



Conference Report

ENVIRONMENTAL DIPLOMACY

Washington, D.C.
18 November 1998

American Institute for
Contemporary German Studies
The Johns Hopkins University



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ISBN0-941441-39-3

This AICGS Conference Report paper is made possible through grants from the Heinrich Böll Foundation and the German Marshall Fund of the U.S. Additional copies are available at \$5.00 each to cover postage and processing from the American Institute for Contemporary German Studies, Suite 420, 1400 16th Street, NW, Washington, D.C. 20036-2217. Telephone 202/332-9312, Fax 202/265-9531, E-mail: aicgsdoc@jhunix.hcf.jhu.edu, Web: <http://www.jhu.edu/~aicgsdoc/>

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FOREWORD

On November 18, the Heinrich Böll Foundation and the American Institute for Contemporary German Studies organized a conference on “Environmental Diplomacy.” The conference was held a few days after the 4th Conference of the Parties of the UN Climate Convention in Argentina. Several negotiators and non-governmental (NGO) representatives from the U.S. as well as from Europe were able to join us and to provide their first hand insight into one of the most complex diplomatic processes of the nineties. Frank Loy, undersecretary of state for Global Affairs, addressed the group following the conference with his interpretation of the climate summit in Buenos Aires.

Environmental policy has become one of the pillars of international cooperation in the post-Cold War era. Environmental regimes are intertwined with other areas of cooperation such as the international trade system and global financial institutions. The relationship between international environmental regimes and other multilateral treaties and institutions is characterized by conflict as well as by cooperation. In the past, economic interests have often prevailed over environmental considerations.

The objectives of our conference were as follows:

- Define the importance of international environmental cooperation in the post-Cold War era.
- Discuss the relationship between environmental policy and the international trade and financial regimes and institutions.
- Draw conclusions for the future of the transatlantic relations and specifically for the prospects of an environmental dialogue as part of the New Transatlantic Agenda.

The conference brought together high-level policymakers, representatives of non-governmental organizations and experts from Germany, the European Union and the United States. This report contains some of the presentations made during the conference.

Ambassador Richard Benedick, the U.S. chief negotiator for the Montreal Protocol on Ozone Depletion, describes how a new generation of environmental dangers triggered a “virtual explosion” of multilateral environmental negotiations and put environmental diplomacy centerstage. Benedick describes the preconditions for making environmental negotiations a success and highlights the positive role model of the Montreal Protocol.

Hillary French, vice president for research of the Washington based Worldwatch Institute, notes that as the number of environmental treaties continues to grow, the condition of the biosphere is nevertheless steadily deteriorating. French therefore proposes to link existing environmental treaties and to better integrate environmental diplomacy with traditional areas of foreign relations.

Sunita Narain, deputy director of the New Dehli-based Center for Science and Environment, describes the rise of non-governmental organizations in the international environmental negotiations. However, Narain deplores that most actors in environmental negotiations, including governments and non-governmental actors, have chosen a too technocratic approach to environmental problems and lack clear principles and idealism.

Claude Weinber, the representative of the Heinrich Böll Foundation in Israel, gives a view from the Middle East where environmental problems are intrinsically intertwined with the political crisis of the region, but can offer a new understanding of the ongoing peace process. Weinber identifies potential environmental risks in the economic development plan of the peace agreement and concludes that a peace agreement based on the exploitation of environmental resources will not be sustainable.

The relationship between “Environmental Regulations and International Trade” is highlighted by the contributions from Frank Biermann, Peter Fuchs and Brennan van Dyke.

Peter Fuchs, a spokesperson of the German environmental NGOs working on trade and environment, and Brennan van Dyke of the Center for International Environmental Law argue that the liberalization of international trade rules has come at a cost to environmental concerns and that national as well as international environmental legislation has often been overruled by trade agreements. Both plead for a more balanced relationship between trade and environmental legislation.

Frank Biermann, a scientist at the Global Environmental Assessment Project of the Belfer Center for Science and International Affairs at Harvard University, argues that many environmentalists see the link between trade and environment, but draw false conclusions. Biermann argues that trade restrictions based on environmental considerations are only justifiable when the different responsibilities and capabilities of all parties have been taken into account.

Another case study was dedicated to the relationship between environmental regulations and the international financial regimes.

Wolfgang Schmitt, who advises the German Green Party on international economic affairs, lays out the current policies of the World Bank and the International Monetary Fund and analyzes their deficits. Schmitt asks to which

extent environmental NGOs should interfere with those policies and how the intervention into the development concepts of Third World countries can be legitimized.

Andrea Durbin, director of the International Program of Friends of the Earth U.S., lays out the reform proposals of the environmental NGO community for the international financial institutions.

Finally, John Hontelez, director of the European Environmental Bureau, a federation of 127 European environmental organizations, highlights the importance of environmental diplomacy in transatlantic relations. Hontelez shows that environmental leadership has been exercised alternately on both sides of the Atlantic, but the ongoing transatlantic dialogue focuses too much on a business partnership and needs a stronger environmental component.

Other conference speakers included Jonathan Margolis and Frank Finel of the U.S. Department of State, David Festa and Skip Jones of the U.S. Department of Commerce, Kurt Fuller of USAID and John Audley of the National Wildlife Federation.

The four conference panels were skillfully facilitated by Marianne Ginsburg of The German Marshall Fund, Steve Silvia of the School of International Services at the American University, Ellen Alradi of the Heinrich Böll Foundation, and Carl Lankowski of AICGS.

The conference results and this publication are adequately summarized by Congressman Dennis Kucinich (D-Ohio) who puts environmental diplomacy into the context of globalization and strongly advocates a leadership role of the industrialized countries in overcoming the contradiction between our present economic model and sustainable development. Kucinich concludes: "Economic and environmental issues are closely linked. If we do not protect our environment, we diminish our chances for economic prosperity."

We wish to express our gratitude to the German Marshall Fund of the United States for its support of the conference and to the staffs of the Böll Foundation and AICGS for their efforts to make our conference a success.

Sascha Müller-Kraenner
Director
Heinrich Böll Foundation

Jackson Janes
Executive Director
AICGS

February 1999

OPENING REMARKS

Sascha Müller-Kraenner

Let me first begin with a few words about the Heinrich Böll Foundation, joint sponsor of today's conference with the American Institute for Contemporary Studies. The Heinrich Böll Foundation is associated with the German Green Party. The Foundation was created in 1988 and today runs a network of twelve offices worldwide with headquarters in Berlin. Our Washington, D.C. office opened in September 1998 and is part of a broader effort of the Foundation and the German Green Party to add a Green component to the transatlantic dialogue.

This conference on "Environmental Diplomacy" is our first major event. Which raises the question: Why do we begin our life in as busy a place as Washington, D.C. with a seemingly remote issue like environmental diplomacy?

First, the environment is at the heart of our political approach. The German Green Party is not only an environmental party—it would not exist without its roots in the environmental movement.

As we have struggled to make German policies greener—not only since we have entered the Federal Government, but through years of experience in municipalities and state governments—we have realized that some very important environmental problems demand solutions which transgress our national boundaries. The answer to this is international environmental cooperation or—in other words—environmental diplomacy.

To illustrate this point: 50 percent of Germany's environmental legislation now comes from the European Union. EU environmental legislation became necessary with the increased integration of Europe's internal market. Environmental policy sets the frame for economic activities, and harmonized environmental standards create a level playing field for business in different EU member states.

Harmonized standards do not necessarily mean that the same standards have to be applied everywhere. Just as in music where harmony consists of different tones which fit well together, harmonization in environmental policy should mean that different standards, methods and instruments apply to different situations. In the end, those different solutions should lead to common environmental quality standards.

As everyone in the business of international environmental policy knows, harmonization of environmental standards—especially when we are talking about upwards harmonization—does not come easy. On the agenda of national interest, security concerns normally come first, economic interest follow a close

second and environmental questions are considered to be a rather remote issue which can be dropped if other seemingly more important issues are at stake.

Environmental diplomacy was first talked about after the end of the Cold War, when everyone dreamed about shedding the peace dividend and addressing global change questions like the economic development of the South, population growth, the spread of democracy and human rights, and last but not least the looming global environmental crisis.

Environment and development policy were put at the top of the international agenda in 1992, when the United Nations organized the Earth Summit in Rio, the largest meeting of heads of state and government ever. But the spirit of Rio did not prevail. The Rio paradigm of sustainable development was overshadowed by another global trend, the rapidly growing economies in Asia and Latin America and the economic crisis in Western Europe. This phenomenon was referred to as globalization. Globalization has removed the global environmental crisis from the agenda of the world's political leadership.

Therefore the purpose of this conference is also agenda setting—we want to get environmental policy back on the agenda of international cooperation.

Second, there is a much more concrete reason for inviting you to this conference. As of October 27, Germany has a Green Foreign Minister. The question a lot of people have asked me since is: “What’s so green about foreign policy?” Now I have to turn to the panelists and hope that they will find out.

DIPLOMACY FOR THE ENVIRONMENT

Richard E. Benedick

THE NEW GENERATION OF ENVIRONMENTAL DANGERS

In recent years, scientific warnings have been accumulating that the impacts on the environment of the enormous economic expansion and prosperity of the last half-century are beginning to upset delicate natural cycles upon which all life on Planet Earth depends. Unprecedented growth in population, in consumption, and in use of land and other natural resources have had the unintended effect of bringing forth a new generation of environmental problems that are significantly different from those of the past.

Twenty to thirty years ago, the nascent environmental movement was fully preoccupied with such essentially localized issues as urban air pollution, unsafe water supplies, and waste disposal. These problems are, to be sure, still relevant—most particularly in developing and newly industrializing countries of the South.

However, the environmental challenges of which we have become more recently aware are quite different in scope. Climate change—thinning of the stratospheric ozone layer—spread of drylands and soil erosion—pollution of oceans and depletion of fish stocks—massive destruction of forests—widespread extinction of plant and animal species—persistent organic pollutants that spread their poison all over the globe: these problems represent a new kind of threat to human well-being. Interrelationships among these apparently disparate issues exist in the form of common causal factors and physical, chemical and biological feedbacks.

The global dimensions of the risks have awakened calls for more far-reaching solutions, for new levels of international cooperation. It has become evident that no nation or group of nations, however politically powerful or economically strong, can by themselves solve these planetary problems. The following citation is representative of a new sense of alarm over the ecological situation:

“(T)oday’s environmental problems are too critical to be dealt with solely through measures to prevent industrial pollution. . . .(S)ociety itself must be fundamentally changed. We must radically revise various social and economic systems. . . .The task before us is not merely one of rethinking the problems caused by the pursuit of affluence in a culture that encourages mass consumption; we must also come to grips with the global problems of poverty and population increase. . . .People

throughout the world must join hands to create new social and economic systems.”

These sentiments are not the product of a radical environmental movement. Rather, they come from the 1991 “Global Environmental Charter” of *Keidanren*, the association of Japanese industry—not normally a hotbed of extremism.

DIPLOMATIC INITIATIVES

The past few years have witnessed a virtual explosion of multilateral negotiations aimed at addressing the new global environmental issues. These include the 1985 Vienna Convention on Protecting the Ozone Layer; the 1987 Montreal Protocol on Substances That Deplete the Ozone Layer; the 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes; the establishment in 1991 of the Global Environment Facility; the 1992 UN Conference on Environment and Development, and its offshoots, Agenda 21 and the Commission on Sustainable Development; the 1992 UN Framework Convention on Climate Change; the 1992 Convention on Biological Diversity; the 1993 UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks; the 1994 UN Conference on Sustainable Development of Small Island Developing States; the 1994 UN Convention to Combat Decertification; the 1994 International Conference on Population and Development; the 1997 Kyoto Protocol on Climate Change; and numerous intergovernmental negotiations and working groups on such subjects as sustainable forest management, land and water resources, economic instruments, and biotechnology.

These were not one-time events, but rather, in most cases, they have launched an ongoing process of reporting and review of national policies and scientific evidence. Institutional frameworks, backed by permanent secretariats and expert groups, have been established in support of continuing negotiations that appraise and refine national commitments in light of changing knowledge and conditions. Taken together, all of this can be viewed as a still-evolving system of international governance of the environment.

Environmental diplomacy truly came of age at the 1992 UN Conference on Environment and Development (UNCED) in Rio de Janeiro. Also known as the “Earth Summit,” UNCED was the largest gathering of heads of state ever held up to that time: nearly 180 nations participated, 118 at head-of-state level. In addition, there were dozens of United Nations and other intergovernmental organizations, plus thousands of observers representing hundreds of nongovernmental organizations and media sources from every corner of the world.

Paradoxically, at Rio the environment ministers themselves lost control over

their own domain. Even as the environment captured global headlines for the first time over a sustained period, the subject matter itself became too important to be left to “environmentalists.” The forty chapters of “Agenda 21,” negotiated during two years of preparations for the Rio conference, covered nearly every realm of human experience. Foreign ministries increasingly took over the issue, while other parts of government—notably finance, economics, science, energy, agriculture, and development cooperation ministries—hastened to buttress their own competence in environmental themes. Special ambassadors were commissioned to coordinate and oversee the increasingly complicated negotiations, which required expertise not only in traditional ecological subjects, but also in economics, finance, technology, and often arcane branches of science.

As a consequence of the UNCED process, foreign offices and finance ministries could no longer dismiss environmental concerns as irrelevant to “grand” aspects of national policy. It became clear that everyone has a stake in the condition of the environment. Most countries have by now established national councils on sustainable development that bring together relevant ministries as well as local governments and citizens’ groups.

UNCED was not a culmination, but rather a milestone along a diplomatic pathway that began a decade earlier. In many ways, the road to Rio began with the initiation of negotiations in 1982 that led to the signing of the Montreal Protocol in 1987. The ozone protocol was the first international agreement to mandate worldwide preventative actions *before* any environmental harm had occurred: the treaty was designed to protect human health and the environment against future threats that were at the time largely still in the realm of unproven scientific theory. The accord contained unprecedented provisions that significantly influenced future environmental negotiations and that, taken together, represented a sea-change in international diplomacy.

At least five major factors distinguish the new environmental diplomacy: (1) the nature of the subject matter; (2) the role of science and scientists; (3) the complexity of the negotiations; (4) the unique equity issues involved; and (5) innovative features and approaches. Let us consider each of these in turn.

Future Dangers

The ecological challenges of our time share several common characteristics. They are caused by human activities: a consequence of modern patterns of production and consumption, compounded by an unprecedented growth in human population. The dangers are global in scope, crossing national boundaries and affecting all peoples. They are slow in developing, with a gradual cumulation of relatively small impacts; for example, annual variations in global

temperature are tiny and are frequently affected by transient non-anthropogenic influences such as volcanic eruptions and solar radiance. The predicted effects are long term, often far into the future. On the other hand, the potential damage to earth systems may be extremely difficult to mitigate, perhaps even irreversible, once they have become entrenched—witness the Antarctic “ozone hole” which, even after the strenuous measures of the Montreal Protocol, will take nearly a century to overcome.

The common factor that probably presents the most difficulties to politicians and policymakers is that these complex problems are characterized by a high degree of scientific uncertainty. Often the dangers are theoretical and remote, the evidence generally incomplete or contradictory. It is extremely difficult to measure, much less predict, long-term trends: for example, assessing the extent of species extinction is complicated by the fact that most species have not yet even been identified. Most of the causes of the new environmental threats are linked in some way to economic growth and development—use of fossil fuel energy, consumption and life-style, clearing forests for agriculture or industry, etc. Therefore, preventative policies will often involve substantial costs in the short term. Politicians are thus placed in the uncomfortable position of having to weigh short-term costs against long-term risks.

Finally, the nature of the problems themselves requires coordinated actions on a global scale. Ecological interdependence is perhaps even more extensive than the widely acknowledged economic interdependence among nations. Even if the industrialized countries were to cease using fossil fuels, this would not be sufficient to halt impending climate change if the far more populous developing countries continue to clear forests and burn cheap coal and oil to fuel their growing economies. New forms of cooperation among nations are necessary—hence, an environmental diplomacy.

Critical Science

Science and scientists have a role of unprecedented importance in the new environmental diplomacy. The complexity of analyzing global environmental issues has generated research at the frontiers of modern science. Theoretical models of interconnected trends for decades into the future are analyzed on supercomputers. Satellites and rocket-launched instruments measure trace gases in the atmosphere at levels of parts per trillion volume. Negotiations over recent years on the ozone layer alone involved not only stratospheric chemists, physicists, and meteorologists, but also microbiologists, agricultural chemists, oncologists, physical chemists, soil engineers, pharmacologists, rocket scientists, chemical engineers, oceanologists, entomologists, and many other specialists in the natural sciences.

In the face of incomplete scientific evidence, it becomes necessary to forge an international scientific consensus on the timing and extent of future dangers and on the feasibility of alternative mitigation strategies. The Scientific Assessment Panel on Stratospheric Ozone and the Intergovernmental Panel on Climate Change have involved thousands of scientists from around the world over a period of many years in a continual round of workshops, research seminars and peer-reviewed papers.

In this process, scientists must occasionally emerge from their laboratories and offer judgments on the policy implications of their findings. Sharing the political limelight with policymakers is an unaccustomed role that may occasionally be uncomfortable for a scientist. Nevertheless, the fruitful interaction between scientists and diplomats proved to be an indispensable element in the success of the Montreal ozone protocol. Never before have so many scientists played such a prominent and continuing role on the international stage as in the new environmental diplomacy.

Complex Negotiations

It is often forgotten that only twenty-four nations signed the Montreal Protocol in September 1987. Less than five years later in Rio de Janeiro, more than 150 nations signed both the climate change and the biodiversity conventions. By the mid-1990s it has become common for up to 180 nation-states, not to mention dozens of intergovernmental organizations, to take part in environmental negotiations.

Similarly, nongovernmental actors in unprecedented numbers are finding roles in the new multilateral diplomacy. In 1985, the only NGO observers at the signing of the Vienna Convention were three industrial associations—not a single environmental group was present.

In 1990, as negotiations continued on strengthening the Montreal Protocol, an international network began to evolve consisting of NGOs concerned with the environment. These organizations became linked electronically on the Internet, enabling them to prepare and coordinate positions before and during negotiations in the same manner as government delegations. During the 1992 UNCED negotiations, hundreds of NGOs were active, representing the interests of environmentalists, women, religion, industry, science, academe, youth, labor, parliamentarians, indigenous people, agriculture, and local community governments. This development has been paralleled by a growing media interest that can attract thousands of journalists to a major international environmental conference.

All of this makes for increasingly complicated negotiations. For the traditional diplomat, it can mean negotiating in a goldfish bowl. Observers from

NGOs, parliaments, and media carefully monitor the diplomatic maneuvers, ever alert to signal their misgivings back to the home capital in an effort to influence the government's position in the ongoing negotiation. The sheer number of official governmental negotiating parties makes it imperative for the negotiation to be disaggregated into discrete topics, rather than attempting to resolve all outstanding issues in a single plenary or committee of the whole. Thus evolves a panoply of working groups, informal contact groups, smaller closed meetings of key delegations, as well as complementary meetings of nations from a given region or grouping (e.g., European Union), wherein like-minded countries attempt to hammer out common principles and positions in advance of the broader global negotiations.

The growing complexity of environmental issues is thus reflected in the structure of the negotiations. Negotiations for UNCED took place over a period of two-and-a-half years, with seven sessions of up to five weeks in duration. It has been estimated that the fourth and final preparatory meeting alone generated 24 million pages of documentation, much of which had to be translated and circulated in the six United Nations' languages (Arabic, Chinese, English, French, Russian, Spanish). Hundreds of papers were circulated by the secretariat, by national delegations, and by international agencies and NGOs. On a typical day, there were at least 20 separate meetings to deal with more than 70 different documents. These included two plenaries, eight informal meetings of three different working groups, nine (smaller) contact groups, and a briefing for NGOs.

Equity Concerns

Environmental diplomacy entails some rather unique issues of equity. The global environmental threats have their historical origins in the untrammled production and consumption over the last half-century of a relatively small number of industrialized nations. These approximately 35 countries have achieved remarkable levels of economic prosperity. But in the process they have inflicted great potential damage—albeit unintentionally—on the global commons, through their use of energy, their generation of hazardous wastes and chemicals, and their huge demand for forest products, beef cattle, fish supplies, and other natural resources.

The much greater number of poorer countries, which currently account for four-fifths of the world's population and over 90 percent of future population growth, are developing in the same economic patterns. These developing countries are thus imposing ever greater ecological strains on the planet, even as the industrialized nations become more sensitive of the need to change patterns of production and consumption. It is estimated, for example, that because of

developing countries' growing demand for energy, their emissions of greenhouse gases will surpass those of the North in about twenty years.

This situation has led to considerable mistrust between North and South. Most developing countries have argued that it is the responsibility of the rich nations to first change their own policies, while at the same time providing new and additional financial resources, as well as modern technologies, to the South. The poorer countries insist that their first priority must be to eliminate poverty and raise their standards of living. Occasionally, they seem to view considerations of environmental protection as a possible technique by the North to prevent the South from becoming competitive in the industrial sphere.

In actuality, both North and South have a common stake in the global environment. Countries of the South, precisely because of their relative poverty, their large and growing populations, and their relatively fragile ecological situation (e.g., farming marginal and arid lands), are more vulnerable to global change. Their populations will be the most affected by shifts in rainfall patterns, sea-level rise, increased storms and other extreme weather events, and the spread of dry lands. But, in turn, efforts by the richer countries to address the global problems will be swamped if the South cannot be persuaded to participate.

Questions of equity also exist, moreover, within these two categories of nations. In the South, for example, there are clearly conflicting interests between the members of the Organization of Petroleum Exporting Countries (OPEC) and those of the Alliance of Small Island States (AOSIS), which fear sea-level rise resulting from climate change due to burning of fossil fuel. Such rapidly industrializing nations as Brazil, China, India, Malaysia, Mexico, and Thailand also have very different interests from the poorer countries of Africa, Asia, and Central and South America.

There are significant differences as well among the industrialized countries, related to differing industrial structure, geography, and resource base. On the climate change/energy issue, for example, the European Union has strongly contrasting views from those of Canada, Australia, New Zealand, Japan, and the United States. There are also varying perspectives between industrialized countries of the West and the economies in transition of Central and Eastern Europe.

Even within a single nation, approaches to the environment can raise issues of equity between rich and poor, city dwellers and farmers, consumers and industrialists, or between different branches of industry and labor (e.g., coal producers and miners versus solar energy technologies).

Finally, there is the issue of intergenerational equity. To what extent should the current generation change its standard of living and incur short-term costs to pay for measures that will benefit future generations much more than them-

selves? Conversely, to what extent is it legitimate for the current generation to satisfy its own perceived needs, heedless of the possibly dangerous legacy it may leave for future generations?

These various intertwining equity considerations lend a particular quality to the new environmental diplomacy and must be reflected in the options considered and the solutions negotiated.

Creative Diplomacy

An important innovation of the Montreal Protocol was the intentional design of its creators not to set the treaty in concrete—as is customary in diplomacy—but rather to provide for its continual revision in response to changing conditions. To this end, the treaty established an ongoing process of periodic reassessments of scientific knowledge, technological discoveries, and economic developments. These assessments were undertaken by an elaborate structure of international expert groups that interacted with the government negotiators. This enabled the protocol to be strengthened as scientific understanding of the threat to the ozone layer increased: the original list of controlled chemicals was expanded from 5 to over 95 and the time deadlines for phaseout were consistently tightened.

The Montreal Protocol also established the first special fund to assist developing countries in meeting their environmental commitments. Further, it created a unique, equitable voting procedure for decisionmaking in the absence of consensus, requiring separate majorities among industrialized and developing countries. These measures set important precedents for subsequent negotiations on the establishment of the Global Environment Facility as well as for the conventions dealing with climate change, biological diversity, and desertification.

Among other novel features of the ozone treaty were the threat of trade sanctions as a means to discourage countries from remaining outside the protocol, as well as a sensitive and innovative mechanism to monitor and remedy noncompliance. The noncompliance mechanism, which relies on consultation and assistance rather than confrontation and penalties, is particularly noteworthy in a world where one cannot send in “Green Berets” to enforce environmental obligations.

The Parties to the Montreal Protocol, in an unparalleled collaboration with the United Nations Environment Programme (UNEP), private industry in North and South, and numerous NGOs and research centers, established a pathbreaking institutional framework for the development and diffusion of a wide range of new technologies throughout the world. These efforts brought forth a wave of innovation, in the form of new chemicals, techniques, and processes to replace ozone depleting substances, that would have seemed inconceivable five years

earlier. As a result of this technological revolution, both industrialized and developing countries were enabled to cease production and consumption of the damaging substances even ahead of the protocol's timetable.

The Framework Convention on Climate Change is currently in the process of experimenting with innovative approaches to reduce greenhouse gas emissions, including tradable emissions permits and a "Clean Development Mechanism" to transfer technologies and enhance sinks for carbon dioxide.

In sum, because of the nature of their subjects and the scientific, technological, and equity considerations involved, the new environmental treaties are being designed as dynamic and flexible instruments rather than as static solutions.

CONCLUSION

The recent history of environmental negotiations reflects the reality that nations must work together in the face of global dangers, accepting a common responsibility for stewardship of the planet both for today's generation and for those that follow. In order to adequately address the global environmental threats, multilateral agreements must be forged that lead to new policies, new technologies, and new ways of reconciling economic well-being with protection of the environment. This will require an unprecedented degree of cooperation among governments, international agencies, private industry, and the full array of non-governmental groups.

As a British peer observed during 1988 debates over the Montreal Protocol in the House of Lords: "Politics is the art of taking good decisions on insufficient evidence." For the negotiators of modern international environmental agreements, this observation assumes the quality of a maxim.

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**HOW CAN WE RECONCILE THE SLOW PACE OF
INTERNATIONAL DIPLOMACY WITH THE GROWING
URGENCY OF GLOBAL ECOLOGICAL DECLINE**

Hillary French

On one level, environmental diplomacy seems clearly to have emerged as an integral component of international relations in the post-Cold War era. The more than 200 international environmental treaties now in place and numerous others that are under negotiation have generated a crowded schedule of international meetings that is keeping diplomats and non-governmental observers busy shuttling around the world. If success were measured by the number of treaties or the volume of diplomatic activity, it would look as though environmental diplomacy over the past few decades had been a spectacular success.

Yet as the number of treaties continues to climb, the condition of the biosphere is steadily deteriorating: carbon dioxide levels and global temperatures have reached record highs, scientists are warning that we are in the midst of a period of mass extinction of species, fisheries are depleted worldwide, and water shortages loom on every continent. We face a disconnect between a growing number of legal instruments, but a deteriorating global environment.

The question is: how can we reconcile the notoriously slow pace of international diplomacy with the growing urgency of global ecological decline? This will require grappling with the distinctive characteristics of environmental diplomacy, and adapting attitudes and strategies accordingly.

One major challenge is posed by the fact that the existing environmental conventions deal with interrelated issues, yet their work is poorly coordinated. Looking forward, we face a major question: what is the best way to organize this vital but increasingly complicated system of international environmental governance? As a first step, the U.N. Environment Program has been trying to coordinate the work of the various environmental conventions, particularly those for which it serves as the secretariat. In addition, the U.N. Development Program has launched a "synergies" initiative that aims to ensure a cross-fertilization of information among the various efforts to implement environmental conventions within developing countries.

A second major challenge results from the fact that environmental issues are increasingly intertwined with other more traditional areas of foreign relations, including trade and investment policies, development and human rights, and even military security. Integrating environmental issues into these other spheres is often essential for solving the problems at hand. But this integration is often resisted by those who hold different world views, and who fear that environmental issues will overburden their agendas.

Environmental issues break down along different political axes than those that predominated during the Cold War, posing further challenges for environmental diplomats. North-South conflicts are commonplace in environmental diplomacy, stemming primarily from sharply differing levels of material consumption, and concerns over how to equitably share the world's "ecological space." Yet tensions are also high among industrial countries more accustomed to being political allies, as evidenced by strong differences of opinion between the European Union and the United States over how best to implement the Kyoto Protocol, as well as simmering controversies over trade in genetically-modified organisms.

Environmental diplomacy is also characterized by complex linkages between foreign and domestic policy and politics. This is perhaps most evident in the climate change context, where the United States leads the world in emissions of greenhouse gases. The U.S. goal is thus not merely to influence the practices of other countries, as in traditional foreign policy challenges, but also to generate sufficient domestic support for implementing policy changes at home. In effect, the enemy is as much us as it is any foreign adversary.

The connections between foreign and domestic policy inherent in environmental diplomacy bring new actors to the fore. The business community, for example, has become an active participant in international environmental negotiations. It has the power to rally domestic support when it becomes convinced of the need for international action, as eventually happened with the 1987 Montreal Protocol on ozone depletion.

Yet the business community also has the power to stall progress. The Global Climate Coalition, for example, a coalition of businesses opposed to the climate treaty, has undertaken an extensive and highly misleading television advertising campaign aimed at undercutting public support for the Kyoto Protocol. This ability of industry groups to shape public opinion is a relatively new phenomenon, and a frightening one. The resources the business community commands can easily overwhelm the relatively modest efforts of non-governmental environmental groups.

It is encouraging that environmental diplomacy is being conducted at higher levels and with far more intensity than was typical just a few years ago. For example, President Clinton has raised environmental issues prominently during recent trips to Africa, China and Latin America. The heightened attention to environmental issues at high levels is a consequence of the growing urgency of global ecological decline, as well as the high economic stakes involved in the search for solutions. Too often, however, the U.S. government seems to attach highest priority to persuading other countries to change their policies, rather than recognizing that true leadership begins at home. The U.S. needs to lead by

example by reforming domestic policies. But we also need to adopt a more constructive approach towards international cooperation. Unfortunately, a deeply ingrained ambivalence in the United States Congress about international engagement has made it difficult for the United States to play a leadership role on global environmental issues.

The well-publicized hurdles the Kyoto Protocol faces in the U.S. Senate are unfortunately only the tip of the iceberg. The U.S. Senate has also not yet ratified the 1992 Convention on Biological Diversity, which 174 countries are now party to; the 1994 Convention on decertification, which has been ratified by 144 nations; the 1982 Law of the Sea, approved by 128 countries; or the 1989 Basel Convention on the export of hazardous wastes, ratified by 122 countries.

Successful environmental diplomacy requires a cooperative, multilateral approach, yet the U.S. negotiating stance too often mimics the unilateral model that predominated during the Cold War. The U.S. government, Congress, the business community, and non-governmental organizations all need to devote a higher priority to international environmental issues if the U.S. is to become a full and constructive player on the international stage. Meanwhile, other countries and groupings need to fill the current leadership vacuum and point the way to a more sustainable future. Healthy competition for the mantle of international environmental leadership is needed to reinvigorate global environmental diplomacy.

ENVIRONMENTAL DIPLOMACY IN AN UNEQUAL WORLD

Sunita Narain

I am grateful to the organizers, the Heinrich Böll Foundation and the American Institute for Contemporary German Studies, for inviting me to this panel and for giving me the opportunity to put forward our ideas.

Environmental diplomacy is clearly here to stay. It is an issue that concerns top leaders of the world. President Clinton is reported to discuss climate change with almost all political leaders he meets. The G-7 (or 8) summit is never complete without a communique on environment. Even the Non Aligned Movement (NAM) or the G-77 summit deliberate global environmental issues. **But, as yet, environmental diplomacy is a cause without concern.**

Few people realize that two processes of globalization are taking place simultaneously. One is the process of **economic globalization** pushed by the world's industrial corporations and the other is the process of **ecological globalization** pushed by the world's environmentalists. The former is driven by the fact that the northern markets are now saturated and thus there is a desperate search for new markets and, secondly, by the need to search for competitive advantage on a global scale, made increasingly feasible by the extraordinary changes taking place in communications technologies.

Meanwhile, ecological globalization is being driven by the fact that levels of production and consumption have reached a stage at which what one does in one's own country can have major impacts on neighboring countries or even on the rest of the world. Even simple things like using a refrigerator or an air conditioner can today help destroy the world's ozone layer; running an automobile or cutting a tree without planting another one can destabilize the world's climate. And, using a persistent organic compound like DDT in India can mean life-threatening pollution for human beings and other life forms in the remote polar regions of the world, these compounds being slowly but steadily carried to these regions by the world's oceanic currents and air streams. Never before have human beings needed to learn to live in "one world" as now.

As a result, the nations of the world are increasingly getting together to create systems of global economic and environmental governance—the former being best represented by the creation of the World Trade Organization and the latter by the numerous environmental treaties that have come into existence since the mid-1980s.

There are major shortcomings with these processes.

First, the two processes of globalization outlined above are not accompanied by any form of **political globalization**. As a result, no political leader has any interest to ensure that the emerging global market or the emerging global

ecological policy is managed in the best interest of the maximum number of people and on the basis of the principles of “good governance,” that is, equality, justice and democracy.

Secondly, there is no clear and transparent mechanism to integrate the two processes of economic and ecological globalization. But nations are doing so individually, often in a covert manner, through the positions they take to set the rules for the two processes of globalization. When leaders of nation-states meet to develop rules and regulations for economic globalization they take positions to derive the maximum economic benefits for their national economies. Whereas when they meet to develop rules and regulations for ecological globalization, they take positions which ensure that there would be either no costs or, at worst, the least possible costs to their individual national economies. For instance, companies insist that global ecological rules be set in a way that they do not reduce the competitiveness of some while increasing the competitiveness of others, which is called the “level playing field” principle. Even though the “polluter pays principle” is the key principle used within nations to manage the environment, this principle would mean high costs to industrialized economies and it is strongly opposed at the global level.

As a result of these two shortcomings, the rules and regulations that are emerging generally tend to be based on the principles of “business transactions” rather than on the principles of “good governance.” Therefore, environmental diplomacy has turned into petty business transactions, not the establishment of fair and just global environmental governance systems. While business transactions are built on principles of mutual benefits regardless of their societal costs, governance systems are built on principles of democracy, justice and equality.

This failure is as much a failure of the global civil society. I strongly believe that since Rio, the NGO movement has taken a backseat in environmental negotiations. Governments have taken over the business of environment. In Rio, the environmental agenda became center stage in the world because of the civil society that led governments to take action. But since Rio, we have merely followed the inaction of the governments in the post-Rio days. I think of the many meetings in which we have all been involved in determining the fate of commas and full stops, and forgotten principles that should lead the world forward. This “governmentalization” of the environmental agenda has been disastrous as it has become a cause without a concern. Any discussion about pushing either a larger agenda or an issue of governance is quickly turned down in this bureaucratic pragmatism. **Idealism is today a bad word in the company of government negotiators.**

The other problem with environmental diplomacy is its agenda. The agenda at Rio was a northern agenda. Southern governments participated in it as petu-

lant juveniles who were worried about lectures and dictates from the industrialized countries. The Earth Summit was, therefore, the outcome of an unwilling partnership.

Let me give some examples of what I mean by the lack of principles in global governance.

Take the issue of climate change. It is clear that we are talking about sharing a global common—the atmosphere. Therefore, the world is negotiating, not global warming or cheap emission reduction, but the principles on which the atmospheric space will be allocated and the modalities that will govern the global commons. In sum, the ownership of the atmosphere is being negotiated. If the atmosphere is owned by all human beings on earth, then it is clear that a few people are using this resource as a free access property. On the other hand, what is needed is to establish the principles of convergence and the principle of equitable entitlements. These principles help to define the rights and responsibilities of all nations within an equitable framework.

The principle of entitlements sets emissions limits for all nations. The principle of convergence holds every nation responsible to make efforts to live within its entitlements. In simple words, this means that the world's large emitters, the industrialized countries, should make urgent efforts to reduce their emissions to their entitled amounts whereas the world's growing emitters take steps not to exceed theirs. The world, therefore, needs an “ecologically effective” international mechanism that provides incentives to all nations to put this plan into action. Every effort to delay puts the world, especially its poor people, at greater risk.

This principle would provide incentives to developing countries to trade their unused entitlements and to move towards a low-emissions development path. We cannot have a world in which some countries have to freeze their carbon dioxide emissions at one level and other countries at another level. This would mean freezing global inequality. For ecological effectiveness, the emissions trading price would need to be pegged to a cost that would encourage developing countries to move away from fossil fuels to solar energy and renewable energy pathways.

The climate solution would then be both **ecologically effective** as well as **socially effective**. On the other hand, the Kyoto Protocol sets up an extremely iniquitous framework for the allocation of property rights over the common atmospheric space.

We must be clear that as yet the Kyoto Protocol is simply an exercise in creative carbon accounting. Every effort is geared to buy cheap emission reductions from abroad and to globalize commitments. There is increasingly strident pressure on developing countries to agree to take cuts in their emissions. In

the months pre-Kyoto, the U.S. delegation had argued that “meaningful participation” of developing countries was essential for it to join the Kyoto Protocol. Nobody quite knows “how meaningful is meaningful” as it has been the U.S. strategy to leave this phrase undefined. But the pressure is mounting. The U.S. Senate’s resolution requires that developing countries take “new specific scheduled commitments within the same compliance period.” The recent meeting in Buenos Aires saw intense pressure on developing country negotiators to “globalize” the commitments to all parties. There is also an effort to break the developing countries by getting a few to accept voluntary commitments, like Argentina.

On the other hand, there is desperation to get developing countries to accept the Clean Development Mechanism (CDM). But a closer look at CDM reveals that it is nothing more than a new name for Joint Implementation—project-based investments made in the South for which the North would get credits in its carbon accounts. It is clear that the purpose of CDM is to “assist” the industrialized countries meet their commitments to reduce emissions. It has been designed to help the rich and not the poor. The most important issue in CDM is what “price” would the South be paid for its emission units? The industrialized world proposes to buy the emission units as cheaply as possible. The U.S. has proposed to pay as little as 14-23 dollars per ton of southern emissions when the same cost domestically would be 125 dollars per ton by its own estimation. CDM, therefore, will cost the South the earth as the cheap option it is offering to the North today would cost it dearly in the future. Developing countries like India would use up their cheap options for reducing emissions and not even get credit for it in the global balance sheet. And when the South has reached high levels of energy efficiency and has to incur a high cost for curtailing emissions it would have no options to fall back upon.

The flexibility mechanisms reflect the basic weakness of the Kyoto Protocol that has turned “compliance” into a “creative carbon accounting game.” By using the baseline approach—in which reduction targets are set as a percentage cut of the current emissions baseline—the Protocol provides a perverse incentive to developing countries to increase their emissions. The highest polluters are rewarded and historical emissions are treated as the countries “assignment.” The flexibility mechanisms, emissions trading, joint implementation and CDM, all provide opportunities to borrow “emissions reduction” from other countries where “emissions reduction” is already taking place because of economic slowdown, like in Russia, or, from those countries where reducing emissions is cheaper in the short-run like developing countries. This provides the worst framework and will not meet the ultimate objective of the Framework Convention on Climate Change of reducing emissions. Cooperation to help industrialized countries merely to meet their emission reduction targets at a low cost and within a

creative carbon accounting system that does nothing whatsoever to combat climate change is to demand truly the most “meaningless participation” of developing countries.

In this scenario, negotiating climate change becomes an intensely difficult issue. It polarizes the world and sharpens divisions between the rich and the poor. Leaders of democratic nations in the developing world will find it impossible to forsake the economic and environmental rights of their future generations. It must be noted that in the case of climate change equity is an imperative. Without equity it is quite unlikely that there will be a long-lasting partnership to address and solve global problems.

Let us take yet another example of trade and environment. Environmentalists are pushing for the use of trade as a compliance mechanism. For instance, India, Pakistan, Thailand, and Malaysia have jointly protested to the World Trade Organization about the unilateral ban imposed by the U.S. government on import of shrimp which is harvested in a way that affects endangered turtles. The U.S. government has taken the action under its own national Endangered Species Act. But regardless of the technical issues on which the WTO panel decides, we must recognize that there are fundamental flaws in using trade as a tool for controlling errant environmental behavior. It smacks not just of hypocrisy but also of a demand to legitimize the right of a nation to be an international bully without an agreed framework for such action. Firstly, we must recognize that establishing a just order between humans and nature must go hand in hand with the establishment of a just order between humans. Otherwise, we are accepting that one set of human beings has the right to coerce another set to be environmentally responsible and that, therefore, environmental dictatorship is moral and legitimate. Global environmental management demands global cooperation and responsible action. But this cooperation has to be built on principles of equity and justice.

The use of trade sanctions is an extremely unjust tool and liberal environmentalists must remove it from their tool-kit. Compared to what the U.S., as a nation, is doing to another global shared resource, the world’s climate and atmosphere, what the complainant nations are doing to the marine turtle is an insignificantly small problem. But can the nations most likely to be most affected by global warming—the Maldives and Bangladesh—impose trade sanctions on the U.S. and expect them to be effective? If these countries tried to take such a moral and important step to save themselves from death under water, everyone in the world would only laugh at them. International action is totally unjust and immoral if the tool is not such that it is equally available to all parties—rich or poor, powerful or powerless. Otherwise we are advocating the right of a powerful nation to be a moral bully whenever it chooses.

All this, of course, is not to say that an environmentally errant nation like India should not be taken to task. Both under the Convention on Biological Diversity and the Law of the Sea, India is obliged to protect marine life. If India does not do so, it should be forced to comply with the obligations it has itself accepted. There can be no doubt that India and others could have done a lot more to protect the turtle and its government has been irresponsible. But two wrongs—one by India and one by the U.S.—do not make a right. What is needed is a complaint and penalty mechanism under the environmental treaties. Such a mechanism would be fair and just because then even the most powerful nations would have to submit themselves to complaints against them. Trade is not the only tool that can be used to force compliance.

In the absence of a global government or a global political order which is going to ensure the greatest good of the greatest number of people, how do we ensure that the ongoing processes of globalization helps to develop fair and just global social and ecological policies?

The answer may well lie in the global spread of democracy. Social and ecological policies are of great concern to the civil societies of different nations. Is it, therefore, possible for the thousands of members of different civil societies to work together to develop a global civil society to fight for fair and just global social and ecological policies? Without a global civil society, there will be no pressure on governments to stop taking positions that are based largely on vested interests. Therefore, the need to develop a global civil society is becoming imperative for us all. In other words, the world today has an opportunity for the first time to create a truly “global consciousness.”

It is also important that the diversity of opinion—indeed the richness of debate—gets space and attention. We find as yet there is little recognition of southern concerns in the global dialogue. The U.S. media, for instance, in its recent reportage of the Conference of Parties to the Climate Convention, in Buenos Aires, had absolutely no understanding, not to mention appreciation, of the positions of developing countries. In our view the U.S. media reports were nothing more than a parroting of the U.S. official perspective. Reading *The Washington Post* or *The New York Times*, it would seem that developing countries were holding up the climate accord. And every U.S. newspaper praised the two developing nations, Argentina and Kazakhstan, for taking on voluntary commitments for reducing carbon emissions. But none pointed to the fact that these nations were sharply criticized for breaking the unity of developing countries. These two countries, held up as paragons of environmental virtue in the U.S. press, were only trying to earn brownie points by serving the U.S. agenda at the meeting.

The U.S. media has shown little understanding of the various facets of the debate in Buenos Aires. In our view the meeting was clearly split between three groups. The most powerful nations, lead by the U.S. and Japan, were fighting for economic effectiveness, to keep its emission reduction cost as low as possible. The EU, influenced by the regions' Green Parties, was trying to maintain the ecological effectiveness of the convention, by arguing for domestic action. And the G-7 and China were fighting for social effectiveness of the convention by demanding that equity should be discussed. But none of these positions were reflected in the media which simply blacked out or blacklisted the opposition to the U.S. Public opinion will be vital in resolving global conflict and in building global cooperation. The dialogue must be enriched and it must be fair.

It is vital that environmental diplomacy must be lead by the hearts and minds of the civil society. It must not be left to the mechanisms of diplomats who will use environment to achieve national foreign policy objectives and not global foreign policy objectives. Governments and diplomats quickly forget that they are building up global environmental governance systems—built on principles of governance, that is, democracy, justice and equality. They quickly fall into a pattern of “business transactions”—a mode of cooperation in which two parties benefit mutually while the rest can go to hell. In this scenario we will continue to live in an intensely unequal and unsustainable world.

FROM ENVIRONMENTAL DIPLOMACY TO ENVIRONMENTALLY SOUND DIPLOMACY

Claude Weinbar

“Diplomacy is the established method of international discourse or the art of managing international relation, chiefly by negotiation. Historically, it meant the conduct of official relations between sovereign states, usually bilaterally. In the 20th century diplomacy expanded to cover summit meetings and other international conferences, public and parliamentary diplomacy, the international activities of supranational and sub national entities, unofficial diplomacy by non governmental elements, and the work of international civil servants.¹⁷”

FROM HELSINKI TO BUENOS AIRES

When we speak about environmental diplomacy we are talking about the negotiations that take place while preparing the conferences which have in most cases been organized and promoted by the United Nations (UN), and about the finalizing of declarations, protocols and treaties that were agreed on and signed at the conclusion of these international events. From the Conference on the Human Environment in Stockholm in 1972 through the Conference on Environment and Development in Rio de Janeiro in 1992, all have had a remarkable impact on public awareness.

We have and will continue to argue and to disagree as to the results and the real impact they have on the quality of the protection of the environment. Large numbers among the civil society are voicing their fears that the results are too little too late and, above all, not binding. Some states find the constraints to be too onerous and speak of the imposition of foreign standards from the North on the South.

At these conferences, what environmental diplomacy has brought to the forefront of the international scene is a generation of highly professional environmental lobbyists well versed in verbalizing every possible amendment or statement. Those professionals have played an active role in building bridges across the North-South divide and played a key role in the democratization process in Central Eastern Europe as well as in the republics of the former Soviet Union. In the last twenty years most of the representatives of the non-governmental organizations (NGO) also experienced a qualitative change in the various national representations at those conferences. At the beginning of the seventies most governmental representatives and the majority of the diplomatic staff had little or no knowledge of environmental matters, and they all shared

the belief that this would soon pass. They were sure that those strange NGOs (Noggins) would also be a passing phenomenon on the diplomatic horizon and that they could soon return to real international matters.

Today it is quite common to see at those meetings state representations being headed by former environment activists and to meet a large number of governmental advisors and diplomats that have learned the tools of their trade as environmental NGO representatives. This transformation of the official representation caused deep changes among other things in the communication structure and the collaboration culture as well as the qualitative and quantitative contribution to the environmental policy formulation from the NGOs as well as from the governmental representation.

From a brief description of the international development of environmental diplomacy we should not draw the conclusion that, with a few exceptions, everything on that front is well taken care of and that the environmentalists just need a better public relation operation to finally obtain the desired results. The real test for the protection of the environment, for sustainability, consists not only of the numbers of treaties, protocols, and declaration produced by environmental diplomacy.

FROM ENVIRONMENTAL DIPLOMACY TO ENVIRONMENTALLY SOUND DIPLOMACY

In Israel, where I represent the Heinrich Böll Foundation, the diplomatic world has been concluding peace agreements for the past twenty years, from Camp David² to the Oslo Interim Agreement³ between Israel and the Palestine Authority. Both those treaties are internationally regarded as landmarks in the process of normalizing and stabilizing the region first by reducing the tension in it, second by reducing the potential of a war of mass destruction. This was so important that the signatories of the two treaties have been awarded the Nobel Peace Prize. Unfortunately it also resulted in the assassination of two heads of government, and to make things worse, their own people murdered both.⁴

The power broker of the Israel-Egypt peace agreement in 1978, President Carter, could conceivably have pleaded “environmental ignorance.”⁵ The signatories of the Oslo Interim Agreement in 1993⁶, having negotiated under the sponsorship of Norway, whose Prime Minister Gro Harlem Brundtland first gained worldwide attention with her UN report on the state of the environment, can not plead ignorance when asked about the environmental soundness of this agreement—or can they?

The premise of all diplomatic efforts in the Middle East has always been that you need equal partners to attain a balanced and lasting peace. No one can

basically object to that hypothesis, but when under equal partners we are to understand partners with economic equality as well, we need to look at some basic economic figures⁷ of the region. Then we have to represent in numbers what this equality could mean for the scarce water resources of the region.

Today Israel has a water consumption of almost one 100 m³ a year per Israeli citizen; this causes a 10 percent annual depletion of the known ground water reserves of Israel including the West Bank and Gaza. The Palestinian and the Jordanian populations use less than a third of the water quantity per head Israel uses today. It does not take a knowledgeable environmental activist to understand that measures such as the ones in the peace treaty between Jordan and Israel as well as the ones in the interim Agreement Between the Palestinian Authority and Israel, namely encouraging Jordan and Palestine to intensify their agriculture production output not just to cover regional demand but to provide fruit, vegetables and cut flowers for the European market, are not the result of a careful and sound environmental impact assessment.

One could go further and point out that those constitute a danger for peace and security, but this is an argument for others to make.

Was this environmental blindness therefore the necessary sacrifice to achieve a diplomatic success?

By reading the various peace treaties (Angola, Rwanda, Bosnia, Croatia etc.), trade agreements (GATT, NAFTA, Euro-Med., Lomè, etc.), cooperation declarations and other documents that bilateral and multilateral diplomatic efforts have produced in the last ten years, one notes that the environmental dimension is absent in the majority of those documents and that in the others environment is at most an afterthought, and in all cases a grudgingly accepted political dimension in the traditional world of diplomacy.

I am skeptical when it is explained that “this was the best that could be reached on the question of environmental impact assessment of this treaty,” coming from the staff that has spent considerable time organizing the negotiations, negotiating the wording and finally writing the document. This very document that has just been signed and is about to be praised by the entire world “for its far reaching consequences for the economic development, the stability and the peace not just for the people of the region but clearly for all of mankind.”

Part of the problem is undoubtedly a question of generation; it is quite clear that civil servants with either little or large knowledge of environmental matters will assess a proposal differently. For the time being it might be necessary to have environment specialists enable the general diplomatic process to avoid glaring environmental mistakes, but it only moderates the required long-term integration of environment conservation as an intrinsic value just as security, national interest, and freedom of trading are intrinsic values in diplomacy.

The nomination in October 1998 of Mr. J. Fischer, of the Alliance 90/The Greens, as foreign minister of the Federal Republic of Germany in the coalition government of Social Democrats and the Greens marks not only a change of government. This is a major breakthrough on the road to environmentally sound diplomacy. It is undoubtedly the beginning of a foreign policy with among other things an environmental “edge.” This will also bring about a slightly different diplomatic practice.

This government, with the first Green foreign minister, has a clear environmental agenda calling for the termination of the nuclear energy option in the national energy mix; this would at first seem to be a purely internal political matter. But it has already changed the traditional discourse of diplomacy. French Prime Minister Jospin, during his first encounter, with then only designated German Foreign Minister Fischer apparently voiced his displeasure about the German government opting out of the nuclear energy industry. Then, with the German government barely six weeks in office, France suddenly brought to public attention the fact that Germany has secret contractual obligations with France and specifically with Framatome,⁸ and that failing to fulfill the terms of the contract will bring about demands for German financial reparation and this will put a strain on the traditional Franco-German friendship. Those are strong words from one Social Democratic led government to another Social Democratic led government. And this is only the first obstacle on the road to accepting that environmental protection is a legitimate guiding principle of sound governance and thus of foreign policy.

ENDNOTES

¹1994-1999 Encyclopaedia Britannica

²Camp David Accords: September 17, 1978, two agreements between Israel and Egypt that led in the following year to a negotiated peace between those two nations, the first between Israel and any of its Arab neighbors. The Camp David Accords were so named because they were negotiated between the Israeli Prime Minister Menachem Begin and the Egyptian President Anwar el-Sadat under the aegis of the U.S. President Jimmy Carter at the latter’s government retreat at Camp David, MD.

Egypt and Israel had technically been at war since Israel’s founding in 1948, and the latter had occupied the Sinai Peninsula since taking that territory from Egypt in the course of the Six-Day War of 1967. The Camp David Accords had their origin in Sadat’s unprecedented visit to Jerusalem on November 19-21, 1977, to address the Israeli government and *Knesset* (parliament); this was the first visit ever by the chief of state of an Arab nation.

³ On Sept. 13, 1993, Israel and the PLO signed a “Declaration of Principles on Interim Self - Government Arrangements” in the occupied territories, better known as the Oslo peace treaty, that included a clear schedule for Israel’s disengagement from the area. The signing of this agreement, which signaled mutual recognition of the PLO and Israel, provided for a transitional period of self-rule that began in the Gaza Strip and the Jericho area of the West Bank in May 1994.

⁴ Sadat, (Muhammad) Anwar el-, (b. Dec. 25, 1918, Mit Abu al-Kum, al-Minufiyah governorate, Egypt—d. Oct. 6, 1981, Cairo), Egyptian army officer and politician who was president of Egypt from 1970 until his assassination.

Rabin, Yitzhak (b. March 1, 1922, Jerusalem, Palestine [now in Israel]—d. Nov. 4, 1995, Tel Aviv-Yafo, Israel), Israeli statesman and soldier who, as prime minister of Israel until his assassination (1974-77, 1992-95), led his country toward peace with its Palestinian and Arab neighbors.

⁵ The Camp David Accords (September 17, 1978) were negotiated between Israeli Prime Minister Menachem Begin and Egyptian President Anwar el-Sadat under the aegis of the U.S. President Jimmy Carter.

⁶ On September 13, 1993 in Washington, D.C., Israel (Prime Minister Rabin) and the PLO (Chairman Arafat) signed a “Declaration of Principles on an Interim Self-government Arrangements.”

⁷ GNP/95 Israel = \$15,920 Jordan = \$1,510 Lebanon = \$2,660
 Egypt = \$790 Syria = \$1,120

⁸ The French state-owned nuclear power plant operator.

THE TRADE AND ENVIRONMENT NEXUS

Peter Fuchs

On behalf of the Working Group on Trade of the German NGO Forum on Environment & Development I would like to thank the AICGS and the Heinrich Böll Foundation for their invitation. I would like to take this opportunity to

- a) briefly introduce the Forum on Environment & Development to you,
- b) make a few general remarks on our view of the “trade and environment”-nexus, and
- c) point out a few challenges and key demands for the time ahead.

THE GERMAN NGO FORUM ON ENVIRONMENT & DEVELOPMENT

In 1992, six months after the United Nations Conference on Environment and Development (UNCED) in Rio, thirty-five organizations founded the German NGO Forum on Environment & Development in order to promote the following objectives:

- To take serious the outcome of Rio and to try to do whatever possible to eradicate poverty world-wide and to protect the environment;
- Lobby both at the national and the international level to implement the decisions passed in Rio, particularly Agenda 21;
- Establish working groups which, for example, formulate position papers on the most pressing issues in the Rio follow-up;
- Coordinate education and information programs;
- Increase pressure on government and legislative bodies by joint NGO actions and act as a contact for international partners.

The major purpose of the Forum is to develop strategies which can help open political perspectives, to prepare joint NGO position papers and to coordinate the input of German NGOs into the (inter)national political process. Therefore, working groups were established, in which every member organization of the Forum can participate. Currently there are nine working groups on the following issues: Biodiversity, Climate Change, Decertification, Forests, Lifestyle, Agriculture and Food, Urban and Regional Planning, Women—and last but not least: Trade.

Journalists, the administration and other institutions value the pool of interdisciplinary expertise represented in the different working groups and increas-

ingly draw on their resources. The Working Group on Trade is a network of various organizations such as WEED (World Economy, Ecology & Development), Germanwatch, BUND (Friends of the Earth Germany), Greenpeace, FIAN, Weltladendachverband (the umbrella organization of fair trade-groups/“world-shops”), BUKO-Agro Coordination as well as church groups, farmers’ organizations and critical academics.

In Germany, NGO networking and campaigning on trade issues is still relatively weak considering the importance of trade for the German economy and given the political importance of Germany in the European trade policy making process. Currently, however, we are experiencing an increasing interest among NGOs and the general public in the field of international trade and investment rules. Thus we hope that we can step up the scope and quality of our work in the near future and that in 1999 we can hire a full-time staff person to coordinate our various trade-related activities. Of course we also hope that the new Red-Green coalition government in Bonn will be more open to the voices of NGOs working on trade and investment issues and that it will live up to its decision stated in the coalition agreement to work on a reshaping of international trade and investment regimes according to social and ecological criteria. It might be interesting to note that even before the election last September some important work was started in the German Ministry for the Environment on “A cooperative ecological framework for the world economy.” We call for the further development and implementation of this framework by the new Red-Green government in consultation with civil society.

For us as Working Group on Trade the international dialogue and cooperation with like-minded NGOs in other countries North and South is of critical importance. Therefore we appreciate the support of the Heinrich Böll Foundation and the AICGS for this kind of transatlantic dialogue—and we would very much like to see more of this in the future.

SOME GENERAL REMARKS ON THE “TRADE AND ENVIRONMENT” NEXUS

In 1994 the Working Group on Trade came out with its policy paper “Trade, the Environment and Development—Challenges from the point of view of German Non-Governmental Organizations.” Although this paper is currently under revision and will be supplemented by new position papers in 1999 (for more information please contact the addresses given below) I would like to point out some of its basic principles and ideas on the trade and environment nexus which in our view should guide further political decisions in this field.

Sustainable Development Is More Important than Free Trade

In order to achieve mutually supportive trade and environmental policies in the future the multilateral negotiations must choose a broad approach to the issue, going beyond the present mandate, instruments, competences and institutional framework of the GATT/WTO regime. This means that a new multilateral forum must be set up for these negotiations, including not only the WTO and UNCTAD but also the organizations in charge of environmental policies such as UNEP, WHO, CSD, FAO, and UNDP. A transparent procedure and NGO participation are indispensable. Any new round of negotiations must follow the principle set forth by the OECD that “sustainable development” is more important for the survival of humankind than free trade. International trade is at most a means which might help to attain this aim under certain circumstances.

So the overall question which has to be answered is not how to achieve further growth and trade liberalization by any means, and it is not just the legal question of how to make two international legal bodies compatible. The question is: How can we achieve the fundamental economic and social change in our societies, particularly in the powerful economies of the North, to turn them into “sustainable societies”—and what can be the role of international trade and investment policy with regard to this goal of overriding importance?

Trade Policies Can Only Be Supporting Measures for Coherent National and International Strategies for Ecological Reform and Sustainable Societies

Trade relations obviously are power-based connections between states and between private actors. This, together with the fact that they are often of crucial economic importance, frequently makes them the target of sanctions to enforce national interests. Trade-related measures are not necessarily the best instruments to reach environmental policy targets, but they can enhance the effect of consistent national environmental measures. They can also be important for the protection of national “first-mover” ecological-economic policies in a competitive international environment. However, there is the danger that trade restraints are used to replace effective national environmental legislation, because they are politically more convenient and often lead to competitive advantages for a national economy. Negotiations in the “trade and environment” field must therefore safeguard that trade measures are not misused against weaker trading partners in developing countries to make them bear the costs of ecological restructuring.

This point is of course particularly important with regard to the relations between the U.S. or the EU (including Germany) and developing countries. The U.S. and the EU are major economic and political powers with societies that

are fundamentally unsustainable—which means that they are using far more than their fair share of “environmental space” (energy & material available for humankind). As various studies and debates for example on “Sustainable Germany” or a “Sustainable Europe” have highlighted, a social-ecological policy “U-turn” and a fundamental restructuring is needed in our societies to bring them on the path of sustainability. Only if at least some of the necessary steps in this direction are taken in an effective way (like internalizing environmental externalities in prices through eco-taxes) environmentally motivated trade measures can play a credible role in relations with trading partners. In all this the special situation of the developing countries and the major responsibility of the countries in the North for the global environmental crisis have to be taken into account.

Acknowledgment of the Precautionary Principle and the Polluter-Pays-Principle

Environmental protection must follow the precautionary principle and the principle of prevention as laid down in Article 15 of the Rio Declaration. Lack of scientific proof must not be a reason for postponing measures for the protection of the environment. This principle clearly contradicts the regulation of international harmonization of legislation on food and drugs which was passed in the Uruguay Round (SPS-agreement) of the GATT, which stipulates that any country introducing a sanitary standard stricter than the internationally accepted standards has to bear the burden of proof in case of conflict (see U.S.-EU conflict over genetically modified organisms).

We are against this reversal of the usual legal rule on the burden of proof and demand the integration of the precautionary principle into international trade rules. The same applies to the polluter-pays-principle, which is another well accepted principle of environmental policy lacking acknowledgment by the trading system. The organization of trade policy measures for the protection of the environment should strive for the internalization of environmental costs according to the polluter-pays-principle. This would for example include an acceptance of border tax adjustments by the GATT/WTO regime as a means to support national or regional eco-tax policies, an issue which may gain increasing relevance in the context of economic policies to prevent climate change.

KEY CHALLENGES AND DEMANDS FOR THE TIME AHEAD

After more than seven years of debates on “trade and environment” in the GATT/WTO system, within the OECD, UNCTAD, UNEP, CSD, and various other political, academic and civil society, we have seen very little if any real

political progress. At the same time we have seen increased economic activity due to policies of liberalization and deregulation and we are witnessing a further deterioration of the environment.

The good news is that for various reasons the hegemony of an unrestrained ideology and policy of liberalization and deregulation seems to be over—at least in Europe. So we hope that in the upcoming debates and decisions about the proposed WTO “Millennium Round” and about further deregulation initiatives such as the Transatlantic Economic Partnership (TEP) between the U.S. and the EU we as NGOs and our political allies might be able to influence the political process more effectively to:

- a) prevent some highly criticized initiatives such as the Multilateral Agreement on Investment (MAI) or its clones in the WTO, and
- b) to bring about at least some progress on issues in the “trade and environment”- and the “trade and development”-fields.

In closing I would like to name a few of our key demands (further information will be available soon via the contact-addresses given below):

No “MAI in the WTO” and a Moratorium on the TEP

We as NGOs have fiercely opposed the substance of the Multilateral Agreement on Investment (MAI) which was unsuccessfully negotiated within the OECD. After the failure of the MAI-initiative in the OECD we will closely follow and campaign against any attempt to pursue a neoliberal investment pact in other fora like the WTO.

With regard to future transatlantic economic relations we think that they should be based on the principle of sustainability instead of the ideology of unrestricted liberalization of trade and investment. Therefore we call for a moratorium for the Action Plan for a Transatlantic Economic Partnership as well as for an inclusive, transparent and participatory debate about the necessary ecological-economic restructuring that has to take place on both sides of the Atlantic.

Increased Participation and Transparency

In a recent “Civil Society Statement on Openness, Transparency and Access to documents in the WTO” various NGOs from around the world asked for increased transparency of the WTO. The statement refers to three objectives:

1. Need for transparency (right to know);
2. Need for public involvement (right to be heard); and

3. Need for public involvement in the dispute settlement system (access to justice).

The German NGO Forum on Environment and Development supports this statement. But we also want to develop the idea of a more democratic and transparent trade policy process further. With regard to the national policy process we are currently developing a proposal for an Advisory Board on Development and Environment at the Ministry of Economics and Technology, which is responsible for international trade policy in Germany (BMWi). In general we think that national, European and Transatlantic trade-policymakers should actively seek for and make possible inputs of civil society. They should facilitate regular consultations with NGOs working on trade, environment, development, and human rights related issues.

Sustainability Assessments and Integration of Environmental and Development-policy Concerns into the WTO-Agenda Across the Board

In the agenda-setting process for the proposed new round of multilateral trade negotiations we call for

- thorough analyses of the developmental, gender, social and environmental implications of trade and trade liberalization to be conducted **before** further decisions on liberalization are taken (sustainability assessments),
- an integration of environmental and other sustainability concerns into the negotiation-agenda across the board. As a first step the upcoming High-Level Meeting on Trade and Environment in March 1999 should make clear that
- environment and development themes have to become the key issues for a possible next round,
- there has to be a clear opening of an “environmental window” for Multilateral Environmental Agreements in GATT/WTO-law, and
- that the GATT/WTO-regime has to be restructured in order to support the precautionary and the polluter-pays-principles of environmental policymaking.

TRADE AND ENVIRONMENT—A STORY ABOUT FAILED DIPLOMACY

Brennan van Dyke

The trade and environment debate is a story about failed diplomacy, but also, fortunately, about a new opportunity for renewed diplomatic efforts.

The story started about a decade ago when the environmental community woke up to the threat that multilateral trade rules posed to efforts to protect the environment. To explain the threat simply: In a global economy, the world needs global environmental rules. The strongest way—although not the only, or even the “first best” way—to enforce global environmental rules is through trade measures—or the threat of using trade measures. Unfortunately, the WTO rules called into question the legitimacy of using trade measures for environmental purposes, even those pursuant to multilateral agreement.

A political solution was required. Trade policymakers were assigned the diplomatic task of reconciling the environmental policymakers’ “need to retain trade measures in their tool kit with the trade policymakers’” strong aversion to allowing trade measures to be used to discipline any delict other than an offense against trade rules.

The trade policymakers failed. There was no political will for reforming the trade rules to accommodate environmental concerns. The forum selected for making these policy changes was biased in favor of the status quo. It was composed only of trade policymakers, and it solicited input only from trade policy works. It failed to open its perspective to, and integrate concerns from, other policy areas, in particular the environment. Not surprisingly, it concluded that no changes were needed.

However, the public (at least in developed countries) continued to demand a more reasonable trade and environment relationship. In the wake of a ruling against an EU ban on beef treated with synthetic hormones, the “Shrimp/Turtle” dispute arose. The trading system was increasingly seen—again in the North—as a body that protected polluters and industries threatening the public health.

The WTO Appellate Body, not the body that should be carving out political compromises, took a significant diplomatic step. In the “Shrimp/Turtle” decision [and here I am sidestepping the “unilateralism” issue that many panelists have discussed], the AB implied strongly that it would be open to guidance from international environmental law and policymakers as to how to balance the environmental and trade liberalization goals.

The diplomatic efforts of the trade policymakers failed. The failure began to threaten the legitimacy of the trading system, so the trading system responded by opening up new channels for diplomacy.

It is now up to the environmental community to develop reasonable guidelines for fashioning and using trade measures for environmental protection. Hopefully, they will not make the same diplomatic mistakes that the trade policymakers have made.

First, they should undertake this effort in as impartial a forum as they can design. Trade policymakers—and representatives of the development and consumer protection disciplines—should participate in the search for improved trade and environment policies.

Second, they should find genuine, unbiased experts to identify the real needs of environmental policymakers with respect to employing trade-related environmental measures.

Third, they should exercise common sense and be willing to compromise wherever it is reasonable to do so. Many of the trade policymakers were crippled in their diplomatic efforts by an unswerving devotion to theoretical dogma.

Fourth, they must seek out equitable solutions to the trade and environment conflict. Equitable means fair, and fair from everyone's perspective. No international environmental or trade system will enjoy political legitimacy unless it promotes sustainable development. In 1992, governments from around the world set out guidance for how to achieve sustainable development. Rich and poor countries' interests were considered; environmental and developmental goals were balanced; equity concerns were addressed. Reasonable accommodations by the trade rules of environmental concerns require respect for the Rio deal. This means that developed countries have to start assuming their common but differentiated responsibility. This means that northern environmentalists cannot take the easy route and bully our southern partners.

Developed country governments should accept this fact, and, perhaps more importantly, developed country NGOs should accept this fact. Trade measures are too easy; they must be used as a last resort after an assortment of carrots and less powerful sticks are employed.

Finally, we still need a leader. I hope leadership comes from some of the developing countries in addition to Europe, as I believe that the trade and environment agenda provides an opportunity for developing countries to establish more firmly some of the principles negotiated during UNCED. And I hope to see greater cooperation coming from my own government, the United States.

LINKING TRADE WITH ENVIRONMENT—THE FALSE PROMISE

Frank Biermann

When it comes to protecting the global environment, the legitimacy of trade restrictions is one of the issues most fervently debated.¹ Between the European Union and the United States, disputes over trade measures related to environmental policy evolved into a major cause of friction. Unilateral trade restrictions are also a point of disagreement and contention between industrialized and developing countries. Northern trade restrictions on southern tuna, turtle or tropical wood are but the most popular examples. In my contribution to this workshop, I address the second line of conflicts—the relationship of trade policy and environmental policy in North-South relations. I argue that current tendencies in industrialized countries to impose environmental standards on their trade with developing countries lead their chief proponents, in particular the Green parties and environmentalist organizations in the North, on a slippery slope which, in my view, should rather be avoided.

UNILATERAL TRADE RESTRICTIONS ENCROACH UPON SOVEREIGNTY

Undoubtedly, in quite a few situations trade restrictions by the North can be highly effective tools for influencing environmental standards world-wide. If the United States and European markets were blocked for certain products, producers in most developing countries would have to adapt. They would have to catch their tuna according to the preferences of northern environmentalists, to produce their trading goods in accordance with environmental procedures comparable to those in the North, and to manage and preserve their forests in ways closer to conservation than to utilization and development. More often than not, trade restrictions could serve as a feasible policy instrument if one wishes to raise global environmental standards to the highest possible level.

However, when engaging in global environmental policy, the environmentalist community is simultaneously participating in building the global governance architecture of the forthcoming century. And the way in which some northern actors, governmental agencies and environmentalist NGOs alike, intend to link environmental policy with trade creates a form of global governance that I feel difficult to accept. In my view, the environmentalist community must decide whether to opt for unilateralism or multilateralism, that is, for unilaterally enforced hegemony and imposed order on the one hand, or for multilateral agreement and negotiated orders in the international system on the other.

Today, most international environmental regimes and standards are still negotiated orders, and their rules are enforceable upon only those nations that have yielded their consent. Increasing unilateral trade restrictions, however, would result in a different picture of international environmental policy. Trade unilateralism would impose order on those countries that are not able to reciprocate, i.e., to react with trade unilateralism. It would subject exporting countries to the environmental standards of the importing ones—and in reality, this would mean imposing northern standards, northern values, and northern views on southern societies. Trade sanctions enacted by Fiji against the United States appear as a rather unlikely description of the future, to say the least.

It is thus not a question of trade policy. It is a question of sovereignty, of who rules in the interdependent world of the 21st century. Will it be a world of unilateralism, where the strong may impose their will upon the weak, or will it be a negotiated order in which all “nations large and small” (as reads the UN Charter) participate in creating solutions for our global common problems?

WHEN ARE TRADE RESTRICTIONS JUSTIFIABLE

I do not want to be misunderstood. Sovereignty cannot be invoked as justification for each and every environmental policy. If environmental problems affect global environmental goods or other nations, these nations have a right to request the adoption of appropriate standards by polluting countries. The question is thus who decides on what “global environmental goods” are in the first place, and what the appropriate policy will be. There must be clear and transparent criteria to be fulfilled before the majority of nations may rightfully enact trade restrictions or other enforcement measures against some polluting maverick countries. A number of interesting propositions on when trade restrictions might be justifiable and when not, have been brought forward in the literature:² This is not the place to argue against or in favor of the one or the other suggestion. Instead, I will advocate three fundamental criteria that must be fulfilled by any regime that is to be enforced by trade restrictions upon non-parties.³ These are the principles of differentiation of norms according to responsibility and capability, of international environmental solidarity, and of fair participation in decisions.

Only When Different Responsibilities and Capabilities Have Been Taken into Account

First, any international environmental regime that includes provisions overriding the sovereignty of individual nations, such as trade restrictions, must follow, in my view, the principle of differentiation, that is, that the different respon-

sibilities and different capabilities of nations must have been taken into account. The recognition of different responsibilities follows from general concepts of international law—and, one could argue, basic morality—to the effect that “[e]very international wrongful act of a State entails the international responsibility of that State.”⁴ States that are more responsible for any global environmental problem shall lead in addressing it.⁵ This notion of responsibility was often mentioned in the negotiations on the ozone issue, and has explicitly been included in the climate convention as justification for the differentiation of legal duties between industrialized and developing countries.

The consideration of different capabilities means that to solve collective problems, the less capable nations should not be obliged to do as much as the more capable nations. This follows, *inter alia*, from the internationally accepted “right to development” proclaimed by the United Nations General Assembly in 1986 and which is now universally recognized (after the last objector, the United States, ceded). Similarly, the widely accepted social human rights entail the notion that the basic means for human survival and a decent living must not be taken from the individual. From both the social human rights and the right to development it follows that the means necessary to pursue these rights are not to be taken from the individual person nor the individual nation, as long as conflicting rights are not involved. Global environmental policy must not result in the impoverishment of such nations.

Taken together, when the less capable and the less responsible nations are to do less to solve problems of the global community, it is quite sensible that in mature environmental regimes, these nations have to accept less stringent restrictions on environmentally harmful activities. Respect for this principle is, in my view, a necessary precondition for any trade measures being effected against remaining objectors to global environmental regimes.

Only When the Principle of International Environmental Solidarity Has Been Taken into Account

Second, each international environmental regime that justifies encroachments on sovereignty must follow the principle of international environmental solidarity. The reason is that less reduction obligations for less capable and less responsible nations eventually result in less environmental protection of the global environment and thus in its destruction. In this case, the rights of present generations are protected, but not the rights of future generations. In the medium term, this requires **all** nations, including the less capable and less responsible ones, to adopt effective environmental policies. Here, justice among nations requires the more capable and more responsible nations to compensate their neighbors for environmental protection programs. This principle of environmental

solidarity is explicitly incorporated in the Montreal Protocol,⁶ the Climate Convention,⁷ and the Biodiversity Convention.⁸ According to these treaties, industrialized states must provide new and additional resources to developing countries in order to meet their full agreed incremental costs.

The rationale is, in my view, that collective problems require collective solutions; it is not a matter of “aid.” Global environmental entities, such as atmosphere or biodiversity, must be treated as what they are: public goods for which all humans have some responsibility. Global public goods must be addressed similarly to public goods in domestic systems. In national societies, it is the (main) function of government to organize and care for collective public goods, such as infrastructure, roads, policing, or basic education. These functions are paid for by the collective—the society—by means of general taxation. Although society as a whole contributes to the government’s budget, not every member has to provide the same amount of money. The well-off pay more than the poor, and some of the very poor are exempted from direct taxation in most countries.

Surely, there is no international tax office, and some would prefer not to have one. But at least, we should accept the basic logic underlying the treatment of public goods in domestic society: such goods are provided by society as a whole, and each member of the society has to contribute only as much as reasonably is to be expected. Consider the U.S./Mexican dispute over tuna fishing as an example:⁹ assuming that the dolphins in questions were a global collective good that must be preserved for the sake of humankind (as the U.S. argued), Mexico would have an obligation to do so. But conversely, the international society as a whole would then be obliged to finance the protection of collective global goods by the Mexican fishermen. In other words, if Mexican fishermen need new nets to better protect dolphins, they would get their investment fully reimbursed by the international community.

This is the practical difference in the debate on unilateralism or multilateralism in the emerging global environmental governance architecture: who pays for protecting the global commons? If U.S. legislation unilaterally forces Mexican fishermen to purchase new nets, the costs of the provision of global environmental goods would be shifted to the fishermen or the Mexican government. In a world of multilateralism, however, the dolphins would be protected to the same degree—but the costs would be borne by the international community, not by the individual person or the individual country. Thus, GATT/WTO dispute settlement panels, such as in the US/Mexican tuna/dolphin case, fulfil important functions apart from their assigned task: They protect the respect for multilaterally agreed international treaties and discourage unilateralism of the powerful few, and they protect the sovereignty of developing countries and ensure that

the costs of protecting the global commons are not placed disproportionately upon developing countries against their will.

Only When the Principle of Equal Participation in Decisions Has Been Taken into Account

As a third criteria, I would argue that any international environmental regime providing for encroachments on sovereignty, such as those effected by trade restrictions, must respect the principle of fair participation of all actors in decision-making. Neither fair participation of all actors, nor consensus, require unanimity. A path-breaking example would be the 1990 Amendment to the Montreal Protocol, providing that decisions of the meeting of the parties require a two-third majority that must include the simple majority of the industrialized countries and at the same time the simple majority of the developing countries. North and South thus gained effective veto-rights in the regime's evolution.

When these three criteria are fulfilled, I would claim that encroachments on sovereignty are justified, and trade restrictions legitimized. This yardstick of legitimated trade restrictions against free riders could be directly derived from the principles of differentiation, solidarity and fair participation of North and South in decision-making. One example in which all three criteria have been fulfilled is the ozone regime, which includes, in article 4 of the Protocol, restrictions on the trade with non-parties to the regime. In my view, these trade restrictions are justified, since they only try to enforce a regime that provides for differentiation of norms between rich and poor nations, for the reimbursement of the full incremental costs of those nations that are not capable to finance their environmental policy alone, and for equal decision-making between North and South, in the form of double-weighted majorities (since 1990).

**MULTILATERALISM COULD BE FURTHERED BY
ESTABLISHING A WORLD ENVIRONMENT AND
DEVELOPMENT ORGANIZATION**

In order to improve our treatment of global public goods, and in particular in order to organize the collective financing of these public goods, I wish to make another proposal: I suggest that we need to strengthen and complement our existing system of institutions in international environmental policy, and that this should be done by establishing a further specialized agency of the United Nations: a World Environment and Development Organization that integrates existing programs and institutions.¹⁰

A World Environment and Development Organization could, firstly, serve to give an enhanced status to the urgent tasks of global environmental and de-

velopment policy among national governments, international organizations, and non-state actors. Secondly, it could help to improve the institutional environment for the negotiation of new conventions and programs of action and for the implementation and coordination of existing ones. Thirdly, this would be a way to strengthen the capacity for action of states, particularly in Africa, Asia, and Latin America, through improved international cooperation and support.

As regards decisionmaking procedures within the new Organization, the greatest possible acceptance for the Organization could be achieved, in my view, through procedures on a basis of North-South parity modeled on the ozone regime. Here both the majority of the developing countries and the majority of the industrialized countries could each have a group veto power over decisions. In addition, representatives of environment and development associations on the one side, and industry federations on the other, should have voting rights according to the tripartite system of the International Labor Organization, i.e. each country could have four votes: two for government and one each for the group of environment/development associations and the group of industry federations. Financing, too, appears realizable. For one thing, considerable costs would be saved by integrating the existing programmes and convention secretariats. Moreover, additional funding could be provided, for example, by introducing automatic funding mechanisms, notably a levy on international air travel or on foreign-exchange transactions.

Such a new World Environment and Development Organization is certainly not lurking around the corner for the next few years. But the history of the UN system shows that the establishment of new organizations is not utopian as such. We have witnessed, in recent decades, the creation of the World Intellectual Property Organization, the UN Industrial Development Organization, the International Criminal Court, or the World Trade Organization: the international community is able to create new and stronger institutions to address its common problems, and I am personally convinced that the establishment of a World Environment and Development Organization would be the right step in the right direction.

ENDNOTES

¹ There is a burgeoning literature on “trade and environment”; see, among many other books and articles, Kym Anderson and Richard Blackhurst, editors, *The Greening of World Trade Issues* (New York etc.: Harvester Wheatsheaf 1992); Jeffrey L. Dunoff, “Reconciling International Trade with Preservation of the Global Commons. Can We Prosper and Protect?,” in *Washington and Lee Law Review* 49, 1992, 1407-1454; Daniel

C. Esty, *Greening the GATT. Trade, Environment, and the Future* (Washington D.C.: Institute for International Economics, 1994); Carsten Helm, *Sind Freihandel und Umweltschutz vereinbar? Ökologischer Reformbedarf des GATT/WTO-Regimes* (Berlin: edition sigma 1995); Carsten Helm, "Transboundary Environmental Problems and New Trade Rules," in: *International Journal of Social Economics* 23(8), 1996, 29-45; Benedict Kingsbury, "The Tuna-Dolphin Controversy, the World Trade Organization, and the Liberal Project to Reconceptualize International Law," in: *Yearbook on International Environmental Law*, 5, 1994, 1-40; Winfried Lang, "International Environmental Agreements and the GATT. The Case of the Montreal Protocol," in: *Wirtschaftspolitische Blätter* 40(3-4), 1993, 364-372.

² See, for example, Carsten Helm (*supra* note 1) for the German discussion, and Daniel C. Esty (*supra* note 1) for the U.S. debate.

³ The following is elaborated in more detail in Frank Biermann "'Common Concern of Humankind'. The Emergence of a New Concept of International Environmental Law," in *Archiv des Völkerrechts* 34(4), 1996, 426-481; Frank Biermann, "Justice in the Greenhouse. Perspectives from International Law," in Ferenc Tóth, editor, *Fair Weather. Equity Concerns in Climate Change* (London: Earthscan Publishers, forthcoming), and in Frank Biermann, *Weltumweltpolitik zwischen Nord und Süd. Die neue Verhandlungsmacht der Entwicklungsländer* (Baden-Baden: Nomos-Verlagsgesellschaft 1998).

⁴ See International Law Commission Draft Articles on State Responsibility 1980, 1980 *ILC Yearbook*, Vol II, Part II, 26, article 1.

⁵ Technically, it is certainly open to debate whether there are "wrongful acts" in the case of global environmental problems such as global climate change. The climate convention itself cannot be applied for past activities, and having permitted their citizens to burn fossil fuel in past decades will hardly provide evidence for intentional wrongful acts by industrialized countries. Moreover, the essential causal link and the significance of any transboundary pollution will be difficult to prove if we analyze questions such as the responsibility of, say, Germany versus island states that may be inundated in the future. If Germany emits a certain percentage of global carbon dioxide emissions, shall it be held "responsible" for the inundation of the respective proportion of the Maldives islands? On the other hand, hardly would it be acceptable if poor low-lying island states were flooded without any other state being responsible. Principle 21 of the Stockholm Declaration on the Human Environment (1972) states that "States have [. . .] the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States [. . .]."

⁶ See Montreal Protocol on Substances that Deplete the Ozone Layer as amended in 1990, article 10, paragraph 1.

⁷ See 1992 UN Framework Convention on Climate Change, article 4, paragraph 3.

⁸ See 1992 Convention on Biological Diversity, article 20, paragraph 2.

⁹ See Dunoff (*supra* note 1) and Kingsbury (*supra* note 1).

¹⁰This has been elaborated in more detail in Frank Biermann and Udo E. Simonis, *A World Organization for Environment and Development. Functions, Opportunities, Issues* (Policy Paper 9, Bonn: Development and Peace Foundation, 1998), which is now also available as Frank Biermann and Udo E. Simonis, *Needed Now: A World Environment and Development Organization* (WZB Paper FS II 98-408, Berlin: Berlin Center on Social Research, 1998—contact barsch@medea.wz-berlin.de). See also for a similar proposal Daniel C. Esty, *Greening the GATT* (*supra* note 1).

**HOW CAN ENVIRONMENTALISTS LEGITIMIZE
THEIR INTERVENTIONS INTO THE INTERNATIONAL
FINANCIAL INSTITUTIONS**

Wolfgang Schmitt

Let me start with a definition of environmental diplomacy. Environmental diplomacy tries to influence foreign governments and/or multilateral institutions towards certain policies. In this context I acted as a member of parliament in order to “green” the policies, projects and their implementation by multilateral financial institutions.

How do the Greens in Germany legitimize their efforts to influence International Financial Institutions (IFIs). First of all these institutions are supported by German taxpayers money. As a parliamentarian I have a clear mandate to oversee and monitor the use of this money. Secondly as far as the German government influences the international debate, i.e., through its delegates in the governing bodies of the IFIs, we try to push our government and its representatives in a certain, “greener” direction.

Parliamentarians in several countries have a very different leverage. U.S. Congress members are the most influential, whereas our French and Japanese colleagues have almost no say. In these countries foreign relations including IFI affairs are a prerogative of the government. The Germans are virtually in the middle.

Our previous efforts in environmental diplomacy were primarily targeted towards the World Bank. Here you can distinguish four sectors:

policies (guidelines for project identification, country assistance strategies, evaluation);

projects and their implementation and their compliance with policy guidelines; and

institutional change, i.e., the creation of a monitoring unit, which also works as an instance of appeal for affected people (inspection panel).

We got almost all of our information from NGOs and related World Bank watchers. Since for a number of reasons the Bank feels obliged to communicate with parliamentarians, we tried to use this practice to reach the goals Greens and NGOs have in common.

Before taking any action we also had always tried to convince parliamentarians from other parties within the German parliament to join our campaigns.

Bank President James Wolfensohn and his deputies frequently visit the German *Bundestag* and on such an occasion there is always an extensive q and a in the committee for development affairs. Besides that we have different other opportunities to talk to senior bank officials.(i.e., the annual meeting of Bank and Fund).

What kind of problems have occurred during our efforts?

1. The energy sector still concerns us. The Bank's portfolio still consists of too many large-scale thermal power projects.
2. More and more controversial power generating projects are excluded from the Bank's portfolio, because the recipient countries neglect banks loans to avoid interference by the Bank and outsiders. (China/Three Gorges Dam; India/Narmada).

Successes? Yes, there were some successes. We stopped the Arun III dam mainly due to economic reasons. While not finally decided, the outlook for the Chad/Cameroon Oil Project is very bleak since the Bank was forced by its minority share holders to withdraw IDA-support

In my opinion it is much more difficult to influence the IMF. Without any doubt the IMF, through its policy-requirements/macro-economic strategies substantially influences its client countries. Almost all of them are developing countries or countries in transition.

Firstly, on the analytical/conceptual level the current grade of environmental devastation in an given country should be included into the IMF's country reports and strategies.

Secondly, during the formulation of economic recovery strategies the environmental impact should be assessed. The perception of NGOs and other concerned people including parliamentarians is that the IMF still supports and recommends export-led growth strategies. Often the sectoral core of this strategy is to promote the exploitation of natural resources of a certain country by mining, timber exploitation, large scale cash crop farming, oil and LNG extraction.

Even in countries where a more or less proper environmental legal framework exists—its implementation is virtually weak or non-existent.

Bank and Fund should focus much more on efforts supporting public awareness on environmental questions. Secondly they should urge parliaments and governments to develop a legal framework and institutions to enforce the law.

Finally the creation of a sound and fair judicial system (rule of law), which offers affected and concerned people the opportunity to challenge government decisions and corporate behavior is absolutely essential.

Bank and Fund have already realized that in order to succeed they have to pay much more attention on their clients' ability to monitor and supervise their financial markets. It is obvious that we need the same institutional approach to protect the environment.

I would like to finish my remarks by addressing a very sensitive issue, which tends sometimes to be the blind spot of Green advocacy groups and people. How do we legitimize our interventions? It is clear that we have a mandate to criticize our own government if its policies have a transnational or global impact. But how should we deal with the demands of affected peoples to support them, if these claims are rejected in a legal procedure which is comparable to our "western" legal standards. Governments in developing countries especially are very sensitive about intervention from abroad. And not all of them are corrupt bad guys.

Green activists from around the world should make it clear, that they recognize the right of all countries to exploit their natural resources and generate growth and prosperity for their people. This should happen in a sustainable manner.

But we cannot expect that governments in developing countries behave better than our own governments. By dealing with environmental diplomacy there is always the danger of double standards.

Still, most of international standards are set und defined in the industrialized countries. If we want to green, that is to say, save the planet, we have to start and act primarily in our home countries.

I conclude by hinting at the danger to in making IFIs scapegoats for every evil. Despite all the talk about the weakening of the nation state, there is still enough opportunity for rogue behavior against mankind and nature by nation states.

**GREENING THE INTERNATIONAL FINANCIAL
INSTITUTIONS: PROPOSALS AND RECOMMENDATIONS
FROM FRIENDS OF THE EARTH**

Andrea Durbin

It is an understatement to say that 1998 was a pivotal year for the International Financial Institutions (IFIs). The Asian financial crisis, which broke in 1997, worsened and spread throughout Asia and to Russia. The social and environmental costs of fiscal austerity measures promoted by the International Financial Institutions were dramatically communicated to the rest of the world. As a result of the global financial crisis in Asia, unemployment rates have skyrocketed, businesses have closed, and suicide rates in countries like Korea are on the rise because of unemployment problems. Prices have increased for basic food products, which has led to social unrest in countries like Indonesia. Malnutrition in Asia is on the rise, especially for children and women. In Russia, the government is seeking food assistance from countries like the United States to avoid food shortages in the winter.

The environment also felt the impact of economic advice promoted by the World Bank and the International Monetary Fund (IMF). The IMF will require that governments promote the export of natural resources as a condition in any bail-out package. This approach dramatically undervalues the long-term economic significance of a healthy natural resource base. In Indonesia, home of ten percent of the world's tropical rainforests, deforestation rapidly increased as a result of IMF loan conditions. The IMF required that investment in the palm oil sector be liberalized, which led to rapid slash and burning of forests to plant palm oil plantations. These fires caused significant health problems throughout Asia, in addition to posing serious global environmental threats. The fires on the island of Sumatra alone released more greenhouse gas emissions, the leading cause of climate change, into the atmosphere than all of Europe last year.

The financial institutions, especially the IMF, came under serious criticism this last year for failing to avert the financial crisis and for operating in secrecy, even keeping governments in the dark about their plans. The IMF seemed more concerned about boosting the confidence and guaranteeing the payment of international bankers than ensuring that poor people and the environment were protected in economic restructuring plans. The World Bank, blurring the distinction between itself and the IMF, attempted to pick up the pieces through limited social safety net spending and by expanding its adjustment, or quick infusion of cash, in Asia. In 1998, almost 40 percent of the World Bank's loans in East Asia went to structural adjustment, nearly twice the amount of that in 1996.

The critical attention to the past year's events has revived the debate about the future role of the Bretton Woods Institutions. As President Clinton put it in a speech at the IMF and World Bank annual meetings in October, the crisis has highlighted the need to "modernize and reform the international financial system to make them ready for the 21st century." Politicians, policymakers, think tanks, NGOs and business groups alike are all now engaged in a debate about what the new "global financial architecture" should look like.

For environmental groups, the debate about the Bretton Woods Institutions provides a long awaited opening to promote an environmental agenda: specifically, to make the IFIs instruments for environmentally sustainable development. For more than a decade, environmental organizations have campaigned to reform the IFIs, urging the World Bank and IMF to incorporate environmental goals and more transparency into their overall operations. That effort yielded some significant successes, including:

- A set of environmental policies and standards that the World Bank applies to its borrowers, but which are also considered, de facto, international environmental standards by other institutions, like bilateral finance agencies, and corporations.
- More transparency and clarity about the role of civil society and NGOs in the operations of the IFIs.
- More accountability mechanisms to promote better quality lending, such as the independent inspection panel at the World Bank.

But these improvements have largely been at the margin of the IFIs operations. The environmental community has yet to affect the core of the IMF and World Bank so that these institutions change the direction of their lending and incorporate environmental goals routinely into their approach. That is the next step for this reform effort and the next challenge for the environmental community. How do we ensure that the IMF and the World Bank incorporate the goals of environmental sustainability into their overall operations, and what would such reformed institutions look like?

THE IMF

Let's start with the more difficult of the Bretton Woods Institutions, the IMF.

The IMF will characterize itself as a macroeconomic institution, arguing that it deals solely with financial issues and that it has no mandate to address the environment. While it is true that the purpose of the IMF is to address eco-

conomic stability and short-term liquidity problems, the institution is also involved in restructuring economies. And since economic restructuring often has an environmental impact, the IMF can't avoid addressing environmental issues.

Any typical IMF adjustment program—which includes budget cuts, tax increases, trade and investment liberalization—has environmental costs and benefits. And as a result, in too many instances unnecessary environmental degradation results from IMF economic programs for the very reason that environmental costs and benefits were never factored in.

While the IMF needs to recognize the inseparability of economic stability and environmental well-being, it is also important for environmental NGOs to recognize that there are constraints to the IMF's capacity to be an advocate for environmental protection. The IMF should take steps to diversify the knowledge base of its staff, but the reality is that it is a macroeconomic institution and other organizations, such as the World Bank, are better equipped in staff expertise and routine activities to pursue the bulk of environmental activities. The challenge, then, for the IMF is to explore the niche that it **can** occupy in environmental protection.

The IMF has a unique role to fulfill in the defense of the global environment that is not currently being adequately fulfilled by other institutions and which is most appropriately addressed by the IMF.

The following proposals present concrete recommendations for the IMF.

Monitor and Publish Environmental Spending Figures

In the last several years, in response to NGO concerns, the IMF has increasingly talked about the importance of transparency. In the past year, the IMF has advocated increased transparency in the design of government budgets. The IMF views budget transparency as a key step toward avoiding unproductive expenditures and curtailing corruption.

As part of this initiative, the IMF should incorporate spending on environmental programs. While it is not appropriate for the IMF to expand its powers by subjecting countries to additional conditions (such as ordering countries to increase environmental spending), publishing environmental spending figures in government budgets will put public pressure on governments to at least maintain, if not increase, environmental spending. This type of disclosure also enhances the power of civil society to hold their governments accountable.

Publish Any Changes in Environmental Laws That Are the Result of IMF Structural Adjustment Discussions

A major criticism of environmental NGOs regarding IMF structural adjustment concerns the IMF's overarching emphasis on creating favorable condi-

tions for private sector development and foreign investment, even if that means weakening environmental laws. The IMF should not encourage the weakening of environmental laws. If, however, any laws have in fact been streamlined, made more flexible, eliminated, or strengthened as a result of loan negotiations, the IMF should publicize the changes. In particular, changes to laws that deal with major extractive industries, such as mining, forestry, and fishing, should be disclosed. Again, transparency will serve to create the pressure on governments and the IMF to uphold strong regulatory standards that protect the needs of communities and their environment.

Include Environmental Ministers in Negotiations on IMF Programs

In general, the IMF negotiates its loan programs with finance ministry and central bank officials of the borrower countries. The lack of broader government participation in the design of adjustment programs is a serious impediment to balanced programs that would create the conditions for economic growth while protecting the environment and the poor. In natural resource-dependent countries, where environmental resources make up a significant portion of national income or exports, it is particularly important for environmental ministries to be represented in loan negotiations so that sustainability and resource management issues enter into the economic discussions.

Pursue Environmental Accounting as Part of IMF Technical Assistance and Data Gathering

The IMF has the opportunity to take a proactive role in fostering environmental protection and sustainable development. One of its functions is to gather data on the macroeconomic health of its 182 member countries. But these figures are based on GDP measures that fail to capture environmental externalities. This approach is flawed as it assumes that natural resources are infinite and does not recognize the liabilities created by the environmental destruction resulting from unsustainable development.

The IMF, housing the global statistics department, and being in charge of providing technical assistance on national income accounting systems for finance ministries in developing countries, should take the lead in the development of “green” accounting systems. Furthermore, the IMF should encourage all member countries to begin integrating the environment into their national accounts. The IMF is the most logical institution to begin such environmental accounting because it collects this data anyway and its membership is largely universal.

Implement “Green” Taxes

As part of its fiscal policy advice, the IMF focuses on facilitating a government’s capacity to collect taxes- generally through a value added tax (VAT) system. VAT is a regressive tax collection system, often including taxes on basic food products, medical services and rent, thereby imposing an undue tax burden on low-income consumers who cannot afford it.

By focusing on regressive tax policies, the IMF misses the opportunity to generate substantial taxes from large industrial producers and resource extractors while at the same time influencing economic activity in ways that have positive impacts on the environment. By instituting environmental tax policies the IMF could contribute to sustainable development. Taxes could be used as a mechanism to promote environmental goals by providing incentives for the taxpayer to change production practices. They could also improve a country’s economic competitiveness by encouraging energy efficiency and preventing costly environmental contamination and degradation.

Require Environmental Impact Assessments

While determining the environmental externalities of a macroeconomic policy, such as the IMF’s structural adjustment policies, may be more complicated than doing a similar analysis for just one project, it is still imperative that the IMF incorporate environmental impact assessments (EIAs) into its loans. Only a full assessment of a policy’s externalities will allow the IMF to pursue policies that promote countries’ long-term economic prosperity.

While these EIAs should be incorporated into IMF policy and program design, the IMF should work with other institutions like the World Bank, national environmental ministries, or credible environmental research organizations. The IMF should commission such institutions—which have more staff experience and expertise with EIAs—to conduct the studies, then work in a transparent fashion to incorporate the studies’ results into its loan programs.

Taken together, these proposals to incorporate environmental goals into the IMF’s operations are completely appropriate, given the IMF’s role and mandate, and would have a significant impact on promoting environmental protection globally.

THE WORLD BANK

It is less controversial to assert that the World Bank should incorporate environmental goals into its operations. The problem, however, is that some people assume that the World Bank has already done exactly that. While the Bank should be credited for being more progressive and open to environmental

issues that its sister institution, the IMF, the Bank has a long way to go before one can truly say that it is promoting an environmentally sustainable development agenda.

Many of the Bank's loans support projects that involve unsustainably managed natural resource extraction, or pollution generating projects, such as coal-fired power plants or highways and roads when more environmentally sound alternatives are feasible. The Bank has responded to environmental criticism by promoting Global Environmental Facility (GEF) add-ons grants, but the Bank has made little progress in integrating environmental sustainability into its own portfolio.

At an institutional level, the World Bank has undergone a restructuring and reorganization that has weakened the role and purpose of its Environment Department. The Bank of today is more de-centralized, making it even more difficult to integrate environmental goals into the portfolio. Now country departments must pay for environmental expertise and advice, which imposes additional costs during a time when there are budgetary constraints. Furthermore, the Environmental Department has also suffered budgetary cutbacks and a reduction in staff, limiting the ability of the staff to promote environmentally sustainable development in the Bank Group's loans and operations.

The criteria for assessing the Bank's performance should be whether its portfolio supports more environmentally and socially sound projects. In response to the Bank's poor performance, and with the goal of "greening" the Bank's portfolio in mind, the environmental community has enumerated a series of environmental benchmarks that the Bank should meet.

These benchmarks fall into two major categories: "doing more good" and "doing less harm."

The "Do More Good" Agenda

Under the "do more good" category, the environmental community has recommended that the World Bank set positive lending targets for its sectoral lending, beginning with the energy sector. The Bank already uses this method for other lending, but it has not set environmental lending targets.

For the energy sector, environmentalists have called on the World Bank to shift the global investment trends in the power sector by investing in environmentally sound power projects. It can do this by setting a target of 20 percent of its total energy portfolio to go for investments in alternative/renewable energy, demand side management and energy efficiency programs, with a subsequent increase of 10 percent every year after.

In an effort to understand the Bank's impact on global climate change resulting from its portfolio, we have recommended that the Bank track and

calculate the carbon emissions resulting from Bank-financed projects and to reduce the portfolio carbon emissions by 10 percent per year.

After the Bank successfully establishes positive lending targets for the energy sector, it could follow with targets for the transport, water, and agriculture sectors, key areas where lending has significant environmental impacts.

The “Do No Harm” Agenda

Under the “do no harm” proposals for the Bank, the environmental community has argued that the Bank should not use its limited resources for projects that have significant and negative environmental impacts for several reasons. One reason is that the Bank’s involvement in a project has negligible positive impacts. There is little data to support contentions that the Bank’s involvement in projects leverages significant positive impact and or to prove that the Bank’s involvement is critical for these projects to go forward.

The other reason for a “do no harm” agenda is that the Bank has the ability to use its monies to affect real change and lead the way for global investment trends to shift towards environmentally sustainable development. The Bank should use these resources and influence to support positive, environmentally sound investments.

To operationalize this concept, the environmental community has proposed that the World Bank expand what it calls its “negative list”—types of projects which will not be financed—to include projects that lead to severe environmental harm or practices that are outmoded. Other financial institutions, such as the U.S. Overseas Private Investment Corporation, have recently updated their exclusion lists to include such projects. The kinds of projects that would be included in such a negative list include, for example:

- Infrastructure or extractive projects in frontier or primary tropical, temperate or boreal forests. Extractive projects include both underground resources such as oil, gas, and minerals, and surface resources such as timber.

- Logging or extractive forest projects unless they are certified by an accredited non-governmental organization that is independent from parties with either an equity interest in, or decisionmaking authority over, the specific forest operations being assessed. The forest project must be certified by an accredited international certification body, such as the Forest Stewardship Council.

- Projects in or impacting areas listed on the United Nations List of National Parks and Protected Areas, or Nature Reserves/Wilderness Areas, National Parks, or National Monuments or proposed nature sites.
- Projects involving the commercial manufacture of ozone-depleting substances or the production or use of persistent organic pollutants.
- Gold mining projects that involve cyanide leachate processing.

In addition to following the “do more good” and “do no harm” agendas, the World Bank should take the following steps:

Strengthen Governments’ Capacity to Establish and Enforce Environmental Laws

It is crucial for the World Bank to focus on building and strengthening the ability of its borrower governments to establish effective environmental regulatory frameworks and enforcement capacity. The Bank cannot solve environmental problems country by country on its own, but it *can* strengthen the role of the state so that it has that capacity. This could be one of the greatest positive impacts the Bank has on the environment. Unfortunately, however, the World Bank has not integrated this capacity-building function well into its operations. In fact, in certain lending and technical advisory functions, such as privatization, the Bank has had the reverse impact, in some cases by undermining the role of the state in regulating for environment or public health issues.

Integrate Environmental Issues into Sectoral and Structural Adjustment Lending

Finally, as the World Bank diversifies its operations more and moves increasingly into sectoral and structural adjustment lending, it should incorporate environmental goals into those operations. Similar to that of the IMF, the World Bank’s structural adjustment lending has significant and often harmful impacts on the environment, the poor, women, etc. It is absolutely critical for the World Bank to assess the environmental impacts of Structural Adjustment Lending and integrate environmental issues into sectoral lending. For example, for banking sector loans, the World Bank could engage the banking sector to establish basic environmental review standards that assess environmental risk since these environmental risks often pose financial risks as well. Right now there is little to no interaction and coordination between the environmental specialists and the sectoral lending staff at the Bank. That would be the first

place to start to spread and integrate environmental goals into the Bank's overall lending.

Whether considering trade policy, investment regulations or the role of the International Financial Institutions, we must view development in its broadest terms; these terms include environment, they include workers, they include the interests of the poor and of women, and they include human rights. With the "rethinking" of the Bretton Woods Institutions, there is now the political opening to make significant progress on these issues. And as President Clinton rightly put it, we can "prepare these institutions for the 21st century."

ENVIRONMENTAL DIPLOMACY IN THE TRANSATLANTIC DIALOGUE

John Hontelez

The European Environmental Bureau (EEB) is a federation of 127 European environmental organisations, predominantly based inside the European Union. Its mission is to influence EU policies to make them more environmentally friendly and contribute to sustainable development. It exists since 1974.

At EEB we have had long experience in working in what is the most established international regulatory context, the European Union. Environmental diplomacy is a key element of our work. EU decisions are the result of complex processes whereby close contacts, early information and being at the right place at the right time with the right suggestions are crucial. The process is complicated also because environmental organisations lack a formal status in the EU-decisionmaking process, a European press and public is virtually absent and the EU includes fifteen different political and social cultures and very different positions occupied by environmental organisations in their societies.

The trend in the EU is towards more democracy and more transparency. But we are still a long way from where we are on the national levels.

While we may achieve more democracy and transparency inside the EU, the impact of these is undermined by global processes, and in particular in the area of trade, through the role of the WTO, and attempts like the MAI.

While we welcome the spirit of the New Transatlantic Agenda, agreed on in 1995, and are in favour of closer cooperation and better mutual understanding between the peoples and governments of the EU and the U.S. in general, we do have concerns about some aspects such as the tendency to see free trade as inherently good and more important than other values and interests, and the danger of the U.S. and EU grouping together to decrease the influence of other nations. We also regret the absence of sustainable development as the overarching principle for the Agenda, and later, the Transatlantic Economic Partnership.

With regard to the invitation to the Transatlantic Environmental Dialogue we have responded positively, even though it came late when compared with the existence of other dialogues, in particular the one from the business community. European environmental organizations traditionally are greatly interested in developments in the U.S. In the early seventies we were incorporating into our program these examples:

- the emerging criticism about nuclear energy, as voiced by the Union of Concerned Scientists, which in fact coincided with the beginning of the anti-nuclear movement in Europe;
- cost-internalization in the eighties, in nuclear power projects, in particular after Harrisburg, meant that nuclear power could no longer compete anymore in the U.S., a form of liability we are still looking for in Europe;
- U.S. advances in reducing car pollution by requiring catalytic converters ten years before the EU;
- Freedom of information such as the U.S. FOIA and EPCRA laws, which were shining examples for European campaigns on access to environmental information, and still are.

However, the picture has changed in the last ten years. The USA no longer is a global leader.

- In Rio, the U.S. was a difficult player, and it did not sign the Biodiversity Convention. Instead it makes strong efforts to reduce the impact of the Biosafety Protocol that is under preparation under that Convention. It is campaigning for its biotech companies, not for the common good.
- In the Climate negotiations the U.S. again plays a most disappointing role. It proudly presents itself as world leader but it is not! As emitter of 35 percent of the global emissions, it should be a leader in reducing emissions at home, but its leadership consists of avoiding such obligations and paying its way out.
- The U.S. is putting pressure upon the EU to open its markets for products that the people in the EU do not want. This includes meat produced with growth hormones and GMO-produced agricultural products.
- The U.S. does not accept that the EU wants to give preferential treatment to banana producers in countries that cannot compete with American companies due to environmental and social circumstances.

So, the coming Transatlantic Environmental Dialogue will have a lot to discuss among environmental organisations. And we need this Dialogue as a counterweight against the free trade oriented ideological approach of both U.S. and EU (represented mainly by the Commission) on the multilateral level and the threat of negotiated bilateral deals which conflict with environmental and health interests as well as with sustainable development.

In advance of the Dialogue, lead organisations in the EU have expressed themselves on the Action Plan for the Transatlantic Economic Partnership. We basically say: not so fast. If you want a serious dialogue with us, let's start with a discussion whether all this contributes to sustainable development or contradicts it. For the European Union it is an obligation, laid down in the Amsterdam Treaty, that will be in force from early next year.

CONFERENCE AGENDA

Opening Remarks

Jackson Janes, AICGS
Sascha Müller-Kraenner, Heinrich Böll Foundation

Defining Environmental Diplomacy

Facilitator: Marianne Ginsburg, The German Marshall Fund of the U.S.
Richard Benedick, Battelle Institute
Sunita Narain, Centre for Science and Environment
Claude Weinber, Heinrich Böll Foundation, Tel Aviv
Hillary French, Worldwatch Institute
Jonathan Margolis, U.S. Department of State

Environmental Regulations and International Financial Regimes

Facilitator: Ellen Alradi, Heinrich Böll Foundation
Wolfgang Schmitt, Alliance 90/The Greens
Andrea Durbin, Friends of the Earth

Environmental Diplomacy in the Transatlantic Dialogue

Facilitator: Carl Lankowski, AICGS
Kurt Fuller, USAID
John Hontelez, European Environmental Bureau
Rafe Pomerance, U.S. Department of State
John Audley, National Wildlife Federation

Closing Remarks

Sascha Müller-Kraenner, Heinrich Böll Foundation
Jackson Janes, AICGS

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ISBN 0-941441-39-3

