informal contact group to 18 countries. At 04:30 on Wednesday, 10 June, after an eighteen-hour marathon session, the contact group emerged with a final 'Chair's draft' that contained brackets over only four outstanding issues. The first was over the ODA for Agenda 21: there was still no consensus on the timetable for industrialised countries to meet the UN target of 0.7 percent of the GNP for ODA. The second issue was on the IDA funding: there was no agreement on the need to increase the IDA replenishment levels. Thirdly, there was no agreement on the text concerning the governance of the GEF and finally, dispute remained over the types of resources required to implement Agenda 21: the United States continued to insist that much of the new and additional funding would be neither grant nor concessional funds but would take the form of private investment or official debt alleviation.

⁹⁹ ibid.

As the Main Committee officially ended on Thursday morning, 11 June 1992, the outstanding problems were passed to the Chair of the Plenary, the Brazilian President Collor de Mello, who requested Ambassador Ricupero to continue seeking agreement on the outstanding issues of the IDA, GEF and the types of resources. At the same time, Jan Pronk, the Minister of Development Cooperation from the Netherlands, was assigned responsibility for conducting bilateral consultations on the issue of targets and timetables for ODA.

On Friday afternoon, 12 June, Ambassador Ricupero reported to the General Committee that consensus had been reached on the sentence that dealt with the provision of new and additional resources in paragraph 10 of the Chair's text. This was arrived at after considerable pressure had been put on the United States by the rest of the OECD members. The United States was persuaded to agree to widespread references concerning the need for "new and additional resources" for developing countries, as long as specific numbers were not mentioned.¹⁰⁰ A compromise text was also reached on the word 'conditionality' in the sentence dealing with GEF. A further problem pertaining to 'debt relief' which had emerged at the last minute was also resolved by the time the Plenary met at 00:45 on Saturday, 13 June.

The issue over the IDA replenishment was resolved after what was arguably the decisive address of Lewis Preston, the new President of the World Bank group at the Rio Summit. Preston made the crucial announcement that he would propose an "earth

¹⁰⁰ Michael Grubb et al., (eds.), The Earth Summit Agreements, (London: Earthscan Publications Ltd., 1993), p.29.

increment" for the tenth replenishment of IDA (IDA-10) covering the period 1993 to 1995, an amount additional to the volume of resources needed to maintain the funding level for the ninth IDA (IDA-9). Since IDA-9 was funded at US\$15.5 billion, this meant that Preston would be seeking an earth increment on top of a floor of about US\$18 billion for the three-year period. In addition, he would propose an annual allocation of the World Bank's net income as the World Bank's own contribution to augment whatever earth increment might be forthcoming from donor country contributions.¹⁰¹

Richard Gardner described Preston's statement as providing the essential minimum of prospective funding that enabled the G 77 to agree on an Agenda 21 financing text. The formula was deceptively simple - "special consideration should be given to Preston's statement as a way of helping the poorest countries meet their sustainable development objectives as contained in Agenda 21".¹⁰² Stanley Johnson commented that for the first time the words of the head of the World Bank group were referred to as part of the official consensus, which was a new way of making 'soft law'.¹⁰³

Consultation continued at 15:30 on Saturday to discuss the remaining issue pertaining to the ODA. Agreement was difficult as the EU could not arrive at a consensus. France and the Netherlands were supportive of a target of 0.7 percent of GNP for

¹⁰¹ Richard N. Gardner, Negotiating Survival; four priorities after Rio, (New York: Council of Foreign Relations Press, 1992), p.28.

¹⁰² ibid.

¹⁰³ Stanley Johnson (1993), op.cit., p. 448.

ODA by the year 2000 but Britain and Germany were not. Agreement was finally reached just before 19:00 on Saturday, 13 June. The text read:

Developed countries reaffirmed their commitments to reach the accepted UN target of 0.7 percent of GNP for ODA and, to the extent that they may not yet achieve that target, agree to augment their aid programmes in order to reach that target as soon as possible and to ensure a prompt and effective implementation of Agenda 21. Some countries agreed or had agreed to reach the target by the year 2000[...] Those which have already reached the target are to be commended and encouraged.¹⁰⁴

The negotiation on finance proved not only to be the most difficult but also the most disappointing for the South. Only US\$2.5 billion in additional aid was pledged, small compared to Maurice Strong's hope for US\$10 billion, smaller still compared to the estimated US\$125 billion cost of Agenda 21.

The **Perspectives** captured the mood of the event, commenting that the rich countries eventually prevailed, as they must, and that at the end of the day they could not be made to give away resources against their will. This in a way justified the statement made by President Bush on the eve of his departure for Rio that "the time for the open-cheque book is over". The

¹⁰⁴ UN Document: A/CONF.151/26 (Vol.III), Financial Resources and Mechanisms, 14 August, 1992.

prevailing political doctrine in many of the rich countries with their focus on tax cuts and retrenchment of public services was not conducive to increased aid. The economic recession, capital requirements of Eastern Europe, restructuring of the European Union and electoral uncertainties in the United States and elsewhere all contributed to reducing the likelihood of any precipitous increases in foreign aid at that time.¹⁰⁵ Even the presence of the Heads of States at Rio could not alter the situation, as they themselves were subjected to negotiating limits set by their own domestic cabinets or legislatures.

One lesson learnt from the finance negotiation was that the concept of development aid had changed since the days of the NIEO of the 1970s. The North had reexamined its aid policy, pushing for special priority areas and expecting accountability and responsibility for the amount that they gave. This appeared to be the only way that the South could rise to their expectations. Raising taxes to give money to poorer countries was not a vote winner in most industrialised countries. It was also obvious that donor countries would not agree to large-scale transfers unless they had faith that the money would be well used. That meant both that conditions would be attached to transfers and that they would have to be managed by an institution in which donor countries had some faith.¹⁰⁶

¹⁰⁵ 'Rio: The Lessons Learned', Perspectives, IIED, No.9, 1992, London, p.5.

¹⁰⁶ Michael Grubb et al. (1993), op.cit., p.29.

Malaysia's Assessment

Malaysia participated actively on the issue of finance. It took an active part alongside certain developing countries such as China and India to pen the finance language found in UNGA Resolution 44/228, the Beijing Declaration, the Kuala Lumpur Declaration and the UN negotiating documents, L.41 and L.41/Rev.1. It participated in the Washington parallel meeting on the GEF held outside the UNCED process and was also represented in the final informal-informal contact group of 18 countries which crafted the Agenda 21 chapter on finance at Rio.

However, finance was not entirely a question of deep national interest for Malaysia but one in which it negotiated to promote the interest of the South. Compared to several developing countries in Asia, Africa and Latin America, Malaysia is financially less dependent on the North.¹⁰⁷ As such, it felt free to criticise the North for their 'historical culpability' and to insist that the North compensate the South financially. In short, Malaysia chose to become an advocate for the South, particularly for countries which could not speak openly for themselves.¹⁰⁸

The landmark resolution 44/228 was significant to Malaysia and the countries of the South because it established the first contact between the North and South on a subject that was of special importance to the North. The South saw this as an

¹⁰⁷ Interview: Prime Minister Dr. Mahathir with Jonathan Dimpleby, BBC World Service, 1310 hours, 14 June, 1992, Rio de Janeiro.

¹⁰⁸ Interview with Ambassador Razali Ismail, Kuala Lumpur, 17 August, 1994.

opportunity to extract financial aid flows from the North. Since it could not get development aid directly from the North on the basis of the old arrangement (ODA, IDA), it might intimidate the North with the notion that the problems in the South could be transplanted to the North. This worked for a while because of the prevailing trend in which the Green Party and the NGOs were pressuring their governments to do something about the state of the environment. But there was a certain amount of naïvety on the part of the South to think that in the process of two and a half years in preparing for Rio, the North would give in to their demands and that there would be an actual pledging and a commitment in terms of specified financial amounts at Rio. Nothing of that sort happened.¹⁰⁹ Michael Grubb felt that a confrontational approach was not likely to work in the developing countries favour. Many developing countries had overrated the bargaining power which environmental issues gave them. While developed countries were concerned, there was very little indication that they were ever frightened enough to be subjected to crude "greenmail" (i.e. the implicit threats about the global environmental consequences of unconstrained development, used as a lever to extract more financial and technological transfers).¹¹⁰

¹⁰⁹ Personal interview with Ambassador Razali Ismail, Kuala Lumpur, 17 August, 1994.

¹¹⁰ Michael Grubb et al., (1993), op.cit., p.28.

THE FRAMEWORK CONVENTION ON CLIMATE CHANGE

The Framework Convention on Climate Change, like the Biological Diversity Convention, was negotiated separately from the UNCED process through an Intergovernmental Negotiating Committee (INC).

Although the INC met at different times and was generally represented by different people from the UNCED Prepcoms, the issues, particularly the cross-cutting issues of finance and technology transfer, were linked to the ones discussed at the UNCED Prepcoms. The negotiation on the Climate Change Convention, which is a framework and not a full convention, was completed in fifteen months in the rush to meet the Rio Summit deadline. It was opened for signature at Rio, where 154 countries signed the Convention, and comes into force after the 50th ratification.

The concern about potential global warming and climate change had been brought to the attention of the world community by scientists since the 1972 Stockholm Conference. A series of conferences and workshops on climate-related issues was organised to arouse public attention to the consequences of human-induced climate variations. Among them, studies conducted by the World Meteorological Organisation (WMO) indicated that the burning of fossil fuels, deforestation and changes of land use had increased the amount of carbon dioxide in the atmosphere by about 15 percent during the last century, were increasing at 0.4 percent per year and were likely to increase in the future.¹¹¹ At the Toronto Conference on 'The Changing Atmosphere: Implications for Global Security' held in June 1988 and attended by more than 300

¹¹¹ WMO, World Climate Conference Declaration and supporting Documents 2, Geneva, 1979 cited in Caroline Thomas, (1992), op.cit., p.174.

scientists and policy-makers from 48 countries, United Nations organisations and NGOs, the conference called upon governments to take the necessary action to reduce the CO₂ emissions by 20 percent by the year 2005, with an eventual aim of cutting emissions by 50 percent.

As a response to the Toronto Conference, UNEP and the WMO established the Intergovernmental Panel on Climate Change (IPCC) in 1988. The IPCC was an advisory body of scientists and officials that dealt with the impacts of and response strategies to climate change. Under the chairmanship of Professor Bert Bolin of Sweden, the IPCC represented one of the most massive scientific exercises ever undertaken by the United Nations system, which provided the basis for an understanding of and response to global warming and other important climatic issues.¹¹² An IPCC impact report released in 1990 stated that unless emissions of greenhouse gases were reduced significantly, the world would face unprecedented global warming. Global warming would lead to rises in sea level, unpredictable weather patterns and droughts and decreased agricultural productivity. Because CO₂ is most responsible for global warming, the IPCC concluded that CO₂ emissions needed to be reduced by 60 per cent in order to stabilise current carbon levels in the atmosphere. The IPCC had also assessed that the industrialised North accounted for the majority of the carbon dioxide emissions with the United States alone accounting for about 23 per cent of worldwide carbon dioxide emissions.¹¹³

¹¹² Stanley Johnson, Earth Summit (1993), op.cit., p. 57.

¹¹³ See Chatterjee and Finger (1994) op.cit., p.44.

While many expected the IPCC to serve as the 'prenegotiation' forum for a climate change convention, this function was abruptly taken away by the decision of the UN General Assembly Resolution 45/212 of 21 December 1990 to establish the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change (INC-FCCC) under its control. This unexpected move was seen by many as the beginning of the politicisation of the climate change issue in which scientists would take a back seat while the representatives of governments negotiated to draw up a convention to limit emissions of greenhouse gases that could be signed at the Summit in Rio. In reality, developing countries felt that the IPCC was dominated by experts from developed countries whose conclusions were likely to be skewed in favour of those countries' concerns.

Unlike the various UNCED issues discussed at the Prepcoms, the climate change issue transgressed the North-South divide. The positions of the industrialised countries differed on commitments, finances and technological transfers. The former Soviet Union and the former centrally-planned economies of eastern Europe had their own position. Among the developing countries, the positions of the oil-producing countries, the small island states, the newly-industrialised countries (NICs) and the least developed countries varied according to the issues at stake.

For a while, the elements of uncertainty in the scientific findings provided the North with an excuse to evade the issue. At the 44th UN General Assembly, British Prime Minister Margaret Thatcher demanded more precision before serious action could be

contemplated. While she nodded in the direction of the dangers of global warming, she stressed that, "put in its bluntest form, the main threat to our environment is more and more people and their activities".¹¹⁴

Among the countries of the North, the United States was the major opponent of any move to agree on any targets to stabilise or reduce carbon dioxide emissions. It advocated a "go slow" approach, justifying its position on the grounds of the scientific uncertainty surrounding global warming and the high costs that the US economy would incur if reductions were made. The guidelines issued to the US delegates negotiating the Climate Change Convention were that it was,

not beneficial to discuss whether there is or is not global warming, or how much or how little warming. In the eyes of the public, we will lose this debate. A better approach is to raise the many uncertainties that need to be understood on this issue, and that many fundamental questions remained unanswered and more work is needed on the economic impacts of potential global changes and possible responses.¹¹⁵

Unlike the United States, the European Union, the Nordic and CANZ group of countries had made specific commitments to

¹¹⁴ The speech appeared in the Guardian, 9 November, 1989.

¹¹⁵ The Ecologist, Whose Common Future? (1993), op.cit., p.90.

stabilise or reduce CO₂ emissions.¹¹⁶ At its meeting on 29 October, 1990, the Council of the EU indicated its willingness to take actions aimed at reaching stabilisation of total emissions of carbon dioxide to 1990 levels by the year 2000. Together with the Nordic countries it believed that 'new and additional' financial commitments must be made to developing countries; the United States, Canada and Japan on the other hand were against this.

As for the developing countries, the oil producing and exporting countries headed by Saudi Arabia, opposed suggestions to set targets to reduce CO₂ emissions or to impose carbon or energy taxes as a means of achieving reductions in CO₂ emissions. The small island states formed an alliance (AOSIS) to determine their stand on the impact of a sea level rise while the NICs argued for recognition of their special circumstances due to their recent industrialisation and their dependence on energy-efficient technology. The uncompromising position that all developing countries' commitments were conditional upon the provision of technology and finance from industrialised countries was advocated by countries such as China, India and Malaysia.

By the final rounds of the INC, it became obvious that three areas of contention blocked the chances of arriving at an agreement. These were the issue of commitments to be made by the governments, the financial mechanisms to be used and the reporting required.

¹¹⁶ See Table 5.2: Status of commitments of OECD countries on global climate change, in IEA, Climate Change: Policy Update, March, 1992, Paris.

On the issue of the commitments of developed countries, the United States remained adamant against setting targets and timetables to cut back carbon dioxide emissions. It continued to disavow the interpretations of scientific evidence in order to forestall commitments to set targets on CO2. It applied the 'comprehensive' approach through which it was argued that there should not be a focus on CO2 alone but on other greenhouse gases as well and that sources and sinks should be considered together. It even went to the extent of linking President Bush's potential attendance at the Rio Summit with progress made in the INC which did not include specific targets and timetables on CO2 emissions.

The heavily bracketed language of the consolidated working document on the draft article on 'specific commitments' which arrived at the fourth INC on 19 December 1991 reflected the opposing interests of the different groups of countries:

The developed country Parties shall [make efforts]/[commit themselves] to take immediate steps towards reducing emissions of all anthropogenic carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol [between the years 2005 and 2010]/[as early as possible]/[after the year 2000]/[by the year 2000][and as a first step shall reduce such emissions by 25 percent by the year 2010, using 1990 as the base year] taking into account the most authoritative scientific advise available and setting

targets to reduce and limit all emissions of greenhouse gases.¹¹⁷

On the issue of financial mechanisms, the developed countries were united in preferring the GEF as the mechanism through which the financial and technological resources would flow to the South. The developing countries, on the other hand, insisted that there should be a fund established under the Convention which assessed contributions of adequate, new and additional financial resources separate from the agreed ODA level to meet the incremental costs of developing countries. They continued to argue on the basis of historical culpability that those who caused the global warming problem should bear the main burden for compensating those who suffer from it. All developing countries' commitments would therefore be completely conditional on finance and technology from the North. Similarly, the reporting requirements that were to apply to developing countries should relate to the availability of finance and the transfer of technology.

After a fast-track session of five INCs, the negotiations ended in New York on 9 May 1992 with a convention which does not contain any specific commitment on the stabilisation of greenhouse gases or financial resources. The commitments of the developed countries were watered down to accommodate the United States, the largest emitter of greenhouse gases. There was also no specific commitment on new and additional financial resources

¹¹⁷ See UN document A/AC.237/15 entitled 'Draft Framework Convention on Climate Change', dated 29 January, 1992.

and the developing countries were left with no choice but to accept the GEF as the financial mechanism on an interim basis. The text of the Convention does not commit the developed countries to achieving the stabilisation goal but only to reporting progress they make towards the goal of returning 'their anthropogenic emissions of CO₂ and other greenhouse gases not controlled by the Montreal Protocol to their 1990 levels' - a subtle but important distinction. While the article on Protocols could save the Framework Convention from being labelled as "meaningless" and "useless", it was as Michael Grubb described, "skeletal and unenthusiastic", with no timetable or structure. Some negotiators suggested that the protocols may never be invoked, arguing that it is easier to make progress by amending the Convention than opening negotiations on a wholly new protocol text.¹¹⁸

Malaysia's Assessment

In reporting on the results of the INC negotiation, the National Steering Committee informed the Government of Malaysia that the position of the developing countries disintegrated as the meeting proceeded. Many developing countries yielded under the pressure of developed countries to accept the GEF as the financial mechanism which they had earlier criticised for its restricted scope and lack of transparency and governance. Some leading South countries such as Pakistan (then Chair of G 77) and China accepted the GEF as an interim arrangement. The Alliance of Small

¹¹⁸ Michael Grubb et al., (1993), op.cit., p.72.

Island States (AOSIS), led by Vanuatu and consisting of several Caribbean and Pacific islands which had been widely acclaimed as being successful at getting their message across in the negotiations, was the first to yield on the question of commitment on stabilisation of CO2 and other greenhouse gases. The Latin group, as expected, was supportive of any form of convention and persuaded other developing countries to accept the conditions of the North. India, which had been vocal and uncompromising at the beginning, also yielded to Northern pressure. India's moderating position can be explained by the fact that it was facing a financial crisis and was forced to take an IMF loan of US\$1.8 billion in January, 1991. Its economic vulnerability and dependence on the Northern aid would provide an occasion for the North to exploit it. To avoid this from happening, the negotiators were given periodic instructions to tread carefully and to avoid isolation during negotiations.¹¹⁷

Malaysia remained the only country that formally spoke against the Convention at the final session of the INC while a number of other developing countries expressed their reservations in private. Malaysia, one of the few countries that did not sign the Convention at Rio, called the Convention "fundamentally flawed because it contained no commitment on the part of the developed countries but instead offered ambiguous indications that the commitment might take place under equally obscure circumstances [...] We have a text in which key parts have been dictated to us on a take-it-or-leave-it basis, in a manner that

¹¹⁷ Internal document.

we perceive as another manifestation of the so-called New World Order".¹¹⁸

Malaysia's interest in the area of climate change was in many ways influenced by the Climate Change debate. Serious research on climate change had been limited until the 1980s when researchers such as Sham Sani, Chong Ah Look, K.C Goh, Jacobson, Koopmans, H.D. Tjia, Todorov, Walker and Zainab Siraj, caught by the interest shown in the international arena, conducted studies on climate variations and the implications for Malaysia. Reports by these researchers contributed greatly to Malaysia's interest in the climate change negotiations while the implementation of a UNEP-assisted project enabled the assessment on socio-economic impacts and possible policy responses.

Although it did not sign the Framework Convention at Rio, Malaysia undertook a comprehensive study of the implications of being a party to the Convention and eventually joined the others in signing the Convention a year later. Some critics amongst the Malaysian NGOs argued that Malaysia had no moral justification for changing its position. Having opposed the Framework Convention and being the only country which spoke up against it, it was regrettable that Malaysia became a party to a Convention it had claimed to be fundamentally flawed. This reversal, according to the head of the Malaysian negotiating team on Climate Change, was made because it would be easier to influence the Convention from the inside than from out and that this could only be done by being a party to the process. Shifting positions

¹¹⁸ Intervention made by the representative of Malaysia at the closing session of the Fifth INC-FCCC, 9 May, 1992 at New York.

after the negotiations are over is not an uncommon practice among governments as, over time, new factors such as changes in policy, leadership or interests can influence governments to reconsider their positions.

THE CONVENTION ON BIOLOGICAL DIVERSITY

The growing awareness of the importance of biological diversity as a genetic resource for improvement of crops and livestock and in the manufacture of drugs and pharmaceutical products, as well as the rapid reduction in biodiversity brought about by deforestation led to the negotiation for a convention on Biological Diversity. In 1988, UNEP, with the assistance of the International Union for the Conservation of Nature and Natural Resources (IUCN), initiated a series of expert meetings which gave rise to a document outlining possible elements for a convention. These meetings were conducted separately from but parallel to the UNCED Prepcorn meetings. The first formal draft was considered in February 1991 by an Intergovernmental Negotiating Committee (INC) which was also known as the Third Ad Hoc Working Group of Legal and Technical Experts. Four subsequent meetings of the INC were held during the next two years culminating in the adoption of the Final Act on 20 May 1992 in Nairobi. The legally-binding Convention was then ready to be signed by the Heads of State and Government at Rio de Janeiro. It had three objectives: to conserve and to sustainably use biological diversity and to share its benefits.

Developing countries rejected the concepts of "common heritage" and "free access" in relation to their genetic resources. Although biodiversity had always been regarded in the past as a common heritage of mankind which was freely accessible to the North, the rise of patents and other IPRs led the South to insist that access to their resources would be dependent on access to technology and a share in the benefits derived from the technological exploitation of their resources.

Malaysia reminded the meeting at the First Prepcom that the biotechnology industries had not generally borne the costs of conserving germplasm. It stressed that the costs had been considerable and were usually underwritten by either the public sector or the rural population existing on traditional subsistence in areas of high genetic diversity. There were instances where corporations and other institutions in industrialised countries had exploited the rich genetic diversity of developing countries as a free resource for R & D, then patented the results and sold them back to the developing countries at excessively high prices.¹¹⁹ Malaysia also cautioned the meeting about the lack of scientific data on environmental risk during field testing and the release into the environment of genetically engineered organisms and plants. It called for adequate regulatory measures to avoid countries, particularly developing countries, from becoming increasingly attractive as sites for firms and other entities to test genetically modified

¹¹⁹ Intervention notes by Malaysia on Agenda item on Environmentally Sound Management of Biotechnology at Prepcom I, Nairobi, August, 1990.

organisms and plants in ways which were prohibited in their home countries.¹²⁰

Access to germplasm, according to the G 77, should be on "mutually agreed terms", with "the national sovereignty of states affirmed over their natural resources" and with "the authority to determine access to genetic material resting with national governments in accordance with national legislation". The G 77 felt that the question of access to genetic resources by developed countries should be linked with that of access to and transfer of technology, including biotechnology, and with that of IPR. The transfer of such technologies should be on "preferential and non-commercial" terms with no restrictions such as patents and IPR impeding such transfer. The South insisted that since technologies (including biotechnology) were in the hands of the private sector in the developed countries, governments of the North should create appropriate conditions through legislative, administrative and general policy measures to encourage the private sector to facilitate access to and transfer of such technologies.¹²¹

On the question of funding, the South called for "new, additional and adequate" financial resources from developed countries for the dual purposes of conservation of biological diversity and access to and the transfer of technology. It called for a Biodiversity Fund to be established along the lines

¹²⁰ ibid.

¹²¹ Dr. Manokaran, 'Biodiversity: Position of the South', Notes for the Second Ministerial Conference of Developing Countries on Environment and Development, Kuala Lumpur, April, 1992.

of the Multilateral Trust Fund of the Montreal Protocol to fulfill such obligations. Such a trust fund was to be a democratic mechanism that could provide mandatory funding on the basis of UN assessments, with equal donor-recipient representation giving an effective veto to either group.¹²²

The United States and most of the industrialised countries disagreed that new financial transfers were necessary and suggested reorienting existing aid programmes towards the conservation of biological diversity. They took every opportunity to exclude from the draft convention expressions such as "preferential and non-commercial basis" for access to technology and showed no intention of negotiating on any of the issues in the areas of IPR or patents. Instead, they appealed to countries to expand and increase protected areas and other biological reserves in order to maintain and enhance biological diversity. France warned that it would not sign a convention which did not include a "Global List" of important areas, which developing countries saw as a potential threat to their sovereignty. The EU called for an international code of conduct relating to environmentally sound use of biotechnology and, together with the United States and other developed countries, opposed the South's idea of linking biological diversity with biotechnology on the basis that not all biotechnologically derived products were from biological reserves in developing countries.¹²³

¹²² ibid.

¹²³ For the North's position, see Earth Summit Bulletin, Vol.0, No.1, Vol.2, No.1 and Michael Grubb et al., (1993), op. cit., p.83.

For diverse reasons Malaysia and the United States announced at the final INC meeting at Nairobi that they could not sign the Final Act, which was an administrative procedure to acknowledge the conclusion of the negotiating process. At Rio, the United States repeated that it would not sign the Biological Diversity Convention which it considered "seriously flawed" because of its provisions on financing, IPR and safeguards on genetically-engineered products. The United States felt that the provision on the financial mechanism offered too much power to the Conference of Parties, that the benefit-sharing provisions were incompatible with existing international regimes for IPR and that the requirement to regulate the biotechnology industry would stifle innovation.

The Intergovernmental Committee on the Convention on Biological Diversity held its first meeting in Geneva in October 1993. By then, 165 countries had signed the Convention with 31 ratifications. This means that the Convention has come into force and will be legally binding on the ratifying countries. The content of the compromised Convention is subject to interpretation. Some argue that it is a weak Convention which is "ecologically flawed" as nothing in the text compels countries to protect their biological diversity. The developing countries were naïve to think that they could force concessions from the North by virtue of their possession of genetic resources. The development of biotechnology in which scientists have learned to modify the DNA (deoxyribonucleic acid) of organisms without

having to depend on external genetic characteristics have seriously weakened the bargaining power of the South.¹²⁴

Middleton, O'Keefe and Moyo commented that the Earth Summit saw the preservation of biological diversity primarily as an environmental issue. What should be at stake is development. The text cannot determine the nature of partnership between the rich North and the gene-rich countries. It is beyond the competence of the UN officials to work out rules ensuring that the developing countries do not simply wind up as junior partners completely under the control of their Northern 'seniors' and of Northern markets, but to have done so would have ensured the non-attendance of the United States.¹²⁵

In a situation where consensus is the name of the game, no one party can extract everything or lose out completely as a result of agreeing to a convention. UNEP Director-General, Mostaffa Tolba acknowledged that the treaty establishes "the minimum on which the international community can agree" but added that "the process of international law requires us, for better or for worse, to walk before we run and to crawl before we walk".¹²⁶

Malaysia's Assessment

Malaysia expressed its reservation over a number of core issues pertaining to the text of the Convention. In particular, it was

¹²⁴ Middleton, O'Keefe and Moyo (1993) op.cit., p.68.

¹²⁵ ibid., p.73.

¹²⁶ Earth Summit Times, 1 June, 1992, Rio de Janeiro.

not happy that the Convention did not adopt the G 77 position for a separate Biodiversity Fund. On the transfer of technology, it considered that the language 'under fair and most favourable terms', including concessional and preferential terms, was a weakened version of the position articulated in UNGA resolution 44/228.¹²⁷ Malaysia, together with the other countries of the South was also not happy over the last minute changes that the United States was able to manipulate in the draft convention at Nairobi. These included changes in definitions such as 'country of origin', 'in situ conditions' and 'ecosystem' which have been so defined that they lend themselves to convenient interpretations which suit the interests of the North. For example, these definitions would mean that all genetic material stored in gene banks and botanical gardens situated in the North would be automatically considered as coming from the countries from where they are stored, and not from which countries from which they were collected. The ability of the North, in particular the United States, to exclude the issue of ownership and rights over genetic resources presently in 'gene banks' further weakened the position of the South. This meant that the Convention would deal with access of genetic resources to be collected in the future, whilst excluding the hundreds of thousands of samples already housed in 'gene banks' and botanical gardens located in the North.¹²⁸

¹²⁷ Personal interview with Ambassador Ting Wen Lian, 1 October, 1994, Kuala Lumpur.

¹²⁸ See C. Raghavan in Third World Resurgence, No.14/15.

Why then did Malaysia join the 153 other nations in signing the Biological Diversity Convention in Rio?

The developments at Rio contributed to the reversal of the Malaysian position. Although, many countries in the North had expressed unwillingness to sign the Biological Diversity Convention for reasons similar to the United States, the United States was left isolated on the eve of the Summit when countries like France, Germany, the United Kingdom and Japan refused to go along with the United States' decision to reject the Convention. The publicity mounted by the media and NGOs, which interpreted the US position as being hostile not only to the Convention but also the whole Rio agenda, had seemingly encouraged the US's allies to distance themselves from the US position.¹²⁹

Malaysia's chief negotiator, Ambassador Razali Ismail commented that "if the United States consider that the Convention gave in too much to the developing countries, then the Convention must be of some benefit to the developing countries. Malaysia therefore would review its decision with a view to signing the Convention."¹³⁰ Ambassador Ting Wen Lian, who led the Malaysian negotiating team on the Biological Diversity debate, equally felt that the Convention was in many ways good for the South. She commented that on the question of finance, the South managed to ensure that the GEF did not become the mechanism identified for the Convention. Instead, the North would have to be content with the South's formulation of Article 39 which states that:

¹²⁹ R.N. Gardner (1992) op.cit., p.12.

¹³⁰ Press interview with Ambassador Razali Ismail, Utusan Malaysia, 10 June, 1992, Rio de Janeiro.

Provided that it has been fully restructured in accordance with the requirements of Article 21, the Global Environmental Facility of the UNDP, UNEP and the IBRD shall be the institutional structure referred to in Article 21 on an interim basis, for the period between the entry into force of this Convention and the first meeting of the Conference of Parties or until the Conference of Parties decides which institutional structure will be designated in accordance with Article 21.

This Article placed the Conference of Parties as supreme on the matter of finance. As long as the rules under which the financial mechanism operates are under the formulation of the two-third majority rather than on consensus, the North would have difficulty in imposing a veto over any provisions it did not like.¹³¹

For developing countries including Malaysia, their involvement in the Biological Diversity negotiations provided them with new insights into a subject which in the past had been taken lightly or for granted. The negotiations awakened many 'gene-rich' countries that more should be done at the national level to protect their own biological resources. Having signed the Biological Diversity Convention, Malaysia found itself compelled to formulate its own national biological diversity policy and to strengthen its institutional and legal frameworks.

¹³¹ Personal interview with Ambassador Ting Wen Lian, 1 October, 1994, Kuala Lumpur.

Towards this end, the Malaysian Institute of International Studies (ISIS) conducted its first workshop in a series of post-UNCED national workshops on Biological Diversity in Kuala Lumpur in February, 1993, which among other things aimed at ensuring that its obligations made at UNCED run parallel to its commitments at home.

CONCLUSION

An attempt has been made to examine the process and the substance of the UNCED negotiation. A comparison across issues revealed that the process of negotiation follows a pattern: negotiations often begin with the compartmentalisation of the issues into the different working groups. Formal meetings include the introduction of the Secretary-General's report which is normally prepared by experts commissioned by the Secretariat. The meeting then moves into smaller groups known as 'formal-informal', 'informal-informal', 'ad hoc group' or 'Friends of the Chair', which may either be restricted in number or open-ended. Negotiations take place in the informal-informal, where in the absence of the NGOs, negotiators sit down until pre-dawn hours tabling proposals, consolidating their views, and introducing new wordings to the negotiated text through a process of confrontation, convergence and compromise. This process involves the insertion and the removal of 'square brackets' which reflect disputed areas kept aside for further bargaining. The texts are normally negotiated paragraph by paragraph and sometimes go into a process of a second and third reading. The ultimate objective is to arrive at a document agreed upon by consensus. Negotiators

are given very limited time to complete their work and a deadline helps to remind them of their task.

Taking UNCED as a case study, the above description has to be applied in its multiplicity. With two conventions, a non-legally binding set of principles on forests, a declaration on an earth charter and forty chapters of Agenda 21, the task of arriving at agreement on such an enormous and complicated agenda within a span of two and a half years over four Prepcoms and two INCs reflects the complexity of the negotiation. Such complexity is further aggravated by the large number of negotiators and the presence of NGOs at these meetings. To facilitate the smooth running of the meetings, the Secretariat assumed an important role in providing administrative and technical backing. The Chair and its bureau ensured that the negotiators completed their tasks in time for Rio.

The Perspectives commented that it would be difficult to believe that governments would ever allow such a complex agenda as that of UNCED to come together again. Negotiators tend to concentrate on the process itself rather than the on the final product. Governments, asserted the **Perspectives**, seemed only to be listening to each other in order to fix the texts, not to change their positions. With so many issues under consideration, there were endless talks about scheduling new meetings and few about resolving the substantive issues of bridging the North-South divide, setting concrete targets and timetables or making

commitments. In short, it was a meeting of process over substance.¹³²

Jim MacNeill, the former Secretary-General of the Brundtland Commission which recommended the convening of UNCED observed that the raised expectations generated by the size of the whole exercise and the hype emanating from the conference Secretariat itself (such as Maurice Strong's repeated statements that it was "the most important meeting in the history of mankind") pressured the negotiators to ensure that UNCED succeeded. It could fail, he added, because governments under pressure of time, end up compromising away difficult decisions in the name of consensus.¹³³

MacNeill's concern was raised again at Rio when the Norwegian Prime Minister, Mrs. Brundtland, boldly questioned the consensus rule. Consensus meant that the 'lowest common denominator' would rule the day.

The strength of this working method is that it can be claimed afterwards that everyone is on board. But one weakness of the consensus ruling is that countries with strong and deviant views may allow themselves to be swayed by some clever manipulation of text while nothing of substance has changed. This tends to reinforce the emphasis on process over the substance in the proceedings.¹³⁴ The intransigence of the United States to agree on a timetable for carbon dioxide emissions and

¹³² Perspectives, IIED, No.9, 1992.

¹³³ Earth Summit Times, 30 March, 1992.

¹³⁴ Perspectives, IIED, op.cit.

to sign the Biological Diversity Convention, the intense opposition of Malaysia to a forest convention and the refusal of Saudi Arabia to agree on the Agenda 21 chapter on Atmosphere question the worthiness of the consensus rule.

In a conference as large as UNCED it is hard to find a solution that will be readily accepted by everyone. Thus, once an acceptable solution is found, there is strong pressure not to delay progress by searching for the 'perfect' one. In certain instances, the Chair introduced rules to prevent a party from reopening a discussion. Thus, accommodating diverse interests often leads to unsatisfactory and weak decisions.¹³⁵ Winham explained that this phenomenon is common in today's negotiations, which are devices to prevent conflict and shape destiny rather than to resolve a crisis.¹³⁶

The UNCED negotiation was in many ways an interplay between the North and South. Negotiators built coalitions in the name of G 77, CANZ group or EU, resulting in the negotiations being concluded between regional interest groups rather than between individual countries. Because of the element of the North-South divide, the UNCED negotiation became a highly politicised affair where many of the contentions were symptoms of the nation-state trying to maximise its own self-interest within the process. This

¹³⁵ This argument is raised by Knut Midgaard and Arild Underdal in 'Multiparty Conferences; complex setting and processes' in Daniel Druckman's Negotiations, (London: Sage Publishers, 1992), p.336.

¹³⁶ G.Winham (1977), op.cit.

is hardly surprising as the negotiators were instructed delegates, not independent players in a bargaining game.

Governments were, however, not the only actors in the UNCED process. Scientists and technical experts helped to create and structure the substance of the negotiation without which the negotiation would have been meaningless. Over 3,200 NGOs were accredited to UNCED and among them, whether they represented the business lobby group or the environmentalists, they influenced the process in many ways. How much they made a difference is an entirely different matter, which will be examined in the next chapter on the role of non-negotiating actors.

Finally, UNCED 'set the stage' for a remarkable comeback by the G 77. In the run-up to Rio, the South had mobilised to mount a united front on the issues that were crucial to them such as finance and forests. From a position of weakness, with little involvement in early negotiations on international environmental issues, UNCED incubated the growing articulation of the South's needs, giving increased sophistication and urgency to their arguments and a solidarity over many issues.¹³⁷

This does not in anyway imply that the South got what they wanted at Rio. The UNCED negotiations revealed their weaknesses in many areas such as technology transfer, international trade and bio-technology and the reality that no amount of "greenmailing" could induce the North to part with their money.

¹³⁷ The views are shared by June D.Hall and A.J. Hanson, A New Kind of Sharing, (Ottawa: International Development Research Centre), 1992, p.299 and Helge Ole Bergesen, 'Empty symbols or a process that can't be reversed? A tentative evaluation of the institutions emerging from UNCED', International Challenges, Vol.12, No.3, 1992.

In addition, the fact that the South was reluctant to address other serious issues such as population revealed that many problems would continue to remain unresolved.

CHAPTER FOUR

AT THE RIO SUMMIT

INTRODUCTION

This chapter provides an insight into what actually happened 'at the summit'. It begins with a brief description of how the conference was organised and examines the behaviour, conduct and performance of actors in resolving issues at the Rio Summit. Unlike the preparatory meetings held before Rio, the 'Earth Summit' was not only attended by negotiators but also by non-negotiating actors who, while perhaps not making a substantive difference, certainly made their presence felt at Rio. The role of these actors, namely the Heads of State and Government, the media and the Non-governmental Organisations is analysed. The final part of this chapter explains the outcome of the Conference.

THE ORGANISATION OF THE CONFERENCE

The Rio Conference was divided into two main bodies: the Plenary Session and the Main Committee. In addition, two days were set aside for a Summit segment organised for Heads of State and Government. This was followed by a Round-table meeting of the Heads where the agreements were signed.

To facilitate a smooth and speedy process, a two-day pre-conference consultation was held to discuss the agenda and rules of procedure, the elections of officers and the Credential

Committee and other organisational events such as the signing ceremony and the official opening and closing of the conference.

Brazilian President Collor de Mello was the natural candidate for the Chair of the Conference who would also preside over the Plenary. As expected, Tommy Koh of Singapore chaired the Main Committee while Algeria was elected the Rapporteur-General of the conference.

The first obstacle to arise at the Rio conference was the nomination of the 39 Vice Chairs of the Conference who were to represent the five regional groups. The African group had tabled 12 nominations for its 11 seats. The issue was only resolved when Colombia agreed to give up its seat in the Latin American and Caribbean group to the African group. The Asian group also posed a similar problem. The Plenary session had already scheduled an afternoon for a secret ballot to take place when Pakistan announced that both Pakistan and Japan had voluntarily withdrawn from the nomination list. This turn of events was significant as it avoided an unprecedented and an unwelcome consensus-breaking vote from being taken within the UNCED process.

The General debate took place in the Plenary while the Main Committee continued its unfinished business left from the Fourth Prepcom. The Main Committee was divided into eight contact groups to deal with finance, forest principles, technology transfer, atmosphere, fresh water, legal instruments, institutions and biodiversity and biotechnology. Each group had its own Chair appointed by Tommy Koh while the unresolved issues which did not fall into the eight groups were dealt with by the

Main Committee. The meetings were opened to all interested delegations unless the Chair decided that an ad hoc or restricted closed-door meeting was necessary, as was the case for finance. To enable small delegations to participate effectively, the Chair applied the same rules as in the previous Prepcom meetings in which not more than two contact groups could meet at the same time as the Main Committee and the Plenary. Regional groups including the G 77 were advised to schedule their meetings so as not to coincide with the sub-committee or contact group meetings.

NEGOTIATION BEHAVIOUR IN RESOLVING ISSUES AT THE SUMMIT

When the fourth and final Prepcom ended in New York in April 1992, the only 'clean' text that was taken to Rio was the "Rio Declaration on Environment and Development". The rest of the documents contained some 350 bracketed or disputed phrases to be resolved during the 12 - day Conference. This represented 15 percent of all the issues which remained to be resolved.¹ Settling these outstanding issues presented a challenge to the negotiators who had the task of finding acceptable solutions in time for their Heads of State and Government to accept by the close of the Summit.

Depending on the issue at stake, negotiators at the Summit found it imperative to compromise. So long as no major national interest was jeopardised, delegations found it better to go along with the charade than to break up the negotiations. In a multilateral negotiation as large as UNCED, every member of

¹ Earth Summit Times, 31 March, 1992.

the delegation cannot expect to benefit from the range of proposals tabled by them. At Rio, the realisation that the negotiations must soon be concluded further increased the momentum of the exercise and the pressure to reach an agreement. This was particularly evident as UNCED had received a great deal of publicity at the public level thereby increasing the awareness of the political value that could be lost if the negotiations failed.

The task of concluding the negotiation at the frantic final stages fell to the more senior members of the delegations who could include the Permanent Secretaries of the various ministries or the Ministers themselves. Since the Secretariat had announced an unprecedented turn-up of over 100 Heads of State and Government, members of the delegations increased in size with Permanent Secretaries, political secretaries, ministers and parliamentarians attending the UNCED meeting for the first time. This 'new category of delegates' meant that new methods might evolve to deal with what had become 'old' problems in the negotiation. This presented both an advantage as well as a disadvantage to the overall negotiations.

The advantage of keeping senior political people (or people with the authority to make decisions) away from the negotiation until late in the game is that it helps delegations to avoid becoming committed to single interpretations of difficult problems. This creates flexibility and freedom in making decisions and in solving issues.² Since practitioners (who are

² G.R. Winham 'Negotiation as a Management Process' (1977), op.cit.

mostly civil servants) are subservient to their political masters, the decisions of the latter tend to prevail. This may not be a bad thing as agreements may never be reached if the hard-line practitioners are given their way. The disadvantage it poses is that when the substitute for the professional negotiator is a politician, he is likely to be accustomed to the ways of politics where his primary preoccupation is not to understand the contending positions but to seek victory, either for his own country or for his narrower political and personal gains.³ Such action could mean a 'diplomatic defeat' for his own negotiators who had been pursuing a particular stance until his arrival. That such situations frequently prevailed at the Rio Summit was hardly surprising.

The fact that many issues were resolved before the arrival of the Heads of State and Government was the result of the willingness on the part of this 'new category of negotiators' to compromise. As an illustration, a political battle was avoided in the last days at Rio because Israel and the PLO managed to come to an agreement not to pursue the issue of 'people under occupation' at length. Steve Smith explains that this flexibility in attitude may be accounted for by the fact that governments tend to adopt communitarian logic in their foreign policies and pay lip-service to cosmopolitan appeals. Signing declarations and making speeches can easily be undertaken because they are self-implementing and costless

³ E. Plischke, Conduct of American Diplomacy, (London, Toronto: D. Van Nostrand Co. Inc. 3rd Edn., 1967), p.40.

activities.⁴ In another context, the realist paradigm concludes that powerful states can ignore resolutions railroaded through the UN, for example by the Group of 77 majorities, because consensus has generally become meaningless and that 'sticks and stones can break my bones but words can never hurt me.'⁵

J. Roddick outlined three elements which made agreements possible at Rio. The first was the presence of campaign groups and the involvement of NGOs which put pressure on the negotiators and made it harder to pursue naked competitive advantage. As an illustration, the pressure imposed on industrialised countries committed them to agree to report on reductions in CO2 emissions to 1990 levels by the year 2000 as proposed by the Climate Change Convention. The second was the fact that the global world order had already changed, allowing the European Union to distance itself from the leadership of the United States on environmental issues. The third was the willingness of Southern governments to negotiate an agreement which would bind them in practice, if not in law, provided that they retained the majority voice in what the agreement said and that provisions for review gave real attention to the problems of implementation. These factors facilitated an embryonic but fragile political alliance among the contending parties.⁶

⁴ Steve Smith, 'Environment on the Periphery of International Relations: An Explanation', in Environmental Politics, Vol. 2, Winter 1993, No.4, (London: Frank Cass, 1993).

⁵ Susan Strange, 'The Poverty of Multilateral Economic Diplomacy', in G.R. Berridge and A. Jennings (eds.), Diplomacy at the UN, (London: Macmillan Press, 1985).

⁶ J.Roddick. 'Earth Summit North and South: Building a safe house in the winds of change', unpublished mimeo, 1995.

Another element that is relevant to examine when determining the success of such negotiations is that of personality. There is an argument, according to Winham, that personalities and personal qualities are unimportant in a negotiation; that the job is done by professionals and that professionalism requires attention to the facts and not the personalities of the situation.⁷ On one hand, UNCED showed that personalities can affect the progress of a negotiation as could be seen from the manner in which Tommy Koh conducted the Main Committee meetings. According to Richard Gardner, his superb chairmanship applied peer pressure on governments that sought to press minority positions too far. One of his finest moments came at the concluding committee session at 04:30 on 11 June, when to thunderous applause, he made a successful appeal to a Saudi delegate to defer to the wishes of the overwhelming majority on the energy issue.⁸ At 06:00, he gavelled the Main Committee to a close amidst a prolonged standing ovation.⁹ Here, it is difficult to determine whether it was Koh's personality or professionalism that did the trick.

On the other hand, what could be said of President Bush who was unpopular among the NGOs, the media and the countries of the South at Rio? It was not so much his personality but the consistent US position after the Stockholm conference that affected the progress of the negotiations. Among the first

⁷ Gilbert R. Winham (1977), op.cit., p.113.

⁸ Richard N. Gardner, Negotiating Survival: Four Priorities After Rio, (New York: Council on Foreign Relations Press, 1992), p.7.

⁹ Earth Summit Bulletin, Vol.2, No.10, 12 June, 1992.

things that President Clinton did under his new administration was to appease Bush's critics by signing the Biological Diversity Convention. Yet, disagreements between the United States and the South continued over many aspects of the Convention as with the Framework Convention on Climate Change. As one delegate at the third session of the CSD described, given the chance, the United States would be too happy to "rewrite" the UN resolution 44/228.¹⁰

The final days of the Summit showed that the intransigent position of the hard-liners such as the United States, the United Kingdom, Saudi Arabia and Malaysia over a number of issues (as discussed in Chapter III) were somewhat neutralised as a result of compromise settlements reached in the final hours. Given the extensive agenda and the number of actors involved in deliberating it, it would be difficult to arrive at agreements that could be favourable to all. As Klaus Meyer-Abich contends, the most basic experience in politics is that no action is equally in everybody's interest or disinterest. Some will be in favour while others are against it. Whether absolutely or relatively, there will always be winners and losers.¹¹

¹⁰ Personal interview.

¹¹ Klaus M. Meyer-Abich, 'Winners and Losers in Climate Change', in Wolfgang Sachs (ed.), Global Ecology (1993), op.cit.

THE ROLE OF NON-NEGOTIATING ACTORS:

The Heads of State and Government

Never before in the history of the United Nations had the organisation been able to gather so many Heads of State and Government at one time to discuss an issue which its members considered crucial - "the survival of Earth and Humanity". 116 Heads of State and Government attended the two-day Summit compared to only two at the Stockholm Conference twenty years earlier. The practice of heads of states and governments meeting in consultation and face-to-face negotiation in a multilateral conference is not a new phenomenon. Such meetings have been going on since the early 19th century (the Congress of Vienna (1815), the Paris Peace Conference (1919), Munich (1938) and the wartime meetings of Roosevelt, Churchill and Stalin). More recently, the various regional groupings such as the G 7, the European Union, the Commonwealth, the Non-aligned Movement and the G 15 have also held conferences at summit level.

The difference between these meetings and the Rio Summit is the high concomitant non-negotiator attendance. It appeared that many Heads of State and Government did not want to miss the opportunity of attending a summit that had become dramatic, auspicious and above all, newsworthy. After all, what might be said if they did not appear concerned about the issue? After so much publicity about attending or not attending, President Bush, President Mitterand and the Prime Ministers of India and Malaysia made it to Rio. But what roles did they assume at the Summit? It is evident that no discussions or negotiations took

place among them. Time constraints allowed the world leaders only seven-minute speeches, which droned on in succession, hour after hour over two long days.

Here, some leaders made the front-page news headlines: President Bush's speech was interpreted by many as defiant rather than conciliatory when he said, "It is not easy to stand alone on principle, but sometimes leadership requires that you do. And now is such a time [...] America's record on environmental protection is second to none [...] I did not come here to apologise". Fidel Castro, in delivering the shortest speech in his entire life, four and a half minutes, said that "The ecological debt should be paid, not the foreign debt" and "May hunger disappear, not man".¹²

A round-table meeting was brought forward to accommodate President Bush, who had decided to return home ahead of schedule. This was reported to have angered some world leaders who made it known to President Collor that it mattered that they had to readjust their tight programme to accommodate the US President.¹³ At the round-table meeting, which lasted for an hour, the world leaders patiently listened to the key-note addresses of the President of the Conference, the UN Secretary-General and the Secretary-General of UNCED as well as the representatives of the five regional groups. This was followed by a signing ceremony in which the world leaders put their

¹² Earth Summit Bulletin, 13 June, 1992.

¹³ Personal observation.

signatures to the international agreements which their governments had negotiated.

It would be naïve to expect that Heads of State and Governments could contribute substantially at a summit, even one as important as Rio. The Malaysian Prime Minister admitted that:

The issues involved are extremely complex and a Heads of Government meeting cannot resolve complex details. They, the Heads, do not normally negotiate the terms of treaties or agreements. They usually endorse and formalise what has already been negotiated by their experts and officials and fine-tuned by their Ministers. The preparatory meetings are therefore more crucial than the ceremonials of a Heads of Government meeting.¹⁴

The Summit meeting at Rio was never intended to be anything other than a ceremonious affair. Presidents and Prime Ministers would not be in a position to break an impasse and make dramatic decisions at the Summit as they themselves were held in check by their own legislatures at home. The most that could be gained from their presence was their moral commitment to the issue. At a minimum, however, the Summit provided an occasion for them to discuss other issues bilaterally. The Malaysian Prime Minister,

¹⁴ Keynote address by Dr. Mahathir Mohamad at the Second Ministerial Conference of Developing Countries on Environment and Development, Kuala Lumpur on 27 April, 1992.

for example, engaged in not less than 10 bilateral discussions with his counterparts during the Summit. In a rare occasion, he held a breakfast meeting with a group of NGOs from the North and South where he clarified the Malaysian position on forests. The meeting was significant as it allayed the Malaysian delegations' concern of an open confrontation or protest by the NGOs over the forest issue - the reason why the Prime Minister was not keen to go to Rio in the first place.¹⁵

The Media

The UNCED process was significantly influenced by the media which made the environment issue front-page news and cover-story material. Not less than 9,000 members of the press representing 111 countries were present at Rio.¹⁶ The media played a critical role in interpreting data, educating the public, influencing opinion and changing the attitudes of governments. An aspect of modern diplomacy that featured very clearly during the UNCED process was the interaction of the negotiators and other members of the delegation with the media. Press conferences and television interviews during the negotiations were used by government representatives to reassure domestic constituencies, to float ideas unofficially, or to apply pressure on opponents.¹⁷ Examples of these include the European Commissioner

¹⁵ Internal document.

¹⁶ Figures are quoted from Environment, Vol.34, No.6, October, 1992.

¹⁷ R.E. Benedick, 'Perspectives of a Negotiation Practitioner', in Gunnar Sjostedt (ed.), International Environmental Negotiation, (London: Sage Publishers, 1992).

for Environment's opposition to President Bush's line on the environment, President Bush's initiative for World Forests, announced a few days prior to his arrival at Rio, and John Major's warning to his domestic audience not to expect too much from the Rio Summit.¹⁸ On the part of the Malaysian delegation, the Prime Minister's BBC interview was televised in the United Kingdom as well as in Malaysia. Ambassador Razali Ismail and Ambassador Ting Wen Lian were also giving press briefings to clarify the position of the South, if not the Malaysian position, on numerous issues. Non-governmental observers - environmental groups as well as industry - also turned to the media to amplify their positions and influence the negotiators. In an interview which was published in the *Guardian*, Richard Tapper of the WWF pointed out that the top 500 companies of the world control about 70 per cent of world trade, 80 per cent of foreign investment and 30 percent of the world's GDP. They also generate more than half the green house emissions produced by global industry.¹⁹ Speaking to several hundred newspaper, radio and television journalists, Maurice Strong suggested that they should not view the Earth Summit as a two-week session that will solve the Earth's problems. Rather, he emphasised that UNCED was a 'launching pad', not a 'quick fix' - a beginning of a process that should lead to fundamental changes.²⁰

¹⁸ See Financial Times dated 26 and 31 March, 1992, 2 June, 1992, White House Fact Sheet No.910 issued on 2 June, 1992.

¹⁹ Guardian dated 8 May, 1992.

²⁰ Earth Summit Bulletin, 3 June, 1992.

Another important feature related to the media was the growing quantity of publications that appeared during the process. The **Earth Summit Bulletin**, **Terra Viva**, **Earth Summit Briefings** by the **Third World Network** provided a day-to-day account and analysis of the on-going negotiations. Key statements and official positions of governments were distributed through press releases which were made available within a short time after adjournments. These publications, which were usually brief yet comprehensive, provided useful summaries of the on-going negotiations for the delegates who barely had the time to know what was going on in the other meeting rooms outside of their own.

According to Chatterjee and Finger, while the media provided extensive and useful coverage of the official events at Rio Centro, where the government officials were conducting their negotiations, it treated the NGOs' participation mainly as a joke. Cited was the **Financial Times** final summary which included the NGOs on its list of losers at the Summit and commented that they were 'shut out by the politicians and spent most of their time at their Global Forum 50 km away where they ran out of money and had their electricity cut off'. Other summaries reflected similar images. The **New Scientist** said that the NGOs 'appeared marginalised, their lobbyists wandering round in ever increasing gloom. The greens had their stunts and photo opportunities but little more'.²¹ The following section on the role of NGOs explains the reasons behind the media's bias.

²¹ Chatterjee and Finger (1994), op.cit., p.100.

The Non-Governmental Organisations (NGOs)

The participation of NGOs in UN terrain reached an unprecedented level at the Earth Summit. 1,420 NGOs were officially accredited to the Conference with 2,400 more given individual passes to the Rio Centro where the governmental negotiations were held.²² This section examines how the NGOs became involved in a big way in the UNCED process, the extent to which they made their presence felt at UNCED and the impact that it left on them, in particular, the green movement.

As far as the unprecedented presence of NGOs in the UNCED process was concerned, Matthias Finger provided an interesting explanation which he referred to as Maurice Strong's grand scheme and vision.²³ According to him, when Maurice Strong was appointed Secretary-General, he had an ambition to involve millions of people in the UNCED process. In this regard, he designed a scheme which fed the NGOs into the UNCED process with the aim of building up a so-called UNCED constituency. To achieve this end, the Secretariat created a special NGO liaison office that deliberately made NGOs access into UNCED an easy process which was sometimes even paid for by UN agencies or other donors. At the same time, the Center for Our Common Future

²² Several figures were quoted for the number of NGOs officially represented at UNCED. Although by the Fourth Prepcom, a total of 1,420 NGOs were officially accredited, P. Willetts refers to 'some 650' which actually made it to Rio. For a comprehensive discussion on NGOs participation at UNCED, see P. Willetts, 'Social Movements, NGOs and the Impact of the Earth Summit on the United Nations System', Unpublished mimeo, 1995.

²³ ibid., part II.

(a charitable public relations agency which was dealing with publicity for the 1987 Brundtland report) set up an International Facilitating Committee (IFC) to help NGOs become part of UNCED. Even NGOs with no consultative status with ECOSOC were granted the rights to be included in the process. As a result, NGOs were accredited in such great numbers that almost anyone who wanted to be accredited could be. Such extensive participation by the NGOs was not initially envisaged by the governments but Strong used the argument that NGOs could contribute information to UNCED and help disseminate its outcomes, while the governments remained in charge of the whole process.

While it was undeniable that Maurice Strong assumed a leading role in enabling the extensive participation of NGOs at Rio, it was in no way an easy task as the opposition to NGO participation was intense among the government delegations. At the first Prepcom, his motives for broadening the NGOs' participation in the UNCED process were challenged by the government delegations as going beyond the terms of the mandate of the General Assembly. The wordings of the UNGA Resolution 44/228 implied that NGOs could only contribute in the preparatory process within each country. With respect to the main conference, there was a request to 'relevant' ECOSOC NGOs to contribute 'as appropriate' while no mention was made of other NGOs.

The main concern raised at the First Prepcom was the proposal made by Strong for all ECOSOC NGOs and 'others with special competence in the area under consideration' to present

papers and speak at the meetings of the Precoms and their working groups. Developing countries expressed concern that there should be a balance between the environment and development NGOs and among the regions. Strong's proposal was considerably watered-down when the Precom Chair, in accommodating the views of the delegations, tabled a draft decision which was approved without amendment. The decision, referred to as 'Decision 1/1' enabled established ECOSOC NGOs and other NGOs the right to attend precom meetings and the possibility of being able to speak 'with the consent' of the meeting but with no negotiating role. The Chair was given the discretion to establish ground rules on NGO participation in accordance with normal UN practice. Decision 1/1 was thus significant as it opened the door to NGO participation in the UNCED process.²⁴

UNCED provided a valuable learning experience for the NGOs as well as opportunities for networking and lobbying. However, in terms of creating an impact on the overall process and outcome of the Summit, the NGOs appeared to have failed considerably. The initial enthusiasm of the NGOs to be involved in the negotiation process quickly dampened when ground rules barred them from attending the closed-door 'informal-informal' sessions. While they were allowed to speak in formal sessions, they had no speaking rights in the 'formal-informals', thus depriving them of a role in actual negotiations. At the Fourth Precom where the layout of the conference rooms posed a problem,

²⁴ UN Document A/CONF.151/PC/L.8 on Draft Decision Submitted by the Chairman, adopted on 14 August, 1990.

NGOs could only gain access through a ticketing system in which only 35 NGOs could enter at any one time. Once the tickets had been distributed, they were rotated and traded among representatives so that more NGOs could participate in the meetings each day. NGOs were also left to their own devices to obtain official documents, which were limited in number.²⁵

In order to influence the negotiations NGOs had basically three possibilities: to submit written statements to the negotiations, to establish personal contacts with the delegation and to speak up in the sessions where this was possible. It is necessary to point out that some NGOs did gain access and had some influence on the negotiations. This applies to those who were part of the government delegation (eg. Canada, the United Kingdom, Netherlands, France, Denmark, the United States) and were acting either as full members or as observers within the delegation. NGOs which had good relations with government delegates and the Secretariat also somehow gained access to the negotiations through individual passes provided to them. These NGOs included the Third World Network (TWN) based in Penang, Malaysia, the World Resources Institute (WRI), Worldwide Fund for Nature (WWF), World Conservation Union (IUCN) and the influential and wealthiest environmental organisations in the United States, and probably the world, known as the 'Big Ten'.²⁶

²⁵ Earth Summit Times, 5 March, 1992.

²⁶ See Chatterjee and Finger (1994), op.cit. The 'Big Ten' are the Sierra Club, the National Audubon Society, the National Parks and Conservation Association, the Izaak Walton League, the Wilderness Society, the National Wildlife Federation, the Defenders of Wildlife, the Environmental Defence Fund, Friends of the Earth and the

Through them, a number of written interventions and proposals were passed to the government delegations to be incorporated into the official documents.

It was no overstatement when Chatterjee and Finger singled out the **Third World Network** as having very good relations with the Malaysian delegation.²⁷ Martin Khor and Chee Yoke Ling (both Malaysians) from the TWN are recognised experts in their fields. Together with Vandana Shiva and Raghavan from India, Charles Abugre from Ghana and Daniel Querol from Peru, they have gained their reputations for countering government positions through their briefing papers and their magazine, the **Resurgence**. However, during the Prepcoms and at Rio they were also seen to be assisting the Malaysian delegation in formulating the South's position. Here, the danger of being "instrumentalised" by governments for their own purposes should not be underestimated.²⁸ While the NGOs took advantage of the good relations they had with the government delegations by submitting their interventions, there was no guarantee that their ideas would be incorporated into the official documents. Some NGOs complained that government delegations at best took some

Natural Resources Defence Council.

²⁷ ibid., p.96.

²⁸ Jens Martens, 'NGOs in the UNCED Process: Test case for more participation in the UN System?', in Stiftung Entwicklung und Frieden (SEF) (ed.), In the Aftermath of the Earth Summit, (Bonn: Foundation Development & Peace, 1993).

formulations, but never the intentions. Bits and pieces were tinkered with and modified here and there, but the structure of the agreements and the contexts within which they were considered, all conformed to governments' expectations, not the NGOs.²⁹

The situation did not improve at Rio where the Brazilian host kept the NGOs some 50 km away from the official conference. The IFC had organised a parallel NGO forum, the Global Forum, which was sponsored by numerous big corporations and to a certain extent by the UN. Here, the accredited NGOs and thousands of their representatives gathered and formulated over thirty resolutions which had no official standing. The media, which had witnessed the whole event, portrayed a negative image of the NGOs role at UNCED. The Global Forum was described as a circus and a colossal mess. Chatterjee and Finger placed the blame on the NGOs themselves for focusing too much on lobbying on the inside, where no one could see them, instead of being a voice for the millions they were supposed to be representing, by taking on the media.³⁰

The NGOs however did not return home empty handed. The governments accommodated them by offering a specific chapter on their role in Agenda 21. The discussion on "Strengthening the Role of NGOs: Partners for Sustainable Development" was held on

²⁹ Views of Mark Valentine, issue director of US Citizens' Network, cited in Chatterjee and Finger (1994), op.cit., p.96.

³⁰ Chatterjee and Finger (1994), op.cit., p.100.

the final days of the Fourth Prepcom. The draft proposal which was tabled by Poland acting on behalf of the NGOs was to be incorporated into the Agenda 21 chapter entitled "Strengthening the Role of Major Groups". Although the final version of the text was heavily watered-down by the representatives of the governments, some considered it the most extensive and formalised recognition in a UN document of the potential and actual contributions of NGOs and other independent sectors (i.e. women, children, youth, NGOs, trade union workers, local authorities, scientific community, etc.) To illustrate, Agenda 21 states:

The United Nations system and Governments should initiate a process, in consultation with non-governmental organisations, to review formal procedures and mechanisms for the involvement of these organisations at all levels from policy-making and decision-making to implementation.³¹

That the above provision was adopted without much problem had baffled even the government delegations. M. Grubb suggested that this was possible because Tommy Koh had left the discussion to the very end when the delegates were tired.³² While the Role of Major Groups was being discussed, negotiations were going on in the other meeting rooms on what were considered "more

³¹ Agenda 21, Chapter 27.

³² Michael Grubb et al. (1993), op.cit., p.142

important issues" such as the Earth Charter, forests, institutions, technology transfer and finance. As far as the discussion on the Role of Major Groups was concerned, the general remark that was passing through the corridor during those frantic hours was that national delegations could live with any kind of language as long as the "women and the other independent groups are kept happy." What was certain was that in the basement meeting room where the discussion on NGOs was going on, both the Northern as well as the Southern delegations were equally unenthusiastic about the enhanced and collaborative role the NGOs intended to assume in relation to the governments and the UN institutions. Diplomats were simply not keen to open up the doors of their 'exclusive club' to those outside their league. This explains the non-binding and ambiguous language in their recommendations for action.³³

Ambassador Razali Ismail made his country's position known as early as the Third Prepcom that Malaysia was not prepared to rely on a non-governmental mechanism, however attractive it might appear. The idea, he stressed, needed crystallisation and acceptance.³⁴ At Rio he was quoted as saying, 'Rio has been about governments, not about the planet.'³⁵ When he chaired the

³³ Personal observation.

³⁴ UN document: A/CONF.151/PC/102, 'Institutional Proposal: Report by the Secretary-General'.

³⁵ Ambassador Razali quoted in Global Forum press release, no.273, 12 June 1992: "Government Representatives and NGOs discuss 'Who Will Rule the World'", cited in Bruce Rich, Mortgaging The Earth, (London: Earthscan Publications Ltd., 1994), p.269.

first CSD meeting a year after Rio, he underlined the fact that the Commission was a body of governments and while the NGOs participation in the CSD was welcomed, they would not replace governments as the voice of the people.

The demand for extended participatory rights for NGOs met with little approval on the part of most governments as they were said to lack democratic legitimacy and that it was unclear on whose behalf they actually spoke at the international meetings. In fact, objections to wider participation were also raised by the NGOs themselves. Existing accredited NGOs were afraid of losing their privileged position if the UN was opened up further. A prominent leader of a Malaysian NGO questioned whether the **Third World Network**, which had gained such a high reputation at Rio, was actually speaking on behalf of the Third World or whether they were merely "NGIs" - non governmental individuals claiming to represent the "civil society".³⁶

Logistically, the Rio experience has proved that the UN cannot accommodate as many NGOs as some would desire. The basis of NGO participation in the UN is an ECOSOC resolution, and given the heterogeneity of the NGOs, it would be difficult to select from amongst them those to be accredited to the UN meetings. Rio showed that there was no unity among the NGOs and that they frequently played off against each other. The IFC, which was in charge of mobilising the NGOs into the UNCED process, was itself accused of being biased towards business and profit-oriented NGOs. Only the financially powerful and the ones

³⁶ Personal interview.

with the most coherent intellectual framework such as the IUCN, WRI, WWF, Greenpeace, the 'Big Ten' and the TWN made their presence felt at Rio. The other factions of the green movement - the New Age greens, the deep ecologists, the political and social ecologists - were alienated and screened out. Even the TWN was considered a loser at Rio: while they lobbied for equitable distribution of profits and development for the South, rich governments and TNCs justified industrial growth as the solution.³⁷

The conclusion that Matthias Finger formed was that the UNCED process divided, co-opted and weakened the green movement. While UNCED had brought every possible NGO into the system of lobbying governments, it quietly championed the business NGOs. NGOs were thus trapped into a situation whereby, having lent support to governments in return for some small concessions on language, they came to legitimise a process that was in essence contrary to what many of them had been fighting for years.³⁸

THE OUTCOME OF THE SUMMIT

For those who have been studying the UNCED process, the outcome of the Summit is well known but it is worth repeating in this section. Rio adopted the following:

³⁷ Chatterjee and Finger (1994), op.cit.

³⁸ Matthias Finger, 'Politics of the UNCED Process', in Wolfgang Sachs (ed.) Global Ecology (1993), op.cit.

- A declaration known as the "Rio Declaration on Environment and Development";
- a Programme of Action known as "Agenda 21";
- a Statement on Forests called "A Non-legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests";
- the Setting up of a Commission on Sustainable Development under ECOSOC for the follow-up to UNCED decisions;
- the establishment of an Intergovernmental Negotiating Committee for a proposed Convention on Desertification; and
- the signing of the Framework Convention on Climate Change and the Convention on Biological Diversity by 154 countries.

With the exception of Agenda 21 and the proposed convention on desertification, which are beyond the scope of this thesis, the other outcomes mentioned above have been discussed in detail in the previous chapter.

One remarkable achievement of the Earth Summit was the ability of the participants to avoid the inclusion of 'high politics' issues in an agenda that has all along been within the realm of 'low politics'. This was possible because of the nature of the post-cold war era in which many political issues that have been occupying the UN such as the East-West conflict, the problems of **Apartheid** and the Cambodian question have been resolved.

There was however, one surprise proposal made by the representative of Palestine at the Fourth Prepcom to include

references to 'people living in occupied territories' into a number of chapters of Agenda 21 and the Rio Declaration. This was an obvious reference to Palestinians in the Israel-occupied territories. As the PLO had only observer status and thus no right to offer amendments according to the rules set by the Chair, Yemen acted on behalf of the Arab group to sponsor the Palestinian proposal. The G 77 subsequently supported the proposal. This prompted Israel to intervene and to question whether Rio would be another Middle-East battleground. It called for the removal for all references to 'people under occupation' promising to continue its protest at Rio if amendments were not made. The issue was finally resolved on the last day of the Main Committee meeting at Rio. Tommy Koh announced that after a series of consultations which he had held with the two parties, a compromise was arrived at in which all references to 'people under occupation' were removed from the chapters of Agenda 21 while the text of the Rio Declaration remained unchanged.³⁹ The interested parties took the floor to express their continued reservation over the Chair's proposal but expressed, in a spirit of compromise, that they were willing to lay aside their concern. In a self-assuring statement, the PLO representative added that since Agenda 21 was intended to go beyond the present century, he hoped that by the year 2000, there would no longer be any occupied territories to quarrel about and that the matter would then be a non-issue.⁴⁰

³⁹ See Earth Summit Times, 3 April, 1992 and Earth Summit Bulletin, 3 June 1993 and 10 - 11 June, 1992.

⁴⁰ Earth Summit Bulletin, Vol. 2, No.10, 12 June, 1992.

Three other controversial issues preoccupied negotiators till the last days at Rio. These were the issues of forests, atmosphere and finance. Since they were still not resolved by the time the Main Committee terminated its mandate, the issues were transferred to the Plenary where negotiations were taken over at the ministerial level. Tropical forest countries such as Malaysia, India and Indonesia claimed victory for having successfully acquired a non-legally binding statement of forest principles as opposed to a forest convention. They were also elated that the forest principles did not limit itself to tropical forests but also sought to embrace all kinds of forests, which included the North's boreal and temperate forests.⁴¹

The negotiation on Atmosphere was also difficult and protracted. Upon the insistence of the oil-producing Arab countries, the Fourth Prepcom had been forced to transmit a completely bracketed chapter to Rio. The oil-producing Arab countries, headed by Saudi Arabia, maintained that the chapter not only duplicated the work of the Climate Change negotiations, but that it placed an over-emphasis on energy efficiency and conservation. Another contentious point was Saudi Arabia's insistence on adding the word "safe" in the context of energy resources. This problem also had its spill-over effect in the technology transfer chapter which could not be resolved for the same reason. As the matter could not be resolved, Saudi Arabia

⁴¹ Mark F. Imber, Environment, Security and UN Reform, (New York: St. Martin's Press, Inc., 1994).

formally placed on record its reservations with the Atmosphere chapter.

Finance remained the most contentious, difficult and disappointing outcome of Rio. It was and still is the basis upon which the success of UNCED depends. Unfortunately, no amount of persuasion, pressure or 'greenmailing' could make the North agree to the transfer of financial resources to the South.

CONCLUSION

Terra Viva, the independent daily of the Earth Summit, wrote on its front page special edition: 'It took man 12 days to recreate the earth'. Indeed, the UNCED process which culminated at Rio, provided an invaluable learning experience for practitioners, politicians and NGOs alike. In terms of the issues covered, the organisation of the conference, the number of people it gathered and the media attention it received, no other special UN conference to-date has been able to surpass UNCED. The Human Rights Conference held in Geneva in 1993, the Population Conference held in Cairo in 1994 and the Social Summit held in Copenhagen in 1995 paled in comparison. Even the 1995 Beijing Women's Conference turned out to be largely a chimera as the serious work of the Conference was overshadowed by the presence of First Ladies who headed their government delegations but had no legal standing to sign agreements.

The Rio Summit secured a set of agreements between governments which denotes a significant advance of international cooperation on development and environment issues. It was able

to secure a political commitment at the highest level and placed the issue of sustainable development at the heart of the international diplomatic agenda. Equally significant, it led to an enormous increase in public awareness of the issues. The subject has become household and popular language to the extent that it has become much more difficult to construct large dams, indiscriminately export toxic wastes, clear-cut forests, traffic in endangered species or emit unlimited quantities of chemicals that destroy the ozone layer.⁴² These elements are interlinked - the action programme, the political commitment, the open and transparent process and the public awareness, together constitute a significant step in the transition to sustainable development.⁴³

Having made an impact at Rio, Malaysia has tried but failed to emulate UNCED in preparing for other special conferences following it. This refers to its preparation for the subsequent special conferences such as the Human Rights Conference, the Population Conference and the Social Summit. As in their preparation for UNCED, an ad hoc committee was formed to formulate the country's position. A national seminar was held to obtain the widest possible views from the public and a National Report was prepared at the request of the UN Secretariat. Yet these subsequent special conferences did not leave an impact as they did at UNCED, as far as the Malaysian

⁴² Ken Conca, 'Rethinking the Ecology-Sovereignty Debate', Millennium, Winter, 1994, Vol.23, No.3, p.704.

⁴³ Razali Ismail, Ambassador, 'Overview of the Road to Rio and Thereafter': Paper delivered at the National Seminar on UNCED, 7 - 8 September, 1992 at Kuala Lumpur.

participation was concern. To a large extent, the nature of the issues made UNCED crucial for Malaysia in a way that issues at the other summits were not. In addition, no two conferences can create the same impact if the intention is basically to project an image abroad or to use the United Nations as a tool of foreign policy. National interests are the primary determinants of outcomes and national interests and partners shift according to the issues at stake. For example, while it was possible for Malaysia to galvanise the South at UNCED, it was less possible to do so at the Social Summit and the impact was minimal because most of leaders from the North preferred to stay away from the Social Summit.⁴⁴

Discussion across issues shows that it is not the number of Heads of States that counts for the success of the Rio Summit. Neither is the number of NGOs that took part in the process. Rather, it was the commitment on the part of all states that brought about the necessary changes. It is widely assumed, according to Karen Litfin (and supported by Ken Conca and Ronnie Lipschutz) that environmental problems, however they manifest themselves, should be managed by the governments. This is because only the state has the human and financial resources to mount the large-scale scientific and technical projects for detecting, monitoring and preserving the global environment. Only the state, standing at the intersection of domestic and international politics, has sufficient authority, political legitimacy and territorial control to influence the myriad

⁴⁴New Straits Times dated 14 March, 1995.

causal agents of environmental degradation. The problems cannot be resolved entirely by the invisible hand of the market.⁴⁵

The Rio Summit has sufficiently defined the problems. It is up to the participating states to solve them. In the process, the state could benefit from the intellectual and technical contribution of the non-state actors who, since the Stockholm Conference, have proved to be of tremendous help to the state in providing a comprehensive understanding of the environmental issue.

⁴⁵ Karen Litfin, 'Ecoregimes: Playing Tug of War with the Nation-State', in Ronnie D. Lipschutz and Ken Conca (eds.), The State and Social Power in Global Environmental Politics, (New York: Columbia University Press, 1993), p.95.

CHAPTER FIVE

ASSESSMENT AND CONCLUSION

INTRODUCTION

This final chapter provides an assessment of UNCED as a special UN conference. It also attempts to provide an appraisal of Malaysia's role at the Conference and speculates on what the future holds for UNCED, as seen through the mechanisms already put in place, in particular, the Commission on Sustainable Development.

UNCED provided a rich experience in multilateral negotiations. It afforded an enormous learning experience, especially for developing countries, on negotiating behaviour and the diplomatic process of reaching agreement through coalition and consensus building. The ability of negotiators to cope with the multitude of complex issues and to resolve them within a time-frame of two and a half years contributed to making this UN special conference a unique event.

Will UNCED be a model for future global conferences? Will it have an impact on future negotiating trends? Or should such mega-conferences not be allowed to happen again, taking into account the general comments that UNCED concentrated too much on the process without giving sufficient attention to the substance and the final product.

The outcome of the UNCED negotiations and an assessment of the major issues discussed at UNCED have been treated in Chapter III. This chapter attempts to provide an overall appraisal of

the Conference. The analysis offered here focuses on the impact that UNCED has left on the different actors as well as the factors that contributed to such impacts.

AN ASSESSMENT OF UNCED AS A SPECIAL CONFERENCE

Richard Gardner refers to UNCED as the "mother of international conferences".¹ Some refer to it as a "mega-conference".² Indeed, the media attention on the conference, as well as the growing interest among international relations scholars and political scientists seen from the voluminous literature on this special conference, suggest that the environment has become central to political activity within and between states.³

Mega-conferences like UNCED leave behind different impacts on the different sets of actors. Opinions vary between two extremes - the optimists and the sceptics. The optimists look upon UNCED as a monumental success, taking into consideration that it was the first meeting of world leaders since the end of the Cold war. They express satisfaction with the learning process taking place among politicians, practitioners and the NGOs on related issues, some of which have never been treated so extensively before, for example, the issues of climate change, biodiversity and biotechnology. The UNCED process gave

¹ R.Gardner(1992), p.1, op.cit.

² See Peter Willetts (1989) and Mark Imber (1994), op.cit.

³ See Steve Smith, 'Environment on the Periphery of International Relations: An Explanation', Environmental Politics, Vol.2, No.4, Winter 1993, (London: Frank Cass, 1993).

rise to an unprecedented mobilisation of NGOs and provided them with the opportunities for networking, lobbying and engaging in new forms of dialogue. At home, UNCED provided the environment ministries a chance to be heard and to be taken seriously within their national bureaucratic setups. In a remarkably short time, the international community was able to respond and to reach consensus on a comprehensive and extremely complex set of documents, which upon ratification, would commit them to principles they had never before accepted. UNCED brought about the emergence of a wide variety of new legal concepts such as legal duties to prevent environmental harm, duties to undertake environmental assessments and duties to inform and consent. New principles have appeared on the international scene such as the precautionary principle, polluter-pays principle, and ideas of common heritage. The agreements reached, although some non-binding and perhaps weak, represent important steps in the right direction. The optimists argue that they provide a benchmark for subsequent negotiations. They agree that Rio may not have solved all the problems but that it was an important on-ramp to the road of environmental reform.

The sceptics, on the other hand view UNCED as a dismal failure. Sceptics unfortunately outnumber optimists. Measured against its stated objectives of averting global environmental and developmental catastrophe and with the UN Resolution 44/228 as the yardstick, they argue that the outcome of the Rio summit has been disappointing. In terms of the official outcome of Rio, the states adopted the non-binding Rio Declaration in which, according to Jens Martens, the mere mention of the

responsibility of the North for the current ecological and social crisis - which hardly anyone denies anymore - was sufficient for the declaration to be unjustifiably hailed as a success.⁴ The two Conventions and the Statement of Forest Principles contained only non-binding targets and guidelines which governments are free to implement at whatever pace they see fit. Agenda 21, which was considered to be the most important outcome of Rio, was marked by omissions, by a lack of overall coherence and by a reluctance to prioritise and to specify any clear link between aspirations and effective action.⁵ It shows fundamental weaknesses in planning with the action programme predominantly focussed on the Third World. Northern consumption, global economic reform to reverse the South-North flow of resources, world trading patterns, international debt, poverty, population, and the role of TNCs were not adequately addressed at Rio.

UNCED also failed to arrive at an unequivocal definition of the concept of 'sustainable development'. Neither the practitioners, nor the politicians, academic community or the NGOs were able to come to an agreement on the approaches needed to solve the global ecological crisis, leaving the term 'sustainable development' open to almost any interpretation.

The single biggest disappointment for the developing countries was the failure of the Conference to generate

⁴ SEF (ed.), Bonn (1993), op.cit.

⁵ Andrew Hurrell, 'A Crisis of Ecological Viability? Global Environmental Change and the Nation State', in John Dunn (ed.) Contemporary Crisis of the Nation State?, (Oxford: Blackwell Publications, 1995), p.153.

significant aid flows to the South. Developed countries resisted pressure to commit themselves to raising their ODA contribution to the UN target of 0.7 percent of GNP by the year 2000. Although they agreed in principle to provide "new and additional" financial resources to implement the programmes of Agenda 21, they were very vague when it came to putting actual money on the table. In fact, less than six months after Rio, the British government contemplated a 15 percent cut in its ODA contribution, having transferred only 0.27 percent of GNP in 1991.⁶ Other developed countries, including those that traditionally have been more sympathetic to developing countries, also announced reductions in their aid budgets. According to T.G. Weiss et al., some Northern donors had grown weary of the constant demands to increase official assistance. Seeing little evidence that past assistance had made any appreciable difference in alleviating poverty, 'donor fatigue' became a prevalent explanation for diminished contribution to the ODA.⁷ For the South, UNCED is a failure as little progress is likely until there is substantial financial assistance.

Many factors contributing to UNCED's unsatisfactory outcome have been identified. Although it was the North which lured the South to engage in the UNCED discussion in the first place, it failed the South by back-tracking on the objectives agreed upon in the UN Resolution 44/228. J.Roddick cited two major stumbling blocks to the UNCED negotiations: the United States, perhaps

⁶Mark Imber (1994), op.cit., p.124.

⁷T.G.Weiss, D. Forsythe and R.A.Coate (1994), op.cit.

because it was determined not to give up its privileges, and the South, because it was determined to use 'greenmail' to force through economic concessions from the North.⁸

The Players:

The United States

UNCED would have provided an excellent opportunity for the United States to demonstrate its leadership. Its overall environmental record compares favourably to that of most countries. It is still a major provider of environmental and developmental aid and has pioneered some of the most important concepts embodied in Agenda 21 such as broad public participation in environmental decision-making. It has a strong story to tell in such concrete measures as the Clean Air Act, transportation legislation and an ambitious energy-conservation programme. Together, these may enable the United States to beat the target of stabilising greenhouse emissions at 1990 levels by the year 2000. Unfortunately, instead of seizing leadership and galvanising its industry to compete with Japan and Europe in the emerging market for clean technologies, the Bush Administration, according to *Time*, "has taken up the cause of the environmentally handicapped, limply replaying arguments developed by the coal, electric-utility and railroad lobbies that meeting the greenhouse target would cost jobs and harm the

⁸ J.Roddick, 'The Results of the Rio Earth Summit', Science, Technology and Development, Vol.10, No.3, Dec. 1992, (London: Frank Cass, 1992).

US economy."⁹ Unconvinced that the interests of the United States would be well served, President Bush had initially refused to attend the Summit but decided otherwise for fear of the impact of non-attendance on his standing in the presidential election. For a country with a distinguished history of environmental programmes, the United States upheld an isolationist position at Rio by insisting that there be no firm targets in the Climate Change Convention and by refusing to sign the Biodiversity Convention. It also obstructed progress in a host of other areas, particularly those relating to the request for "new and additional" financial resources and for technology transfer to the South. Throughout the UNCED negotiations, the United States argued for market-led mechanisms such as applying the 'polluter pays principle' and 'technology cooperation'.

R. Gardner provided an explanation for the US attitude. According to him, the Bush administration approached the Rio meeting with a deeply divided frame of mind. William Reilly, Administrator of the Environmental Protection Agency, and Curtis Bohlen, Assistant Secretary of State for the Oceans and International Environmental and Scientific Affairs, both shared the basic premise of the conference that a successful partnership in sustainable development would require cooperation from all countries and fundamental changes in rich countries' lifestyles and consumption patterns. They saw the environment and development as reinforcing and non-antagonistic concepts,

⁹Time, 22 June, 1992.

believing that adjusting to higher environmental standards could lead to greater productivity and competitiveness.¹⁰

The tendency to see Rio as a foreign policy and an economic and environmental opportunity was, however, not shared elsewhere in the administration. According to Gardner, the domestic and economic staff at the White House, joined by Vice President Dan Quale's Competitiveness Council, viewed Rio as a threat. The Rio agenda meant the loss of jobs and painful economic adjustments in a time of economic difficulty, as well as unwanted pressure to increase foreign aid. In addition, it was an election year and in their view there were no votes to be had at Rio. Elsewhere in the administration - in the Interior, Commerce and Treasury departments, Rio was regarded at worst with suspicion, at best with indifference.¹¹

An administration in such a mood of negativism and organisational disarray provided fertile ground for a disaster waiting to happen in the unexpected form of the Biodiversity Convention. When the United States announced its refusal to sign the Convention, not only was its position interpreted with hostility by the media and the NGOs, it also saw its allies distancing themselves from its unpopular position. When Reilly tried to save the situation through a message to the White House proposing modest changes to enable the United States to sign the convention, his memorandum was leaked to the press, thus

¹⁰ Richard N. Gardner (1992), op.cit.

¹¹ ibid.

deepening the country's isolation at Rio.¹² Shortly after the conference, Reilly gave his own version for United States failure at Rio:

We assigned a low priority to the negotiation of the biodiversity treaty, were slow to engage the climate issue, were last to commit our President to attend Rio. We put our delegation together late, and we committed few resources. No doubt, this contributed to negative feelings toward the United States [...]. For me personally, it was like a bungee jump. You dive into space secured by a line on your leg and trust it pulls you up before you smash into the ground. It doesn't typically occur to you that someone might cut your line.¹³

Despite the defence Reilly has come up with to justify the United States role at UNCED, the revealing truth remains that the United States squandered a rare opportunity to invest meaning in the "New World Order". By embarking on its isolationist approach on a broad range of UNCED issues, the United States weakened international confidence in them. It could rightly then be said that the United States was clearly as committed to the assertion of national interests and sovereignty as Malaysia, which has so regularly been accused of

¹² ibid.

¹³ New York Times, 1 August, 1992.

doing the same. For a great power, the United States has showed regrettably little political will to collaborate with the rest of the world, much less to provide the leadership role it has generally been expected to assume.

The South

The South's approach to UNCED was in many ways aimed at reviving the calls of the 1970's for a New International Economic Order.¹⁴ The 1980s have been described as a lost decade for development in the South.¹⁵ While the industrialised countries were recovering from the early 1980s recession and enjoying years of uninterrupted growth, a large number of countries in the South were facing an acute and continuing development crisis brought about by the deterioration of the world economy. Depressed world commodity markets were adversely affecting the export earnings of the developing countries. The protectionist policies of the North, the debt burden, high interest rates and the high cost of debt servicing were forcing the countries of the South to become net exporters of capital to the North. Even the IMF and the World Bank became net recipients of resources from developing countries.¹⁶

¹⁴ Nassau Adams, Worlds Apart, The North-South divide and the international system, (London: Zed Books, 1994).

¹⁵ South Commission Report (1987), op.cit.

¹⁶ ibid.

UNCED provided a platform for the South to engage the industrialised countries in a debate that could provide a new "deal" for the South. The South seized the North's obsession with environmental concerns as an occasion to underscore the importance of the developmental dimension of the conference. The North's concern for the protection of the environment provided the South with increased bargaining power. This was particularly true as no effective action could be taken without the South's consent and no agreement reached in the absence of the South's participation. With this in mind, the South went a step further to emphasise that, since the North had been responsible for the current environmental degradation brought about by their excessive consumption patterns and lifestyles and was therefore in a better position financially, they should bear the main responsibility for improving the global environment.

The South was convinced that by applying 'linkage politics', its strategy of advancing a broader agenda on the North-South economic relationship could be pursued.¹⁷ The main goal was to articulate an approach to the environment consonant with the pursuit of economic growth. Developing countries were also concerned that any new international agenda should not place a disproportionately heavy burden on them.¹⁸

The South's approach of leveraging concessions from the North, along with the notion that Southern problems could be

¹⁷ Porter and Brown (1991), op.cit., p.129.

¹⁸ Marc Williams, 'Re-articulating the Third World Coalition: the role of the environmental agenda', Third World Quarterly, Vol.14, No.1, 1993, pp.7-29.

transported to the North if the latter failed to transfer financial aid, evidently did not work. As late as the Fourth Prepcom, the South had thought that the North would give in to their demands and that there would be actual pledging and a commitment in terms of specified financial commitments by the industrialised countries at Rio. This hope went unrealised. Rather, the Rio outcome suggests that the South's bargaining power has not increased and the North is no more ready to listen in the 1990s than it was in the 1970s.¹⁹ As the negotiations unfolded, it became obvious that the developed countries, having consented to Resolution 44/228, no longer felt bound by its language or content. It appeared to many that the developed countries had accepted it only to draw the developing countries into the negotiating process. Once engaged in the process, the developing countries would have to continue until a compromise was reached.²⁰

The **IIED Perspectives** commented that the G 77's approach of using the environment as a bargaining chip to extract financial concessions and technical resources from the North represents outdated thinking that harks back to the 1970s. Aid flows do not have the importance attributed to them of making the world more sustainable. Equally important are issues such

¹⁹ Marc Williams, ibid.

²⁰ Tariq Osman Hyder, 'Looking Back to See Forward', Irving Mintzer & J.A. Leonard (eds.), Negotiating Climate Change, (1994), op.cit., pp.206-207.

as sound economic and social policies, good governance, proper economic incentives and effective regulatory frameworks.²¹

Grubb et al. expounded that developing countries were often unclear about their demands at UNCED. They made general remarks about the need to restructure international economic relationships without giving detailed specifications or providing real alternatives.²² William Nitze observed that developing countries were largely represented by professional diplomats accustomed to taking stereotyped positions in North-South debates instead of people who really understood the potential for cost-effective policy and organisational and technological improvements in all countries.²³ Developing countries were also said to be less appreciative of the constraints faced by the industrialised countries, in particular, that raising taxes to give money to poorer countries was not a vote winner in most developed countries, especially the more insular United States. Added to this, Roddick conferred that Rio revealed gaps in the South's own perception of the limitations and opportunities of the new environment/development debates, on where the debates were leading and on the likely differences between old World Bank conditionality and new green

²¹ IIED Perspective, No.9, 1992.

²² M. Grubb et al. (1993), op.cit.

²³ William A. Nitze, 'A Failure of Presidential Leadership', Irving M. Mintzer & L.A. Leonard, (eds.), Negotiating Climate Change, (UK: Cambridge University Press, 1994), p.200.

conditionality which could be turned to good account.²⁴ The South still has, therefore, much to do. As Martin Khor points out:

There is much spring cleaning to be done within the South itself [...] Power, wealth and income have to be redistributed in Third World countries so that the interests of the majority can be adequately expressed in new development models that emphasise the satisfaction of basic and human needs and that are harmonious with the environment.²⁵

While many in the North disapprove of the South's linkage strategy, it is worth considering that it is not solely based on the desire of the developing countries to extract concessions from the North. As Marc Williams contends, the approach by the developing countries reflects their particular economic circumstances. They have a genuine concern that they do not have to bear the costs of environmental protection at the expense of their development strategies, particularly when their domestic resources are already thin.²⁶

²⁴ J. Roddick, Science, Technology & Development (1992), op.cit.

²⁵ Martin Khor, cited in Hall and Hanson, A New Kind of Sharing, International Development Research Centre, Ottawa, 1992, p.302.

²⁶ Marc Williams (1993), op.cit.

The European Union

If the United States has been accused of mishandling its approach at Rio and the South's linkage politics has been considered as unproductive and unfair, the European Union on the other hand was to a certain extent able to emerge from the process with its links to the rest of the world reinforced and its influence and standing enhanced rather than eroded. Brenton attributed this to the fact that the European Union, by virtue of its size and proximity, was by then well-adjusted and well-attuned to completing environmental business by international negotiation.²⁷ It is also important to note that for the first time, the European Union was allowed to represent exclusively its member-countries' positions on issues falling within its competence. In cases of mixed competence, the European Union and its member-states were allowed to determine which of them would represent the position of the Union and its member-states.²⁸

Brenton's view of the European Union is not shared by many, particularly the South. Strong as it appeared to be, the EU was not able or willing to challenge or offer an alternative to the leadership of the United States at Rio. Although there were some indications of a willingness to contribute financially by some of the member states, such as Germany and the United Kingdom, they were at best vague and contained no specifics, either in the form of ODA or through the GEF.

²⁷ Tony Brenton, The Greening of Machiavelli, (London: RIIA, Earthscan, 1994), p.235.

²⁸ See UN document: A/CONF/151/PC/128 on Status of the EEC at UNCED.

This spirit of 'cautious internationalism' may be brought about by the fact that within the European Union itself there were still differences in terms of priorities and approaches. The Maastricht Treaty, for example, governs environmental consideration by the unanimity rule among member-states. Thus, while environmental issues may be important to the NGOs and the Green movement within its member-states, these were not necessarily the European Union's main preoccupation. Environmental issues have become one more item added to the EU's agenda.

The Non-Governmental Organisations (NGOs)

Much has already been said in the preceding chapter of the role and the impact of the NGOs in the UNCED process. In general, it has been suggested that their bids for legitimacy have put them on a collision course with the nation-state. Some argued that the NGOs were co-opted into becoming quasi-bureaucracies, acting in an advisory role on the sidelines.

It is true that NGOs cannot dictate terms to anyone. They cannot tax or legislate and cannot formulate foreign assistance policies. Their single-issue focus and their no-compromise position on environmental matters limit their legitimacy as compared to the nation-state which can accommodate a wide range of interests. But NGOs can however, have influence.

Some financially powerful NGOs can wield enough economic clout to change governments' or other NGOs' behaviour. In the period between 1980 and the early 1990s, the WWF-US has

contributed some US\$62.5 million to 2,000 projects worldwide. Major NGOs can command media attention (**Greenpeace**) and provide scientific knowledge through their own research which governments tend not to possess because of their responses to environmental problems which are often reactive and crisis-driven. NGOs assets include their transnational character which does not constrain them by the limited notion of national interests or state sovereignty. It cannot be denied that in the absence of pressure from NGOs, states might never move beyond vague declarations of intent. Government delegations found discussions with NGOs to be time-saving as more often than not, professional diplomats are not necessarily equipped to deal with urgent environmental problems.

Yet the general impression that NGOs left at the Rio Summit suggested that they merely provided 'social services' but not 'political critiques'. NGOs were not allowed access to decision-making and they had almost no impact. While there might have been odds and ends in policy debates in which their thoughts were useful to the delegation, they failed in the effort they set out to accomplish.²⁹

²⁹ See Ann Hawkins, Karen Litfin in Lipschutz and Conca (Eds.) (1993), op.cit., and Thomas Princen (1994), op.cit.

Sovereignty and National Interest

Even when the future of the planet is at stake, leaders continue to sit behind flags and to pursue narrow national interests. Sovereignty reigns supreme.³⁰

It would be incorrect to suggest that UNCED was a debate between the North and South. This is evident from the differing positions of individual countries of the North, for example, between the United States and the European Union over issues such as Climate Change and Biodiversity. Even among the European countries, the Nordic's approach to the developing countries' needs differed. On the other hand, Canada, Australia and New Zealand (CANZ Group) maintained a common position on many issues while the former Soviet states, which formed the 'economies in transition', approached UNCED as a competitor for aid with the developing countries.

The G 77, which consists of 129 countries of the South, may have presented a formidable force against the industrialised countries throughout the UNCED debate but a number of issues continued to divide them. The concern of the small island states about the impact of global warming on sea level, the opposition of oil-producing countries to the imposition of a carbon tax and the insistence of certain individual countries on developing and protecting their natural resources according to their own national plans, made it difficult for the G 77 to arrive at a

³⁰ J.D. Hall & A.J.Hanson (1992), p.301, op.cit.

common position. As a result, UNCED produced a set of bland agreements which served the minimal interests of all participants.

The difficulties of the UNCED negotiations and their meager results have indicated that despite the urgent necessity to avert global environmental crises, few countries were seriously prepared to transfer or relinquish their claims to national sovereignty or to dispose of their rights to their natural resources. On the contrary, UNCED demonstrated that the international community is made up of nation-states with widely differing sets of interests, mainly founded on economic factors: a situation which does not necessarily align all countries along a North-South divide.

To some extent therefore, it would not be wrong to say that the so-called growing concern over the environmental problems is mere rhetoric. The primary objective of government representatives seemed to be not the resolution of global environmental problems but the protection of their countries' national interests. Governments, while recognising the need for cooperation, still try to maximise their own interests in the process. This is illustrated by the marked preference for goals and guidelines which are ambiguous, non-binding and consequently, non-committal. Governments remain extremely keen to maintain firm control over reporting, monitoring and inspection procedures. And although much is made of the increased openness of governments to NGO participation,

governments continue to be extremely resistant to any significant dilution of control.³¹

But to harp on this is to reveal a lack of understanding of what conference diplomacy is all about. According to Paul Taylor, the multilateral approach to resolving problems does not alter the fundamental role of governments in world politics. He argued that the primary actors in world politics are nation-states; any attempt to suggest otherwise is completely erroneous. Nation-states have the option to participate in, or abstain from any decision taken in a multilateral negotiation. They reserve the right to present their own views or veto any action which may prove detrimental to their national interests, prestige or honour. In fact, governments yield very little sovereignty when they participate in multilateral negotiations, and yet they consider themselves as the most important actors, even when acting in concert with fellow members of an international body.³²

Critics may find the above view to be very crude. But the truth is that although it may not be the most respectable or most admired view of the world, it is in fact the one in the light of which most governments, when they have any power to exercise, have acted. According to Susan Strange, governments see the United Nations and the other international organisations as tools of foreign policy that are there to be used, abused or

³¹ Andrew Hurrell (1995), op.cit.

³² Paul Taylor, Nonstate Actors in International Politics, (London: Westview Press, 1984), pp. 3-4.

ignored according to the shifting perceptions and directions of national foreign policy.³³

AN APPRAISAL OF MALAYSIA'S ROLE

Malaysia's participation at UNCED merits attention given the active role it assumed throughout the two-and-a half-year process. It may be worth recalling that Malaysia was the Chair of the Group of 77 when the UNGA Resolution 44/228, which initiated the UNCED process, was drafted. It led the G 77 on the issues of Biodiversity and of Forests and in the final attempt to garner the support of developing countries to speak with one voice at Rio. It hosted the Kuala Lumpur Ministerial Conference of Developing Countries on the Environment and Development, four weeks before the Summit. At Rio, Malaysia held one of the 39 vice presidents' posts. Its active role as Chair of the Committee on Institutions made it the natural candidate for membership of the newly-established post-Rio Commission on Sustainable Development. During a secret balloting taken at an ECOSOC meeting in February 1993, Malaysia was elected as the first Chair of the Commission on Sustainable Development, garnering 52 out of 53 votes.

The active, sometimes aggressive leadership role assumed by Malaysia on behalf of developing countries is supported by the voluminous literature emerging from the Conference. Roddick considered that as a middle-sized trading country of the South,

³³ Susan Strange, 'The Poverty of Multilateral Economic Diplomacy' (1985), op.cit.

which was not only industrialising but also had substantial natural resources important to its export base, Malaysia had a real stake in finding a solution to conflicts between trade and the environment. During the pre-UNCED negotiations, Malaysia was said to be preoccupied with finding ways of using G 77 to shape the reaction of the South's giants and to control their prosperity by using national sovereignty as a stock defence.³⁴ It was therefore not uncommon for Malaysia to be characterised during the UNCED negotiations as "a typical defender of national sovereignty"³⁵, "sovereign-sensitive"³⁶ and "defensive"³⁶ by participants, particularly from the North and "a new fanatic of pollution"³⁷. Malaysia was also noted for applying "linkage strategies" as it threatened to withhold signature of the Climate Change Convention if the tropical timber-exporting countries were stigmatised in the forestry agreement.³⁸ Gardner labeled Malaysia together with India as "troublesome" because they sought to assign all the blame for poverty and environmental degradation on the developed world while failing to recognise the need to alter their own self-destructive

³⁴ J. Roddick, 'Earth Summit North and South', Institute of Latin American Studies, University of Glasgow, January, 1995, mimeo.

³⁵ Tony Brenton (1994), op.cit.

³⁶ Mark Imber (1994), op.cit.

³⁷ Alain Lipietz (1995), op.cit.

³⁸ Mark Imber (1994), op.cit.

economic and environmental practices. Many of their statements and proposals were seen as a philosophy of one-way sovereignty - the poor countries had the right to share in the wealth and technology of the rich, but should not be asked to undertake any commitments whatsoever with respect to the management of their own affairs.³⁹

To the South, the above claims appear unjustifiable, given the fact that the North is much to be blamed for the present state of environmental degradation and for its refusal to bear the responsibility of cleaning up the mess. It has become common knowledge that the countries of the North, with only 20 percent of the world's population, are responsible for 80 percent of global consumption and 85 percent of the world's GNP. The onus of change must therefore be on them, not the poor. President Bush's cutting remarks at Rio that the lifestyles of the United States would not be up for discussion is an obvious example of 'one-way sovereignty'.

Equally deceptive is the North's insistence on promoting free market policies during the UNCED discussions. The World Bank reports that protectionist measures by industrialised countries actually reduce national income in the South by about twice the amount of official aid, and in the past decade alone, twenty of twenty-four OECD countries have increased protectionism. The fact remains, according to Chomsky, that the rich powers are as opposed to free trade as they always have

³⁹ R.N.Gardner (1992), op.cit., p.7.

been, except when they feel they can prevail in competition.⁴⁰ According to Princen, the major powers must take the lead to solve serious problems that crossed national boundaries as they have the carrots and the sticks and they create the dependencies of other countries by dominating the major financial and trade institutions with their proportionally weighted votes. Yet, he argues, major powers not only are the major sources of environmental degradation and resource depletion worldwide, they do not, on the whole lead. More often than not, they are obstacles to change, not proponents of change because the traditional concerns of international relations have been military security, trade and monetary relations. Thus, even as governments experience ever-increasing environmental threats, defenders of the status quo are not likely to take the lead in reducing those threats.⁴¹

On the constructive side, Benedick and Carvalho noted the comparative speed with which Malaysia not only ratified the previous negotiations on the Montreal Protocol, but also swiftly implemented CFC replacements.⁴² Brazilian negotiators concluded that Malaysia was willing to play the 'villain' in the

⁴⁰The argument is raised by Chomsky, cited in C. Thomas's 'Beyond UNCED', in Environment Politics, Vol.2, (London: Frank Cass, 1993).

⁴¹Thomas Princen, 'NGOs: creating a niche in environmental diplomacy', in Thomas Princen & Matthias Finger (eds.), Environmental NGOs in World Politics, (London, New York: Routledge, 1994), pp. 29-47.

⁴²J. Roddick, mimeo (1995), op.cit.

negotiations, as Brazil had done at Stockholm.⁴³ Malaysia was said to have taken a particularly aggressive line in the negotiations on Forests and on Climate Change, one outcome being reflected in its refusal to sign the Climate Change Convention at Rio on the grounds that it failed to restrain Northern emissions. On Institutions, where Malaysia chaired the working group, Roddick noted that Malaysian negotiators showed an uncommon willingness to work with Northern NGOs and to support the participation of NGOs within the post-UNCED institutional framework. Malaysia could support NGOs without giving up too many apparent hostages to Northern intervention. Malaysia's reputation highlights the importance of a publicly aggressive role in maintaining a position of leadership and preserving the cohesion of the Southern camp.⁴⁴

Roddick described Malaysia's aggressive positions as "perverse universalism": a vigorous attack on Northern responsibility for the environmental crisis, a demand for reform of Northern practice as a precondition for any international regulatory action affecting Southern countries, but a willingness to look for principles which could provide the basis for international agreement.⁴⁵ This last point is illustrated by Malaysia's proposal for a universal and binding commitment to maintain 30 percent forest cover, "the greening of the world"

⁴³ Porter & Brown (1991), op.cit.

⁴⁴ J.Roddick, mimeo (1995), op.cit.

⁴⁵ J.Roddick, mimeo (1995), op.cit.

or fund forests elsewhere, to compensate for a failure to achieve that aim.

Malaysia had indeed come a long way in playing an active and aggressive role at UNCED, considering that its leader was initially reluctant to attend the Summit due to what he felt were preconceived notions held by certain international environmental movements on its logging activities and its treatment of the Penan communities in Sarawak. In spite of the Prime Minister's comment that it was pointless to attend a conference when the world has already prejudged it, Malaysian officials continued diligently to prepare themselves for the Conference. The National Steering Committee, headed by the Secretary-General of the Ministry of Foreign Affairs went to great lengths to formulate and shape the country's national position and in devising strategies to gain acceptance by as many countries as possible.

Malaysia's constant interaction with the countries of the South, beginning with the members of ASEAN, the Group of Fifteen, the members of the Non-aligned Movement and the Group of 77, enabled it to move from a position of uncertainty, with little knowledge of or involvement in international environmental issues, to a position of strength, as it rapidly acquired the confidence to expound and defend its views and those of the South. Malaysia's close and constant collaboration with India and China explains its forthright approach at UNCED. It may be recalled that India had been vocal and had played a leading role among developing countries since the Stockholm Conference. It was India which initiated the argument that the

environment and development are sides of the same coin and should be viewed as integral parts of each other. China on the other hand initiated the debate on developed countries as the main contributors to the present day environmental damage who should therefore bear the responsibility for improving the global environment. Verbatim records of the famous UN draft resolution 44/228 do not reveal Malaysia's contribution during the debate. Yet, by the conclusion of the Rio Summit, Malaysia was playing a leading role in defending many of the issues expounded by the South. Several factors contributed to this development: issues of sovereignty and national interests.

Like most developing countries, Malaysia had not come to the first Prepcom fully prepared. For one thing, it was still uncertain of what to expect of the meeting, and rightly so the first Prepcom was an exploratory exercise for most participants. However, it was also at the first Prepcom that the issue of deforestation was raised. Taking the cue from the G 7 Houston Summit, the United States in particular was insistent that a forest convention should be formulated in time for UNCED, claiming that deforestation constituted the most serious environmental problem currently facing mankind. Malaysia's initial reaction was to see the G 7's enthusiasm as a move to convert national forests to global commons. This would have constituted an infringement of the country's sovereign right to exploit its forests and was therefore a question of paramount national interest.

Malaysia's fear of the move towards a global, legal instrument on forestry was real. During the same period, the

European Union was under strong pressure to act upon the European Parliament's resolutions to ban the import of tropical timber from Sarawak. Several municipal councils in the Netherlands and in Belgium had already imposed a ban on the use of Malaysian tropical timber products in the construction of their buildings. In Austria and in the United Kingdom, there were strong calls to introduce legislation on 'ecolabeling' of tropical timber products, implying that these products were extracted from unsustainably-managed forests. Being the world's largest producer and exporter of tropical timber, Malaysia saw these moves as attempts to impede its timber trade on environmental grounds.

This explains its aggressive role in the forest debate. It was also these "unfair" allegations of its alleged deforestation activities that led Malaysia to propose that UNCED discuss the universal management of marine pollution, beginning with the Malacca Straits and the international management of Antarctica, which had been proved sufficiently to have a negative global environmental effect. The first proposal found opposition from countries which subscribed to keeping all international straits open and free, while the second was opposed by the members of the Antarctic Treaty Consultative Parties (ATCP). Both oppositions were based on national interests.

Malaysia's interest in championing the course of the South is also evident in its active participation in the debate on finance. South-south cooperation became an important aspect of Malaysia's foreign policy objectives following the Prime Minister's announcement of the creation of the South Commission

in 1990 and the Summit-level Group for South-South Consultation and Cooperation (Group of 15) during the same year. The finance issue at UNCED was not entirely a matter of national interests for Malaysia but one in which it negotiated to promote the interests of the South. Compared to several developing countries, Malaysia was financially less dependent on the North. As such, it felt no restraint when criticising the North for their historical culpability, over-consumption and excessive life styles, insisting that they compensate the South financially. It was, in short, advocating the interests of countries which could not speak openly for themselves.

This brings up another result of Malaysia's interests in the UNCED negotiations. UNCED provided a platform for Malaysia to promote its image abroad. Susskind argued that national leaders can increase their domestic popularity by demonstrating leadership on the world stage. Even a failed effort to win international support for a proposed global treaty-making effort (for example, Malaysia's proposal on the "greening of the world") can redound to a national leader's political benefit at home. In addition, participating actively at a conference provides the participant with the opportunity to set a precedent or strike a deal that could be useful later on.⁴⁶

Since UNCED, Malaysia has participated in the UN special Conference on Human Rights which was held in Geneva in 1993, the Population Conference in Cairo in 1994 and the Social Summit in 1995. Prime Minister Dr. Mahathir was asked to comment on

⁴⁶L.E. Susskind, Environmental Diplomacy, (London: Oxford University Press, 1994), p.44.

whether the latest round of such conferences was the latest example of "summit fatigue", a disease that results from increasingly frequent top level meetings called to discuss the world's ills, and whether it was worthwhile for developing countries to continue attending such conferences which do not produce any concrete results. The Prime Minister commented that such meetings offered world leaders an opportunity to discuss problems and they were also useful as some of the statements made by these leaders were worthy of consideration. He further commented that we move from one major conference to another, pronouncing with lofty intention global action programmes, but we have never satisfactorily made available the means of their implementation. Yet, if we stuck to the belief that a summit was not important simply because we had moved so far ahead, become developed and were therefore no longer bothered about others, then we could lose friends. Governments he said, need friends, and they can never know when they might need them - that is why we pay attention to these conferences.⁴⁷

Indeed it is difficult to imagine what would have happened if Malaysia had not gone to Rio. No country can defend its interests if it is not on the battlefield. Roddick contends that without the South's pressure, the weak agreements would have been much weaker or in some cases, not existed at all.⁴⁸

⁴⁷Comments by Dr. Mahathir Mohamad in New Straits Times, Malaysia, 14 March, 1995.

⁴⁸J. Roddick, Science, Technology & Development (1992), op.cit., p.349.

It can also be said that Malaysia's active involvement in the UNCED debate reflected a developing country's maturing foreign policy. Malaysia had benefitted from the vast experience in multilateral negotiations afforded by the numerous conferences and meetings conducted by the United Nations. These conferences provided a training ground for its officials while the multi-thematic and multi-sectoral aspects of these conferences enabled officials outside the Foreign Ministry to get a taste of multilateral diplomacy. The Malaysian negotiators had come to UNCED fully prepared. Despite facing the constraints of a small delegation, the negotiators were adequately briefed by the technical experts back home. They were also certain of their priorities and were well-informed of the minimum position they could take during negotiations. Their constant interaction with the delegations from both the North and South also enhanced the sophistication of their arguments. UNCED has shown that Malaysian negotiators can adapt and accommodate when the situation demands, and are capable of playing their part within the limits of their instructions. For the Malaysian negotiators at UNCED, it was definitely not a question of referring to the home office all the time.

Talk is cheap, so the saying goes. But having done the talking, the difficult part is translating words into action. Malaysia was the first country to hold a national conference to evaluate the outcome of the Rio Summit. A two-day meeting, held on 7 - 8 September, 1992, was attended by the Prime Minister, several ministers, senior civil servants, representatives of the business community, the media and NGOs. The Prime Minister

noted that Malaysia's stand on the environment has changed so much in the last three years that the Government was now sitting with NGOs - once its "worst enemies".⁴⁹

At the conference, two points were consistently raised by the participants - overlogging and the pollution of water resources. Most participants appeared quite unprepared to defend logging as it was taking place in Sarawak, Sabah and to a certain extent, some peninsular states. Ambassador Razali Ismail stressed that it was in logging that Malaysia's credibility was at stake. He added that having taken a strong stand at UNCED, Malaysia would be the focus of attention by all concerned parties and, with satellite technology at their disposal, the critics might know much more than they about what was happening to Malaysia's forests.⁵⁰

The conference also called for an integrated approach between the federal government and the states and for closer coordination between government agencies in order to implement the Rio decisions. It cautioned against pressure from the North to impose its own definition of sustainability. As a developing country, Malaysia viewed sustainable development as an evolutionary process that would be phased in within short, medium and long-term time frames. Sustainable development should also be taught at institutions of higher learning as well

⁴⁹A.Kadir Jasin, 'Always with the Environment at Heart', New Sunday Times, Kuala Lumpur, 20 September, 1992.

⁵⁰ibid.

as training institutions which should train public servants better to be able to face the challenges ahead.⁵¹

Thus, Malaysia took the first steps towards implementing Agenda 21. During an informal discussion with participants at the closing of the conference, the Prime Minister reflected that being vocal at the international platform on environmental issues has made Malaysia the focus of attention and scrutiny of others and it was important that it had the resilience to deal with them. He cautioned that Malaysia should set its own standards on the environment which must be consistent with the country's need to continue its development towards the objective of Vision 2020 as well as its own system, values and culture. He stressed that it was important to maintain a balance between environmental imperatives and developmental priorities and that Malaysia should not be extremist in promoting environmentalism.⁵²

THE FUTURE OF UNCED: THE ROLE OF THE COMMISSION ON SUSTAINABLE DEVELOPMENT (CSD)

UNCED might well have ended at Rio had it not been for the creation of the Commission on Sustainable Development. The CSD was set up with a dual purpose of monitoring and reviewing the

⁵¹ 'Malaysia and UNCED - The Road from Rio', Seminar Report prepared by the National Steering Committee, Ministry of Foreign Affairs, 1993, pp.14 - 15.

⁵² 'Informal discussion with the Prime Minister', held at the closing session of the National Seminar, 8 September, 1992. Vision 2020 refers to Malaysia's objective of becoming a developed country by the year 2020.

implementation of Agenda 21 as well as coordinating the activities of the UN Specialised Agencies on sustainable development. With its creation, it is now difficult to imagine environmental concerns disappearing completely from the agenda of governments are now tied into a continuing and institutionalised process where regular meetings and further negotiations will keep the UNCED issues alive. How successful this follow-up process is will depend largely on the effectiveness of this new institution in terms of fulfilling its mandate.

The CSD is a meeting of government representatives, not an executive body.⁵³ It is expected to receive reports on the implementation of Agenda 21 by governments at national levels. It will also coordinate agreements such as the Climate and Biodiversity Conventions, Montreal Protocol and others. Beyond these functions, the CSD is also the forum where governments can keep under negotiation those aspects of the Earth Summit agenda on which they failed to reach full agreement at Rio, namely, finance, technology transfer as well as trade and consumption patterns. The CSD also has responsibility for updating Agenda 21 as required.⁵⁴

The first meeting of the CSD was held exactly a year after Rio. Inter-sessional groups on finance and technology transfer were established as well as an Inter-Agency Committee on

⁵³ J.Roddick, 'Second Session on the Commission on Sustainable Development', Environmental Politics, Vol.3, No.3, 1994.

⁵⁴ ibid.

Sustainable Development that includes a group of nine UN agency representatives chaired by the Under-Secretary-General of a new Department of Policy Coordination and Sustainable Development.

It is difficult to see how the new Commission, which is bogged down in the UN bureaucracy, can monitor, much less coordinate and review the activities of the UN Specialised Agencies, including the Bretton Woods institutions. It is a well known fact that the Specialised Agencies have continued to pay far more attention to the edicts of their own governing bodies than to any New York-based coordinating machinery. The major World Bank donors have been even more reluctant to allow the UN any kind of supervisory role in its affairs.⁵⁵ Roddick cited yet another area of difficulty where early efforts of the CSD to secure a rapprochement between UN organisations and the newly created World Trade Organisation (WTO) received a blow in November 1994 when the latter formally refused to accept a UN status.⁵⁶

While it may appear to be too early to judge UNCED from the outcome of the recent sessions of the CSD, serious questions have been consistently raised and cannot be taken lightly. The commitments that were made at Rio remain at risk primarily for the lack of the means of implementation. Indications are that the level of resources under the ODA has fallen, rather than increased, causing a genuine concern in the South that the Rio compact is being diluted and applied selectively. It is

⁵⁵ Stanley Johnson, The Earth Summit (1993), op.cit., p.488.

⁵⁶ J. Roddick, mimeo (1995), op.cit.

depressing to note the General Assembly, the Second Committee, ECOSOC and the CSD meetings repeating the old clashes over the political control of environmental institutions, over the amount and management of transferred resources and over the meaning of sustainability. This could well be a factor contributing to the declining interest among NGOs in issues covered by the CSD. Even the media does not display much interest, even though Rio was a highly memorable media event that generated global awareness.⁵⁷ What is more, attending meetings which do not produce results poses heavy strains on developing countries' participants as well as the South's NGOs.

The challenge for the CSD is overwhelming. With no power to legislate or to enforce its decisions and no desire to become a "watchdog", CSD's success will depend on its effectiveness in mobilising the political will necessary to move the Rio agenda forward.⁵⁸ The potential lies in the willingness of both the North and the South to create a genuine partnership and trust in addressing the wider issues of inequality and maldistribution of resources.

CONCLUSION

The general comment about the Earth Summit is that in terms of substance, it has not changed anything. In terms of money and time spent on the whole process, it was an inefficient exercise. The developing countries felt the pinch because, with their

⁵⁷ Personal interview.

⁵⁸ Environment, December, 1994.

limited resources and expertise, a lot of time was put aside for UNCED, which in the end came to very little. This is because the nation-state is still obsessed with the concept of sovereignty and national interest. The failure to make progress is due to the disagreement over priorities and over the relative importance of different social values which motivated the behaviour of governments during the lengthy negotiation. Unlike the Multilateral Trade Negotiations such as the Kennedy or the Tokyo Rounds which were conducted in a milieu of liberal values, there was very little evidence to suggest that governments at UNCED were willing to yield their sovereignty for the sake of community interests.⁵⁹

This thesis has argued that, in spite of NGOs participation and the hype and publicity given to UNCED which attracted scientists, academicians, journalists and the business community, it remained a conference of practitioners. Although more than 3,000 NGOs were accredited to UNCED and over 20,000 attended the alternative NGO event, there was not much interaction between them and the governments. Nor was the UN mechanism ready to include them physically in the process. The NGOs and other pressure groups may have in one way or another helped shaped the agenda, but the agreements that were eventually arrived at were negotiated by the practitioners who were representing their governments and thus defending their

⁵⁹ In his assessment of the Kennedy and Tokyo Rounds; Winham accounted the success of these negotiations on the environment of liberal values within which the negotiations were conducted. Participants at these meetings placed a high priority on maintaining a liberal, open trading regime and consequently were able to achieve this end. See G.R. Winham (1986), op.cit.

national interests. Many have suggested that it would be imprudent to predict the withering away of the nation-state because nation-states will remain key actors, even if their interests, identities and power are rendered problematic by the growing importance of non-state actors.⁶⁰

UNCED poses a challenge to the UN. The world organisation appears to have relatively little influence in determining the course of world politics. The repetition of discussions about the same issues at the General Assembly, the Second Committee, ECOSOC and the CSD gives the impression that the UN is too much of a 'talk shop' where little of practical importance gets done. While this may be true, diplomats at the UN in particular, would agree that in the UN process as a whole, the medium is often more important than the message. The UN system permits all sides to express their opinions from a position of sovereign equality. Major powers are forced to take into consideration the contrasting views of many other countries, however weak these other countries may be. This creates equitable dialogue, better understanding of the differences among their positions, thus placing them in a better position to adjust their own policies or to reconsider their options.⁶¹ In the same light, A.J.R. Groom relates that although governments will always indulge in selfish and single-minded pursuit of self-interest, relations

⁶⁰ A view shared by Paul Taylor (1984) *op.cit.*, pp.3-4, Steve Smith (Environmental Politics, 1993), Alan James (RIS, 1989), Hedley Bull, *The Anarchical Society*, (UK: Macmillan, 1977), K. Waltz, *Theory of International Politics*, (New York: Random House, 1979), amongst others.

⁶¹ Tariq Osman Hyder (1994), *op.cit.*, pp. 203-204.

have a dimension of time. While it is possible to be selfish, or to cheat in an isolated relationship and get away with it, if the relationship continues, these would incur costs which may in the long run far outweigh short-term advantage. And since few actors are comfortably self-sufficient, all governments will rely to a certain extent on services best provided by the international community in some form.⁶²

Moreover, multilateralism is not the only way out to solving the ecological problems. Rio has shown that one must not delegate the solution of global, social and ecological problems to international diplomacy alone. There is already a considerable intermix, a veritable web of bilateral, regional and multilateral relationships among countries.

This thesis demonstrated that Malaysia assumed an active role at UNCED and was a dominant 'veto' power in many issues which affected its national resources and sovereignty. It showed that it had come into the international arena prepared, given the preparation it did at home and the support it received through galvanising the position of the South. At UNCED, Malaysia strove to influence events at the multilateral level in defence of its economic and national interests as well as in promoting an image abroad. This last point is important as it reflects a quest for identity, without which there is likely to be no notion of self or no self-respect.⁶³ Given its drawbacks, the Malaysian Prime Minister admitted that the UN may be

⁶² A.J.R. Groom (1989), *op.cit.*, p.289.

⁶³ A.J.R. Groom (1978), *op.cit.*

cumbersome and some members can be unreasonable. But it is the only true representative body of countries in the world; it can be improved but it cannot be bypassed[...] And when all is said and done, we still have to admit that the United Nations is the only truly multilateral organisation where the voices of small countries can be heard.⁶⁴ There is after all no pure and effective multilateralism.

⁶⁴Dr. Mahathir Mohamad, Speech at the 50th UNGA, September, 1995.

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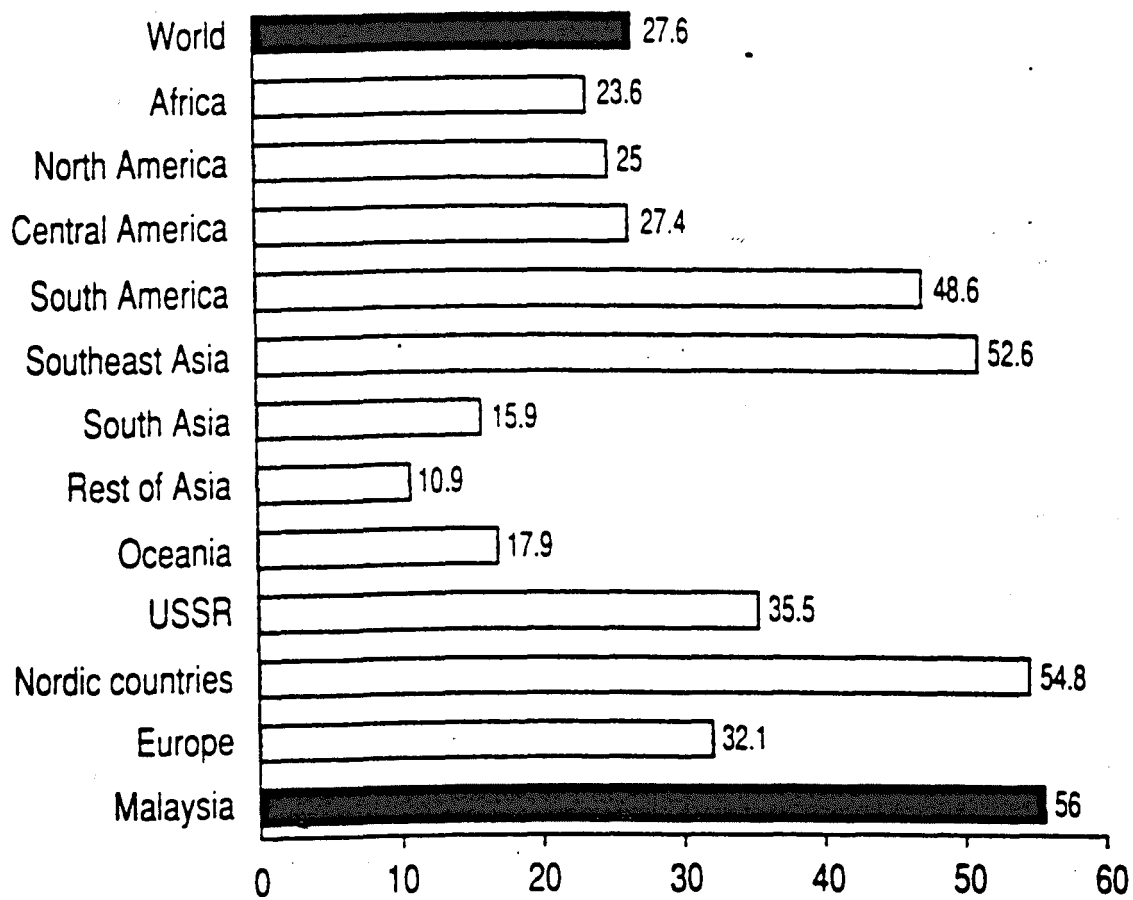
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FOREST COVER AS A PERCENTAGE OF LAND AREA



Source: See Appendix

Appendix: Forest Cover in Countries of the World

Continent/ country	Total land area (^{'000} km ²)	Total forested area (^{'000} km ²)	Percentage forest cover (%)
AFRICA			
Algeria	2,382	18	0.8
Angola	1,247	536	43.0
Benin	111	39	35.1
Botswana	567	326	57.5
Burkina Faso	274	47	17.2
Burundi	26	0	0.0
Cameroon	469	233	49.7
Central Africa Republic	623	359	57.6
Chad	1,259	135	10.7
Congo	342	213	62.3
Cote d'Ivoire	318	98	30.8
Egypt	995	0	0.0
Ethiopia	1,101	272	24.7
Gabon	258	206	79.8
Gambia	10	2	20.0
Ghana	230	87	37.8
Guinea	246	107	43.5
Kenya	569	24	4.2
Lesotho	30	0	0.0
Liberia	96	20	20.8
Libya	1,760	2	0.1
Madagascar	582	132	22.7
Malawi	94	43	45.7
Mali	1,220	73	6.0
Mauritania	1,030	6	0.6
Morocco	446	36	8.0
Mozambique	784	154	19.6
Namibia	823	184	22.4
Niger	1,267	26	2.1
Nigeria	911	148	16.2
Rwanda	25	10	40.0
Senegal	192	11	5.7

Continent/ country	Total land area (^{'000} km ²)	Total forested area (^{'000} km ²)	Percentage forest cover (%)
Sierra Leone	72	21	29.2
Somalia	627	91	14.5
South Africa	1,221	14	1.1
Sudan	2,376	477	20.1
Tanzania	886	420	47.4
Togo	54	17	31.5
Tunisia	155	3	1.9
Uganda	200	60	30.0
Zaire	2,268	1,776	78.3
Zambia	741	295	39.8
Zimbabwe	387	198	51.2

AMERICA

Argentina	2,737	451	16.5
Bolivia	1,084	564	52.0
Brazil	8,457	5,145	60.8
Canada	9,221	2,641	28.6
Chile	749	84	11.2
Colombia	1,039	517	49.8
Costa Rica	51	18	35.3
Dominican Republic	48	6	12.5
Ecuador	277	147	53.1
El Salvador	21	1	4.8
Falkland Islands	12	0	0.0
Guatemala	108	45	41.7
Guyana	215	178	83.0
Haiti	28	0	0.0
Honduras	112	40	35.7
Mexico	1,923	484	25.2
Nicaragua	119	45	37.8
Panama	76	42	55.3
Paraguay	397	197	49.6
Peru	1,280	706	55.2
Suriname	162	157	97.0

Continent/ country	Total land area (^{'000} km ²)	Total forested area (^{'000} km ²)	Percentage forest cover (%)
Uruguay	174	6	3.6
USA	9,167	1,953	21.3
Venezuela	882	339	38.4
ASIA			
Afghanistan	648	12	1.9
Bangladesh	134	25	18.7
Bhutan	47	21	44.7
Burma	658	314	47.7
China	9,326	1,150	12.3
Democratic Korea	121	91	75.0
Democratic Yemen	290	15	5.0
India	2,978	640	21.5
Indonesia	1,812	1,170	64.6
Iran	1,636	38	2.3
Iraq	434	12	2.8
Israel	20	1	5.0
Japan	376	253	67.3
Jordan	97	1	0.7
Kampuchea	177	126	71.2
Korea	98	49	50.0
Kuwait	18	0	0.0
Laos	231	136	58.9
Lebanon	10	0	4.0
Malaysia	329	185	56.2
Mongolia	1,565	95	6.1
Nepal	137	21	15.3
Oman	212	0	0.0
Pakistan	771	25	3.2
Philippines	298	95	31.9
Qatar	11	0	0.0
Saudi Arabia	2,150	2	0.1
Sri Lanka	65	17	26.2
Syria	184	2	1.0

Continent/ country	Total land area (^{'000} km ²)	Total forested area (^{'000} km ²)	Percentage forest cover (%)
Thailand	512	157	30.7
Turkey	771	202	26.2
UAE	84	0	0.0
Vietnam	325	101	31.1
Yemen	195	0	0.0
EUROPE			
Albania	27	9	34.4
Austria	83	38	45.2
Belgium	33	6	18.2
Bulgaria	111	34	30.6
Czechoslovakia	125	44	35.4
Denmark	42	5	11.2
Finland	305	230	75.4
France	546	139	25.4
Germany	350	97	27.7
Greece	131	25	19.2
Hungary	92	16	17.5
Iceland	100	0	0.0
Ireland	69	4	5.1
Italy	294	64	21.6
Netherlands	34	3	8.5
Norway	308	80	26.0
Poland	305	86	28.2
Portugal	92	26	28.6
Romania	230	62	26.9
Spain	499	160	32.1
Sweden	412	270	65.5
Switzerland	40	9	23.5
United Kingdom	242	20	8.3
USSR	22,272	7,916	35.5
Yugoslavia	255	91	35.7

Continent/ country	Total land area (^{'000} km ²)	Total forested area (^{'000} km ²)	Percentage forest cover (%)
OCEANIA			
Australia	7,618	1,070	14.0
New Zealand	269	71	26.2
Papua New Guinea	452	356	78.8

DATA SOURCES:

Land areas for all countries are taken from UNEP, 1989: *Environmental Data Report 1989/90*, Blackwell Ltd, UK. The list is not comprehensive. Small countries are excluded. Forest areas in temperate and boreal countries, except for the Nordic countries, are from Allan, T and J P Lanly, 1990: 'Global Overview Status and Trends of World's Forests', FAO, Rome; these do not include wooded lands. Greenland is excluded. Forest areas in remaining countries are from World Bank, 1991: *World Development Report*, Oxford University Press, and refer to total forest cover.