



Environment & Development Series

1

Globalisation & The Crisis of Sustainable Development

Martin Khor

TWN
Third World Network

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Penang, Malaysia

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CHAPTER ONE

THE CRISIS OF SUSTAINABLE DEVELOPMENT

It has been almost a decade since the Rio Summit of 1992. At the time it was hailed as an achievement for placing the environment crisis at the top of the international agenda, and for linking environment with development in a new paradigm of sustainable development. There was a hope that the “Spirit of Rio” would carry the paradigm forward into practical programmes and policies that would deal with both the environment and development crises in a new North-South partnership.

Today it must be admitted that the process after Rio has largely failed to fulfill the promises and hopes of Rio. The Rio Plus Five Summit (UN General Assembly Special Session to review the United Nations Conference on Environment and Development (UNCED)) concluded in June 1997 without a political statement because the divide between North and South countries was too wide to bridge.

The world’s environment has continued to deteriorate. For example, forests continue to disappear or be degraded at a rate of 14 million hectares a year; Greenhouse Gases are still increasingly pumped in the atmosphere, but the US has pulled out of the Kyoto Protocol and the present targets for emission reductions are clearly inadequate; and there is a looming crisis of water shortages around the world.

The reason is not to be found in the paradigm. Rather, the paradigm was not given the chance of being tested in implementation. Instead, the sustainable development paradigm came under competition from a rival, the paradigm of globalisation. This rival had indeed already been gathering strength even before the UNCED process. But UNCED for a time gave globalisation good competition, and UNCED was even given support by the Copenhagen Social Development Summit of 1995.

However, the globalisation paradigm was given a great boost by the Marrakesh Agreement of 1994 that established the World Trade Organisation. Globalisation found a new institutional house with its many rooms in the WTO's several agreements. Moreover the WTO's dispute settlement system based on retaliation and sanctions gave it a strong enforcement capability. The WTO agreements rivalled the chapters of Agenda 21 and the Rio Declaration. The UNCED did not have a compliance system or a strong agency for following up its agreements. As the 1990s drew on, and the WTO agreements became more and more operational, the globalisation paradigm far outstripped the sustainable development paradigm. Marrakesh 1994 overrode and undermined Rio 1992.

Moreover, globalisation was fostered by more than the WTO. Financial liberalisation contributed to the series of new financial crises that began with Mexico, going on to East Asia, Russia and Brazil and now enveloping Turkey and Argentina. This was in addition to the old financial crisis of debt in Africa and other regions that has refused to go away.

Globalisation also took the form of the spread of new technologies, including genetic engineering that has the potential of impacting significantly on the environment.

The competition between the two paradigms, with globalisation without doubt running away as the winner, and moreover a winner whose speed, direction and effects seem to be uncontrollable,

has resulted in a crisis of sustainable development — or rather a number of crises:

- The environment crisis has not been checked. It is getting worse including in the area of biodiversity loss, water depletion and scarcity, climate change, deforestation. The effects are going to be devastating.
- The crisis of development has worsened. The plight of LDCs continues, whilst many of the more successful emerging economies also fell into crisis, and several development options have been diminishing in scope or possibility.
- The conceptual, policy and political link between environment and development which had apparently been made inextricable by the UNCED process seems to have broken all too easily, and “development” as a principle or right seems to be disappearing in the Northern establishment.
- Even in the more narrow environment arena, there is a backlash from commerce-backed forces, which has resulted recently in the weakening of multilateral partnership (e.g., a small group of countries almost succeeded in scuttling the Biosafety Protocol, and the US has rejected the Kyoto Protocol).

In short, in the years after the Rio Summit, the environment has dropped many notches down the global and national agendas, whilst “development” is also fast vanishing as a principle and an agenda item, in the countries of the North and thus in the international agenda.

The process of globalisation has gained so much force that it has undermined and is undermining the sustainable development agenda. Commerce and the perceived need to remain competitive in a globalising market, and to cater to the demands of companies and the rich, have become the top priority of governments in the

North and some in the South. Correspondingly, partnership for environment and development concerns has been downgraded.

The most glaring weakness at Rio was the failure to include the regulation of business, financial institutions and TNCs in Agenda 21 and the other decisions. These institutions are responsible for generating much of the pollution and resource extraction in the world, as well as greatly contributing to the generation of unsustainable consumption patterns and a consumer culture. UNCED and the Commission on Sustainable Development, the UN system as a whole and governments have collectively failed to create international mechanisms to monitor and regulate these companies. Instead their power and outreach have spread much more, and this has been facilitated by the implementation of the WTO's rules.

However, whilst sustainable development is at a low ebb, there are also signs of its revival as a paradigm. The limitations and failures of globalisation have caused a major public backlash which may eventually result in some policy changes. Pro-sustainability forces within governments in developing countries are becoming more aware of their right or responsibility to try to rectify the present problems, including changing some of the rules in WTO. The World Summit on Sustainable Development provides a good opportunity to refocus attention of the establishment and the public, not only on the problems, but on the need to shift paradigms.

This paper re-states the UNCED principles, reviews UNCED's weaknesses and the problems of non-implementation of the Rio agreements, gives examples of how globalisation has undermined sustainable development goals, and outlines proposals for dealing with some of the problems in the interface between globalisation and sustainable development.

CHAPTER TWO

THE BASIC UNDERSTANDING AT RIO

The UNCED was a historic watershed that raised hopes of people around the world of the emergence of a new global partnership. This new partnership, arising from the “Spirit of Rio”, would change the course of international relations, tackle the growing global environment crisis and simultaneously strive for more equitable international economic relations that would be the basis for promoting sustainable development globally and in each country.

The unique achievement of UNCED was that through its long preparatory and Summit processes, the world’s diplomats and highest political leaders recognised not only the environment crisis in its many facets, but how this was embedded in economic and social systems, and that a realistic and long-term solution lay in dealing with both the environment and the development crises simultaneously and in an integrated fashion.

UNCED also involved thousands of non-governmental organisations, which were able not only to champion their particular issues, but through intense interaction among groups from North and South and from the environmental, development and social spheres, were able to develop a much more integrated approach to global and local problems. UNCED was an important landmark for catalysing the development of a “global citizen movement”.

It also provided an opportunity for citizen groups and governments

to engage in dialogue on the most pressing global problems confronting humanity and the Earth, and generated an international community, of governmental, non-governmental, and inter-governmental officials, agencies and individuals, who shared an understanding (however tentative) of the integrated nature of environment and development, and a recognition of the need for fundamental changes in economic and cultural systems, to prevent environmental catastrophe and social disorder.

The “compact” or core political agreement at the Earth Summit was the recognition that the global ecological crisis had to be solved in an equitable way, through partnership. This was captured in the principle of “Common but Differentiated Responsibility” in the Rio Declaration. This principle acknowledged that the North has historically and at present, been more responsible for the despoilation of the global environment, has more resources due to the uneven nature of the world economy, and has a proportionately greater responsibility in resolving environmental problems.

The South is being hampered in meeting the basic needs of its people by its unfavourable position in the world economy, and its national resources are being drained through falling commodity prices, heavy debt burdens and other outflows. Development goals, poverty eradication and provision for basic needs are (or should be) their top priorities. Environmental concerns should be integrated with (and not detracted from) these development objectives.

In concrete terms, the North-South agreement, and implementation of the principle of “Common but Differentiated Responsibility” would require that:

- (a) The North would change its production and consumption patterns (and its economic/social model). It would take the lead in improving environmental standards, reduce pollution and the use of toxic materials, and cut down the use and waste in natural resources, including through changing lifestyles. By “putting

its own house in order”, the North would show an example to the rest of the world that there is a need for a change in economic and social behaviour in order to solve the environment crisis;

- (b) The North would help the South with financial aid and technology transfer, and through partnership in bringing about a more favourable international economic environment (for example, through more equitable terms of trade and a resolution of the debt crisis). This would enable the South to have greater resources and a larger “development space” that would in turn facilitate a change in development model that would be more environmentally sustainable;
- (c) The South, by having more financial and technological resources, would manage its economy better, give priority to policies that meet people’s needs, improve pollution standards and reduce depletion of resources such as forests;
- (d) International agencies and structures would help further this process, for example, by reducing the debt problem of developing countries and reviewing the content of structural adjustment policies, by ensuring that the trade system brings about more favourable results for developing poor countries, by helping to mobilise financial resources and providing technical aid in improving environmental standards;
- (e) Issues requiring an integration of economic and environmental concerns (such as the interaction of trade and environment; and the relation between intellectual property rights and environmental technology and indigenous knowledge) should be resolved through North-South partnership in which the development needs of the South would be adequately recognised.

If the above principles are to be followed, then the concept of sustainable development would have at least two major components,

each balancing the other: environmental protection, and meeting the basic and human needs of present and future generations.

Thus, sustainable development would not only involve ecological practices that enable meeting the needs of future generations, but a change in production and consumption patterns in an equitable manner whereby resources which are currently being wasted are saved and rechanneled to meeting the needs of everyone today as well as the needs of future generations.

In this concept, equity among and within countries in the control and use of resources in ecologically prudent ways is a critical (or even the most critical) factor.

CHAPTER THREE

SOME BASIC WEAKNESSES OF UNCED

Despite the achievements of the UNCED process, there were, however, basic weaknesses and failures. Among these were:

- The refusal or inability of Northern governments to commit themselves to a reform of international economic relations or structures, or to initiate a new North-South economic dialogue. This meant that there was no commitment to resolve structural economic problems that weighed heavily on a majority of developing countries (particularly the poorer ones).
- As a result of the inability of the UNCED process to place these basic items prominently in Agenda 21, the items that dominated North-South negotiations became the pledge for “new and additional financial resources” (with Northern countries pledging to strive to meet the earlier commitments for aid to reach 0.7 per cent of their GNP) and the pledge for implementing “technology transfer” (at least for environmentally sound technologies). These two items are a poor substitute for more basic reforms to international economic relations. Given the situation, they however became the “proxies” or symbols of the North’s commitment to help the South in a new global environment-development partnership.
- Even though “technology transfer” was prominently discussed during the UNCED process and is given high profile in Agenda 21, in reality the Northern governments made it clear that the

protection of the intellectual property rights of their corporations would not be compromised. This would effectively render technology transfer (even if only of environmentally sound technology) on favourable terms by and large inoperable. Nevertheless, on the insistence of the South, Agenda 21 does have some reference to the need for technology transfer, and for intellectual property rights not to hinder the process. A similar principle is established in the Convention on Biological Diversity. The language and references in both cases are however guarded and ambiguous and relatively weak, although the acceptance of the principle provides grounds for fuller development in the follow-up of UNCED.

- The downgrading of the need for regulating transnational corporations and big commercial interests. As pointed out prominently by the NGO community, the big corporations are the main actors in generating environmental problems such as pollution, resource depletion and unsustainable production and consumption patterns. The UNCED process sidelined this role, and did not give action proposals for regulating or disciplining the behaviour of big corporations. Thus, the most important action required for sustainable development was omitted, and an opportunity for making the main economic actors more responsible and accountable was missed. This rendered many of the Agenda 21 proposals “toothless” or much less susceptible to implementation.
- The refusal by Northern governments, particularly the United States (whose delegation notably declared “Our lifestyles are not up for negotiations”), to effectively commit themselves to changes in lifestyles as part of the move towards sustainable consumption patterns. Thus a crucial element in the reduction of waste of natural resources was sidelined.
- Despite the many action proposals on environmental problems, there was relatively weak real commitment by both North and

South to resolving many of the problems. As a result of not wanting to have constraints put on their growth or development opportunities, Southern governments were not forthcoming in agreeing to disciplines on resource depletion, in particular on deforestation. There was resistance by Northern governments to place effective environmental safeguards on the development of genetic engineering, or to develop better international regulations on the transfer of hazardous products, projects and activities to the South. The commitment by Northern governments (especially the United States) to reduce emission of Greenhouse Gases was inadequate to the task of dealing with climatic change.

- Given these weaknesses, the concept of sustainable development remained controversial. Whilst there was general agreement that progress on the environment had to be accompanied by development, the place and role of equity, the need for reforms towards more equitable international relations and institutions as well as equitable ways of combining environment and economy nationally, were not agreed upon.

Despite these and other weaknesses, UNCED, its products (Agenda 21, the Rio Declaration, the Forest Principles, the Conventions on Biodiversity and Climate Change and an agreement to institute a Desertification Convention) and its processes (governmental, non-governmental and the interaction between the two), produced an intangible but nevertheless valuable “spirit” of partnership that could be built upon.

CHAPTER FOUR

THE FAILURES OF THE POST-UNCED FOLLOW-UP

Almost a decade after Rio, it is clear that the “Spirit of Rio” was not converted into practical action. Instead, it seems to have faltered, and whittled down, if not away. The main features of this development are as follows.

(a) Drop in aid volume

Despite the pledges of aid increase at UNCED, the volume of aid instead fell even in the first year after the Rio Summit. The OECD countries’ aid fell from US\$61 billion in 1992 to \$56 billion in 1993, and 14 of 21 donors decreased the share of aid as a ratio of GNP. Since then, the situation has further worsened. The aid decline is inevitably seen as a lack of commitment and sincerity of Northern governments to implement the Rio agreements, and has robbed the UNCED follow-up processes and institutions of their status and legitimacy.

(b) No progress (but the reverse) in technology transfer

There has been no tangible progress in the transfer of technology to the South, either in general or in environmentally sound technology. Instead, since Rio, there has been much greater emphasis on increasing the rights of holders of intellectual property (mainly corporations of the North) and a corresponding downgrading of

the rights of the public (and developing countries) in technology transfer and diffusion. This is mainly the result of the Uruguay Round's TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement which will require member states of the World Trade Organisation to tighten their national IPRs regimes in favour of IPRs holders, with detrimental effects on technology transfer or local development of technology. There is already evidence of how such patent regimes hinder transfer of environmental technology to the South.

There is also a danger that the emerging IPRs regime (whose rules favour commercial companies) will also marginalise the interests and rights of communities that developed biodiversity-based knowledge (in farming, medicinal plants, etc.) whilst enabling the patenting of this knowledge by commercial companies. Recently there has been public outrage at the high and exorbitant prices of medicines, especially for treatment of HIV/AIDs, as a result of the monopoly conferred through patents granted to drug companies.

The stress on IPRs protection at the expense of technology transfer has, like the decline in aid, robbed the post-UNCED process of its legitimacy, since technology transfer was the second plank of what was seen as the North's commitment to facilitating sustainable development.

(c) Downgrading of environmental concerns in the north

There have been no significant moves in the North towards basic changes on production and consumption patterns or lifestyles. Despite some efforts on the energy front for reducing emission of Greenhouse Gases (which are generally believed to be still inadequate to arrest adverse effects on climatic change), there has been in many Northern countries, a reversal of environmental policies or the lack of progress in critical areas requiring attention. Generally, there has been a downgrading of environmental concerns in

the national agendas, as commercial interests and the need to retain “national economic competitiveness” take precedence.

(d) Little improvement on environment in the south

In most Southern countries, environmental concerns have also not received the kind of special attention that UNCED had promised. The poorer countries remain enmeshed in problems of external debt and low commodity prices and face additional problems caused by aid decline. They are also bypassed by foreign investment flows. As a result, the lack of financial resources continues to hamper progress towards sustainable development. In the industrialising Southern countries, the pressures of urbanisation, industrialisation and high growth have put additional pressures on the environment, concerns for which have remained low compared to the imperatives of growth. Generally, in the South, there is a lack of progress towards sustainable agriculture or in phasing out the use of toxic substances.

(e) Erosion of concern for development

As serious as the downgrading of the environment agenda is the erosion of concern for development as a principle or as a right in the international agenda. This erosion is mainly due to a wave of economic conservatism in many Northern countries and reduced concern in their political establishment for problems of developing countries.

More seriously, in the North, the more aggressive commerce-oriented and trade-oriented approach of viewing developing countries as markets (that need opening up) and as potential rivals (whose advantages should be curbed) has replaced the other approach of viewing developing countries as disadvantaged global partners requiring and deserving assistance. As a result, the “de-

velopment principle" and the "development dimension" which hitherto had been recognised as the cornerstones in North-South relations, have been challenged and eroded, not only through the decline in aid, but also in the much greater reluctance to accord special treatment or advantages to developing countries in UN negotiations.

Of particular importance, the development principle has been eroded in North-South trade relations, especially at the WTO. The "special and differential treatment" for developing countries has been eroded through the Uruguay Round. In the current on-going WTO negotiations, including on new issues, developed countries have sidelined recognition of the development needs and objectives of developing countries and insisted instead on equal treatment for both the weak and strong: for example, "a level playing field" and "national treatment" for their firms.

This contrasts with the reaffirmation by political leaders of the world of the appreciation of the development rights and needs of the South, through the Social Development Summit of 1995, and other UN conferences and resolutions. These declarations and processes, which represent the spirit of international cooperation, are being undermined by the more legally-binding and enforceable rules of the trade system.

Therefore, instead of allowing the South to have greater development space to facilitate their transition to having a better environment (which was the UNCED understanding), there has been a significant narrowing of that space in the past few years.

(f) Persistence of development problems in the south

A major aspect of UNCED was to heighten priority in resolving the pressing development problems in the South. These problems had to be tackled at two levels: improving the negative interna-

tional economic environment; and improving domestic policies. Although a small minority of developing countries were able to take advantage of external factors to experience high growth (and even then some of these countries were hit by a financial and economic crisis), a majority of developing countries continued to suffer from poverty and social problems, and in some countries the situation worsened.

The external environment faced by many developing countries remained negative. The terms of trade for many developing countries continued to deteriorate, with the prices and demand for commodity exports weakening. The debt crisis persisted. Aid volumes declined. This continued to exert a large external drain of resources from developing countries. Resources for the state continued to dwindle in many countries, reducing their capacity to face the development challenges.

Globalisation in trade and investments had uneven results, with few benefits (and probably net losses) accruing to many of the poorer developing countries. Development policy options were further narrowed through the WTO Agreements and structural adjustments. Many of them were unable to gather sufficient resources and strength to overcome their pressing social problems. As a result, there was low or inappropriate growth, reduced social development expenditures, persistence or worsening poverty, higher unemployment and greater inequities.

(g) Lack of strong institutional follow-up

The Commission on Sustainable Development (CSD) was established under the UN Secretariat to oversee the follow-up activity of UNCED. The CSD has played a useful role. Its main annual meetings have provided a regular opportunity for politicians, officials and NGOs involved in sustainable development to meet, and it is a framework within which the cross-cutting issues and spe-

cific sectoral issues are reviewed, new initiatives are occasionally taken and where developments can be reported on. However, the CSD secretariat is relatively small and is limited in what it can achieve. The annual meetings, and subsidiary meetings in between, provide too little time for policy makers and NGOs alike to go into depth on the issues on the agenda, whilst there are also many other issues that come onto the agenda only once in several years on a rotation basis, due to time constraints.

The lack of a strong institutional “home”, agency or secretariat is thus one of the main reasons for the lack of achievements in the implementation and follow-up of the Rio Summit and its products.

CHAPTER FIVE

EFFECTS OF LIBERALISATION & GLOBALISATION & THE CLASH OF PARADIGMS

(a) The undermining of the sustainable development paradigm by the free-market approach

Perhaps the most basic factor causing the failure to realise the UNCED objectives was the countervailing trend of globalisation, driven by the industrial countries and their corporations, that has swept the world in recent years.

The UNCED approach represents one paradigm for international relations: that of consensus-seeking, incorporating the needs of all countries (big or small), partnership in which the strong would help the weak, integration of environment and development concerns, the intervention of the state and the international community on behalf of public interest to control market forces so as to attain greater social equity and bring about more sustainable patterns of production and consumption.

The liberalisation “free market” approach represents a very different paradigm. It advocates the reduction or cancellation of state regulations on the market, letting “free market forces” reign, and a high degree of rights and “freedoms” to the large corporations that dominate the market. The state should intervene only minimally, even in social services. On the environment, instead of intervening in or imposing environmental controls, the market should be left free on the assumption that this would foster growth and the increased resources can be used for environmental protection. This

approach also sidelines concerns of equity, or the negative results of market forces, such as poverty and non-fulfilment of basic needs. It assumes the market will solve all problems. Extended to the international level, the paradigm advocates liberalisation of international markets, breaking down national economic barriers, rights to corporations to sell and invest in any country of their choice without restraints or conditions. Governments should not interfere with the free play of the market, and social or development concerns (for instance, obtaining grants from developed countries to aid developing countries) should be downgraded.

The approach advocates a Social Darwinian philosophy of “each man for himself, each firm for itself, each country for itself.” In this law of the social jungle, it is the right of individuals and companies to demand freedom to seek advantage and profit and to have access to the markets and resources of other countries anywhere in the globe, to implement their right to profit. The advocates of this approach want a free-market system where the strong and “efficient” are rewarded, and the weak or inefficient may suffer losses but in any case should fend for themselves. The paradigm advocates competition, with prizes for the winners and without the supply of a cushion to compensate the losers for their loss. Aid and special treatment for developing countries should be downgraded.

In the decade after Rio, there has been a dramatic clash of these paradigms in international affairs. The paradigm of partnership and cooperation was represented by the United Nations series of world conferences, in which global problems relating to the environment, women, social development, habitat, and food were sought to be discussed and resolved in a framework of consensus-seeking. It was recognised that the market left to itself could not solve the problems and would indeed be a hindrance, and that thus there were critical roles for governments, the inter-governmental community as well as for NGOs and citizen groups, to temper the market with social and environmental priorities and programmes. The need to build the capacity of the weak and poor was accorded

priority, and the role of aid and differential treatment for them was recognised.

In contrast, the free-market paradigm was represented by the Bretton Woods institutions, which persisted in promoting structural adjustment programmes based on market liberalisation, and by the GATT/WTO which was dominated by the Northern governments advocating the opening up markets (especially of developing countries) for the exports and investments of corporations and financial institutions. The conclusion of the Uruguay Round in December 1993 heralded a new era where multilateral trade agreements and negotiations would subject countries much greater to the objectives of Northern governments advocating greater and wider “market access” for their corporations. The Uruguay Round agreements of 1993 and the paradigm they represented turned out to be more powerful than the UNCED agreements and products of 1992 and the partnership approach which they promised.

Indeed, in the years since Rio, the liberalisation free-market paradigm, that gained prominence and pre-eminence, has undermined the sustainable development partnership paradigm, which has been sidelined in terms of importance. The market paradigm had strong means of implementation: in the Bretton Woods institutions, structural adjustment can be enforced as conditions for much-needed loans; in the WTO system, the Agreements and rules are enforceable through a powerful dispute settlement system which includes trade penalties and retaliation. In contrast, the partnership paradigm has been deprived of its main means of implementation, which are financial resources and technology transfer.

The main factor for the triumph of the market paradigm is the strong support and aggressive advocacy for it by the powerful countries, and their deliberate marginalisation of the partnership paradigm. Within these countries, the Commerce and Finance departments of government enjoy far greater influence than the Environment or

Overseas Aid departments. This has contributed to the far higher priority given in these countries to national and private commercial interests vis-a-vis environment and development concerns.

(b) Depletion of UN's role and the expanding powers of the WTO and Bretton Woods institutions

In recent years, the Northern countries have also successfully organised the downgrading of the role, resources and influence of the United Nations in social and economic affairs and policies, and simultaneously enormously increased the powers and influence of the Bretton Woods institutions and especially the WTO in determining international economic and social policies. This shift in institutional location of authority is due to the fact that the Bretton Woods/WTO institutions represent the paradigm advocated by the North, and also due to the control the North asserts in these institutions in contrast to the UN system where the South is better represented, due to the differences in decision-making in the different organisations.

With the higher status of the market paradigm, sustainable development concerns have been given lower priority. Governments of strong countries have become obsessed with competitiveness of their firms and countries; this has reduced the commitment to improve the environment and change production and consumption patterns. Deregulation has included the weakening of environmental policies (or their enforcement) in many countries. Interest in implementing the development components of UNCED (and of other Conferences such as the Social Summit) has diminished. The means of implementation of the many action proposals have not materialised.

(c) Failure to regulate big corporations and the move to widen their rights

A major reason why the UNCED objectives have not been realised is the fact that the behaviour and practices of the main economic players (that determine production and consumption patterns) have not been brought under any kind of effective framework of accountability and discipline. UNCED was itself partly responsible for this, as it did not propose any measures for regulating big corporations.

In the past few years, the power of big corporations has increased: they control even more of the world's resources and account for a greater share of production activities, distribution, finance and marketing. There has been no noticeable change in their production patterns. The "business as usual" practice has resulted in continuation or even intensification of environmental pollution and resource depletion. Through globalisation of media, their advertising and sales promotions of consumer products and tastes have had an even much greater impact in spreading the kinds of lifestyles and consumption patterns that are environmentally unsustainable.

The regulatory situation relating to TNCs and business in general has worsened greatly in the years since the Rio Summit. The efforts to finalise a Code of Conduct on TNCs were formally killed in 1993, and the agency in charge of the Code, the UN Centre on Transnational Corporations, was closed down. Thus, the main international initiative and institution for establishing guidelines (non-binding at that) for the behaviour of TNCs, and that would lay down a code of obligations and rights of TNCs and states, have disappeared, and many years of work and negotiations have come to nought. Initiatives in other institutions, such as the Code of Conduct on Technology Transfer and the Set of Principles and Rules on Restrictive Business Practices, both at UNCTAD, were marginalised due to the reluctance of the developed countries for their coming into effect.

Instead, there has been a strong opposite trend, which is now dominant, to reduce and remove more and more regulations that governments have over corporations, to grant them increased rights and powers, whilst removing the authority of states to impose controls over their behaviour and operations. The Uruguay Round has already granted far higher standards of intellectual property rights protection to the TNCs, thus facilitating further their monopolisation of technology and ability to earn huge rents through higher prices. There are strong pressures from Northern governments at the WTO to grant foreign companies the right of entry, establishment and national treatment to all WTO member states. Other proposals on competition policy and government procurement would give them further rights of access to business in developing countries. The ability of governments to regulate the operations and effects of TNCs and companies in general is being severely curtailed.

Since it is most unlikely that businesses will voluntarily curb their own practices so as to be in line with sustainable development, especially since there is now an intensification of competition, the removal of the rights of states to regulate business, especially TNCs, is a major and perhaps fatal flaw in the international community's attempt to arrest environmental deterioration and promote sustainable development.

(d) The failure of political leadership

The recent years have also seen the weakening of political leaders in almost all countries in their attempts or ability to address environment, social and development issues. In the North, the political leadership has followed the rationale of the need to maintain competitiveness in a globalising world to place environmental and social concerns much lower on the list of priorities. Instead, these governments are meeting the demands of their corporations to promote liberalisation and to champion their interests domestically

and internationally. Thus, at international negotiations, whether at the WTO or at the UN, Northern governments promote proposals that widen the rights of TNCs, whilst blocking or diluting principles and points that are made on behalf of development.

In the international arena, Southern governments, individually and as a group, are generally inadequately prepared for negotiations, compared to the Northern governments. Despite the dramatic expansion of the importance of international organisations and processes in determining national policies, the political leadership and bureaucracy in most developing countries have not put adequate human and financial resources in preparations for international negotiations. As a result, they often find themselves at a very weak end of the negotiations. This can sometimes lead to their being unable to effectively promote their points, and to having to agree to other points that are detrimental to their interests. Such a situation is particularly dangerous when the negotiations involve legally-binding agreements, as in the WTO.

Many political leaders and bureaucrats may privately agree that the present state of affairs on environment and development is negative and requires drastic reforms. However they go along with the big tide of liberalisation and of catering to the demands and interests of the business elite. Many have declared that they are unable to change the situation, and that the forces of liberalisation and globalisation are too strong to counter.

The political capability and will to fight for environment, development and a cooperative model of international relations, seem to be lacking all over the world. This of course leads to the question of who, if not the political leaders, are going to take effective action to promote sustainable development.

CHAPTER SIX

IPRs, TECHNOLOGY TRANSFER & SUSTAINABLE DEVELOPMENT

(a) Technology transfer in the UNCED process

One of the major developments in the field of globalisation after the Rio Summit has been the establishment of global minimum standards for IPRs, under the WTO. This has had a major negative effect on access to technology by developing countries.

UNCED recognised that technology transfer was essential for developing countries' transition to sustainable development. Indeed, technology transfer was one of the two critical cross-cutting issues in the North-South compact, the other being financial resources. In the UNCED process, the key issue in technology transfer was intellectual property rights.

The South argued that IPRs had to be relaxed in the case of environmentally sound technology (EST), for otherwise IPRs would hinder the South's access to such technology. The Northern delegations were very sensitive on this point and refused to concede. Whilst agreeing that concessional terms should be encouraged for the transfer of ESTs, the Northern governments insisted that IPRs (such as patents) be applied and that an exception should not be made in IPRs regimes on such technologies.

Finally, the Agenda 21 chapter on technology called for action to promote and finance the access to and transfer of environmentally sound technologies to developing countries on favourable (includ-

ing concessional and preferential) terms. But it also says these terms must be “mutually agreed” upon and also take into account the need to protect intellectual property rights.

The full application of such rights would of course be a major barrier to technology transfer, and deprive the commitment to transfer technology of much of its content. There is thus a fundamental tension within the agreement on technology, and room for more discussion on how to operationalise the Agenda 21 proposals on technology cooperation, transfer and capacity building. The Southern countries consider this to be an area where assistance from the North is critically needed.

(b) IPRs as obstacle to technology transfer

Since Rio, there has also been little or no progress on facilitating the transfer of environmentally sound technology to the South. Instead, the international IPRs regime has become much stricter, especially through the TRIPS Agreement in the WTO, which will have to be translated to policies and laws at national level. Evidence is also emerging that the IPRs regime can prevent developing countries from having effective access to environmentally sound technologies (ESTs).

Holders of the patents to these technologies, which are usually Northern-centred transnational companies, can charge high fees or royalties for the right to use them, or impose conditions that are onerous. Companies in the South may not afford to pay at such prices, and if they do their competitiveness could be affected. As a result, developing countries may find difficulties in meeting their commitments to phase out the use of polluting substances under international environment agreements. For example, Third World firms find it difficult to have access to substitutes for chlorofluorocarbons (CFCs), chemicals used in industrial processes as a coolant, that damage the atmosphere’s ozone layer. This hin-

ders the South's ability to meet commitments under the Montreal Protocol, an international agreement aimed at tackling ozone layer loss by phasing out the use of CFCs and other ozone-damaging substances by certain target dates.

Under the Protocol, developed countries originally agreed to eliminate production and use of CFCs by the year 2000, whilst developing countries are given a ten-year grace period to do the same. A fund was set up to help developing countries meet the costs of implementing their phase-out, and the protocol includes articles on technology transfer to the South on fair and favourable terms.

Indian firms that manufacture products (such as refrigerators) with CFCs found it very difficult to phase out the use of these substances because of the lack of access to environmentally acceptable substitutes controlled by Northern multinationals. There are five Indian companies that are major manufacturers of products that depend on the use of CFCs. They face closure if they are unable to meet the dateline of eliminating CFCs use by the year 2010. However, the pledged technology transfer on fair and most favourable terms has not materialised. Three of the Indian companies formed a consortium to commission a local institute of technology to produce a substitute for CFCs, i.e. HFC 134A. However, the patent rights to the substitute are held by a few multinational companies. Some of the Indian companies are willing to pay the market price or even higher for the technology. But a multinational holding the patent has refused to license it unless it can take a majority stake in the companies' equity.

This example shows how much the developing countries have been put on the spot. On one hand they are persuaded or pressurised to join international environmental agreements and commit themselves to take painful steps to change their economic policies or production methods. Financial aid and technology transfer on fair and most favourable terms are promised during the hard negotiations, to persuade the South countries to sign on. Then, when the

agreements come into force, the funds are far from the promised level, and technology transfer fails to materialise.

Meanwhile in another forum like the WTO, other treaties such as TRIPS are negotiated which produce an opposite effect, and that is to block the South's access to environmental technology. Yet, when the time comes, the developing countries may not be able to meet their full obligations, such as phasing out the use of CFCs (in the Montreal Protocol). There is thus an unfair imbalance. The North does not follow its obligation to help the South, but the South has to meet its commitments, which because of the lack of aid and technology, will cause economic dislocation.

One remedy being proposed by some public interest groups and developing countries is to change the international laws on patents so that the full weight of IPRs is not applied to environmentally sound technology. For example, the Indian government has made out a strong case for amending the TRIPS accord in the WTO in order to recognise developing countries' need for transfer of ESTs on "preferential and non-commercial terms". It tabled a paper on the issue of TRIPS and the transfer of ESTs at the WTO in 1996 (see section below).

(c) TRIPS and environment at the WTO

In the WTO's Committee on Trade and Environment (CTE), "TRIPS and environment" is being discussed, under two issues: (a) the relationship between the TRIPS Agreement and technology, including access to, and transfer of technology and the development of environmentally sound technology; and (b) the relationship between the TRIPS agreement and MEAs which contain IPRs-related obligations.

A key issue, as defined by NGOs and some Southern governments, is an important clause in the TRIPS Agreement relating to

patentability and non-patentability of biological materials, i.e. the issue of “patenting of life forms”.

An interesting set of proposals on TRIPS and technology transfer has been presented by India to the CTE. The Indian paper (March 1996) states that the five types of intellectual protection (IP) covered in TRIPS are relevant in this context: patents, plant variety protection, layout designs of integrated circuits and undisclosed information. Two types of technologies incorporating IP are distinguished: those that harm and that benefit the environment. The use of the first should be discouraged, the second encouraged, by the international community.

On patents, for technologies harmful to the environment, measures needed to discourage their global use may include exclusion from patentability (so that incentives are not given to generate such technologies) and ban of their use or commercial exploitation. The TRIPS Agreement recognises this reasoning in Article 27.2 which allows exclusion from patentability “inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect *ordre public* or morality, including to protect human, animal or plant life or health or to avoid prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by their law.”

For environmentally beneficial technologies, to encourage their global use, and in cases where other measures for technology transfer are not possible, India proposes three points: (a) Members may have to exclude from patentability, to allow free production and use, such technologies as are essential to safeguard or improve the environment. Such an exclusion is not incompatible with TRIPS and may have to be incorporated through a suitable amendment; (b) For currently patented technologies, Members may revoke patents already granted, if this is done in consonance with the Paris Convention and must be subject to judicial review; (c) To encourage the use of environmentally beneficial technology, Members

should be allowed to reduce the term of patent protection from the present minimum of 20 years to say 10 years, "so as to allow free access to environmentally beneficial technologies within a shorter period."

Another key aspect of technology transfer and IPRs is the TRIPS provision in relation to biological materials (Article 27.3b). It requires governments to allow patent protection for microorganisms and microbiological processes for producing plants and animals. It also requires that intellectual rights on plant varieties be protected either through patenting or an "effective *sui generis* system of protection".

This raises concerns: firstly, that TRIPS makes it mandatory for countries to patent some life forms; and secondly, that the knowledge of Third World farmers and indigenous communities that has mainly contributed to the development of crops and the use of plants will not be legally recognised, whilst the corporations which genetically engineer biological resources will be unfairly rewarded. Countries of the South would then have to purchase biotechnology products at high prices (which are facilitated by the patent protection) even though they are the origin of the biological resources (and of the knowledge on their utilisation) used in biotechnology. This is likely to lead to higher cost of seeds and food products in developing countries.

In the TRIPS Council, many developing countries (most notably the Africa Group of countries and India) have raised the above concerns and asked for revisions to TRIPS or clarifications, to the effect that living organisms and processes cannot be patented, and that Members can introduce a *sui generis* protection system that protects the traditional knowledge of farmers and indigenous communities. However, there has been generally a negative response from developed countries which prefer the status quo to remain, or which want even tighter IPR disciplines in this area.

There are many other issues in TRIPS that are relevant to a discussion on sustainable development, such as the effects of IPRs on affordable medicines, other consumer items, and on technology transfer generally.

CHAPTER SEVEN

“TRADE & ENVIRONMENT” & ENVIRONMENTAL STANDARDS

“Trade and environment” was established as an issue in WTO due to a Ministerial decision at Marrakesh in 1994. It is discussed at the WTO’s Committee on Trade and Environment. That there are links between trade and environment cannot and should not be denied. Trade can contribute to environmentally harmful activities. Ecological damage, by making production unsustainable, can also have negative effects on long-term production and trade prospects. In some circumstances, trade (for example, trade in environmentally sound technology products) can assist in improving the environment.

What has been most controversial in looking at “linkages” is the advocacy of the use of trade measures and sanctions on environmental grounds. Some environment groups and animal rights groups believe that national governments should be given the right to unilaterally impose import bans or restrictions on products on the grounds that the process of production is destructive to animal life, and that WTO rules should be amended to enable these unilateral actions.

Some groups, and some developed country Members of WTO, go further and have advocated the adoption of a set of concepts linking trade measures in the WTO to the environment. These concepts are “Processes and Production Methods” (PPMs), internalisation of environmental costs, and eco-dumping. The three concepts are inter-related. When discussed in the WTO context, the

implication is that if a country has lower environmental standards in an industry or sector, the cost of that country's product is not internalised and the prices are thus too low (being unfairly subsidised by the low standard) and thus that country is practising "eco-dumping." As a result, an importing country would have the right to impose trade penalties, such as levying countervailing duties, on the goods.

This set of ideas poses complex questions relating to concepts, estimations and practical application, particularly as they relate to the international setting and to the WTO. Developing countries are likely to find themselves at a great disadvantage within the negotiating context of the WTO should the subject (which has already been discussed in the Committee on Trade and Environment) come up for negotiations.

One of the main issues is whether all countries should be expected to adhere to the same standard, or whether standards should be allowed to correspond to the different levels of development. The application of a single standard would be inequitable as poorer countries that can ill-afford high standards would have their products made uncompetitive. The global burden of adjustment to a more ecological world would be skewed inequitably towards the developing countries. This is counter to the UNCED principle of "Common but Differentiated Responsibility" in which it was agreed that the developed countries, which take the greater share of blame for the ecological crisis and have more means to counter it, should correspondingly bear the greater responsibility for the global costs of adjustment.

Given the unequal bargaining strengths of North and South in the WTO, the complex issues relating to PPMs, cost internalisation, trade-related environment measures etc., should not be negotiated within the WTO but if at all discussed, the venue should be the United Nations (for example in the framework of the Commission on Sustainable Development) in which the broader perspective of

environment and development and of the UNCED can be brought to bear.

Unilateral trade measures taken by an importing country against a product on grounds of its production method or process are also fraught with dangers of protectionism and the penalising of developing countries. However tempting the route of unilateral import bans may be for the environmental cause, it is an inappropriate route as it will lead to many consequences and could eventually even be counter-productive.

Policies and measures to resolve environmental problems (and there are many genuine such problems that have reached the crisis stage) should be negotiated in international environmental fora and agreements. These measures can include (and have included) trade measures.

The relationship between the WTO and its rules and the multilateral environment agreements (MEAs) is also a controversial subject of debate in the WTO. On one hand there is the fear (of developing countries) that a system of blanket and automatic approval by the WTO of trade measures adopted by a "MEA" (for example by an amendment to Article XX to enable ex-ante approval of MEA measures) could lead to abuse and protectionism. A sticking point here is what constitutes a "multilateral environment agreement" as it may include not only truly international agreements convened by the UN and open to all members and enjoying near-universal consensus, but also agreements drafted by a few countries which then invite others to join (and would then also enjoy exemption under the proposed amended WTO rules). The fear of protectionist abuse explains the reluctance of developing countries to amend Article XX, which in their opinion is already flexible enough to enable exceptions to accommodate environmental objectives. On the other hand there is the genuine fear of environmental groups (and also developing country and some developed country Members of WTO) that negotiations in new MEAs can be (and are be-

ing) undermined by the proposition of some countries that WTO rules prohibit trade measures for environmental purposes, or that WTO “free-trade principles” must take precedence over environmental objectives. Such arguments were, for example, used by a few countries in the negotiations for an International Biosafety Protocol. Such arguments are false, as the WTO allows for trade measures agreed to in MEAs through the present Article XX (although not in the ex-ante manner proposed by some countries).

The use of the WTO’s name by a few countries to turn away the proposals by the overwhelming majority of delegations to establish checks on the trade in genetically modified organisms and products (through a prior informed consent procedure) gave the impression that commercial interests were placed before global ecological and safety concerns and understandably generated outrage among most delegations as well as environmental and social organisations. Negative actions like this, that blatantly use the slogan of “free trade” to undermine vital health and environmental concerns, are part of the reasons for the erosion of public confidence in “free trade” and the WTO system. Thus governments should not wrongly make use of “free trade” or “WTO rules” to counter international agreements that deal with genuine environmental problems, otherwise the credibility of the trading system itself will be eroded even further.

For many NGOs (especially of the South) as well as developing country WTO members, an important “trade and environment” issue is the effect of the TRIPS Agreement in hindering access to environmentally sound technologies and products. (This issue is dealt with in Chapter 6). Another issue is the conflict between objectives and provisions of TRIPS and the CBD and how to resolve them. So far there has not been a solution.

CHAPTER EIGHT

OTHER ASPECTS OF GLOBALISATION & THE ENVIRONMENT

(a) Globalisation and ecological deterioration

The post-UNCED record on the environment component of sustainable development has been just as or even more disappointing than the record on economic and social components. A major factor for this is that the powerful commercial and financial interests succeeded in pushing economic liberalisation and the “free market” approach to be the overriding priority for most governments. Environmental concerns fell several notches. Liberalisation, commercialisation and globalisation together with the logic of the race to retain or gain “competitiveness” have undermined sustainable development as both a principle and a programme. Since the liberalisation/globalisation process is the main source of the increased ecological problems, the key to prevent a further worsening of environmental crises is to create conditions for public intervention in free-market forces. The present reluctance of political leaders (or worse, their belief in the impossibility) to institute policies that alter or temper the present pro-free market approach and to make businesses more publicly accountable and responsible is at the root of the current environmental impasse.

Liberalisation and globalisation are related to the worsening of the global environment in various ways:

- The failure to internationally monitor and regulate transnational corporations, and instead the moves to widen their rights and

access, have led to a spectacular rise in their power and authority. TNCs have generally and rapidly expanded the outreach and volume of their activities. This has correspondingly increased the damage caused to the environment in terms of volume and geographical spread.

- Liberalisation policies and global market integration have facilitated the institutions and activities that have led to greater exploitation and depletion of biological diversity and resources such as forests and fishery resources, and have promoted and expanded environmentally harmful land-based activities (agriculture and aquaculture), that lead to continued reduction in the status of biodiversity.
- Other resources continue to be depleted beyond sustainable rates, such as water, soil and minerals. Liberalisation has opened up more mining concessions and a new wave of environmentally damaging mining activities.
- The lack of financial flows to and resources in most developing countries (accompanied by continuing debt and commodity price problems), and the persistence of structural adjustment restrictions and policies have meant a great lack of resources or “economic space” in many of these countries to implement or change towards environmentally sound production.
- There is little improvement in technology. There is no real will to change harmful production methods. The promised technology transfer to the South has not taken place; instead new obstacles have emerged, such as enhanced IPRs protection. Harmful technologies continue to be exported to the South and new technologies are being spread before adequate assessment and regulation.
- There is slow progress in reducing the trade in toxic and hazardous substances and products, and the export of these to the

South has continued and even increased.

- The emphasis on the need to be competitive has meant slow progress (and in some countries an actual rolling back) in control of pollution and energy use. Big infrastructure projects that are ecologically harmful are proliferating. The race to earn foreign exchange has led to increased tourism promotion and activities, with their side effects.
- With the accelerated spread of information and communications products, the consumer culture has been more widely spread. In the North and among Southern elite, there is little progress in curbing wasteful lifestyles. On the whole, there is an increase in unsustainable consumption patterns.

Some details of these interactions between globalisation and the environment are given below.

(b) The rise of TNC power and the environmental implications

On the eve of the Earth Summit in 1992, Third World Network (TWN) made the assessment that the “biggest gap in the UNCED documents being signed in Rio is the absence of proposals for the international regulation or control of big businesses and transnational corporations to ensure that they reduce or stop activities that are harmful to the environment, health and development.” (TWN 1992). This was because the TNCs account for the largest part of global economic activity and are the main entities responsible for the global environment crisis. TWN expressed concern that the UNCED secretariat had downgraded the need to strengthen regulation of TNCs (for example, by shelving the UN Centre on TNC’s recommendations, requested for by the ECOSOC) and instead promoted self-regulation through a Business Council for Sustainable Development. “A voluntary set of principles can-

not be an adequate replacement for multilaterally agreed codes and regulations which states oblige industry and TNCs to follow;” the TWN concluded.

Following the Rio Summit, the trend of deregulation of TNCs and of granting to them more rights and freedoms, without corresponding accountability, has greatly accelerated, particularly with the conclusion of the Uruguay Round agreements. This trend is likely to spurt ahead further if the proposals before the WTO on investment, competition and government procurement succeed.

That TNCs are the most important players and factors involved in environmentally damaging activities can be gauged from the following:

- TNC activities generate more than half of the Greenhouse Gases emitted by industrial sectors with the greatest impact on global warming.
- TNCs have virtually exclusive control of the production and use of ozone-destroying CFCs and related compounds.
- In mining, TNCs still dominate key industries and are intensifying their activities. In aluminium, for example, six companies control 63% of the mine capacity.
- In agriculture, TNCs control 80% of land worldwide cultivated for export crops; and 20 firms account for 90% of pesticide sales.
- TNCs manufacture most of the world’s chlorine, the basis for some of the most toxic chemicals including PCBs, DDT and dioxins.
- TNCs are the main transmitters of environmentally unsound production systems, hazardous materials and products to the Third World. For example, 25% of pesticide exports from the

US in the late 1980s were chemicals banned or withdrawn in the US itself.

- TNCs dominate the trade (and in many cases the extraction or exploitation) of natural resources and commodities, that contribute to depletion or degradation of forests, water and marine resources and, toxic wastes and unsafe products.
- Through advertising and product promotion, they also promote a culture of unsustainable consumption.

Case studies of the recent performance of twenty TNCs by Greer and Bruno (1996) show that despite the improved public relations exercise claiming greater environmental responsibility and despite more and more voluntary codes of conduct by industry, there has been little change and much "business as usual", with the corporations continuing with activities that are environmentally harmful. With the growth in production volume and geographical scope of big companies, based largely on the continuing use of unsustainable production systems (and promotion of wasteful lifestyles), and in many cases displacing more sustainable systems or lifestyles, more environmental degradation worldwide must be expected.

Because of their far greater technological capacity, the use of production techniques or substances that are often more ecologically damaging, and the larger volume of production that they characterise, TNCs usually have a negative effect on the environment when they newly produce in or export to (or increase their activities in) an area. With the increasing spread and market penetration and share of TNCs and big business concerns, the damaging environmental effect has increased. This effect is not confined to Northern-based companies. In recent years there has been a significant increase in overseas investment and activity of companies based in developing countries, especially in East and Southeast Asia. For example, these companies are accounting for a large part of new

and increased forest logging and deforestation in Indochina, the Pacific and South America.

(c) Liberalisation policies and their environmental implications

Within countries, the processes of liberalisation, commercialisation and deregulation have generally had adverse implications for the environment. This is true in the North as well as the South. In developing countries, whilst much of the research on structural adjustment programmes (SAPs) has focused on the development aspects of sustainability, there is a growing body of evidence that it has also contributed to the process of environmental deterioration.

In the designing of SAPs, environmental concerns have not been explicitly taken into account. The deregulation, privatisation and liberalisation measures that lie at the heart of SAPs have accelerated the development of environmentally harmful patterns of production and consumption, whilst the reduction of government budgets has affected the state's capacity to deal with environmental problems.

By promoting external liberalisation, SAPs have encouraged an increase in the extraction and export of raw materials in many countries, thus contributing to resource depletion and degradation. The growth of poverty and inequities resulting from debt and SAPs have also pushed poor farmers and communities to open up forests to eke a living from the land.

According to Walden Bello (1994), most of the top 15 Third World debtors have tripled the rate of exploitation of their forests since the late 1970s. This is related to the survival imperative of poor, landless people and the pressing need of nations to gain foreign exchange for debt servicing. Bello has also summarised detailed case studies of four countries that underwent SAPs (Chile, Costa

Rica, Ghana and the Philippines), demonstrating the dynamics and interrelations between structural adjustment, poverty, market liberalisation and environmental degradation. In these countries, the overriding need to service debts led to an emphasis on expanding exports of natural resources and commodities (such as timber, fish, bananas, cocoa and minerals). Moreover, SAPs-induced increased poverty resulted in a situation where landless farmers had to exploit forest, land and fishery resources. The result was rapid depletion and degradation of the fragile natural resource base in these countries.

The environment and health condition in many Third World countries has also been adversely affected by import liberalisation promoted through SAPs as well as through trade measures of the U.S. administration (through its Super and Section 301 laws) and GATT. For instance, there has been a significant increase in the incidence of smoking in several Asian countries that were compelled to facilitate the increased importation of cigarettes. Import liberalisation has also resulted in the proliferation of modern consumer products (aimed initially at the higher-income groups that have benefited from SAPs) and which promotes environmentally unsustainable consumption patterns. There is a danger these imported and well-advertised products may replace and displace more socially appropriate and environmentally friendly local products, including those now used by ordinary people.

According to UNRISD (1995), the effectiveness of policy responses to environmental degradation is often curtailed by adjustment: "In general terms, there are three main variants of environmental policy approaches; conservationism, primary environmental care and environmental economics. The potential of all of these to alleviate environmental problems has been limited by the economic and social changes that have accompanied economic restructuring." For example, SAPs-induced agricultural export growth often has negative environmental effects, especially where ecological conditions are such that export crop cultivation is less sustainable than that of

traditional food crops. Conservation programmes and environmental protection agencies are also most vulnerable to government spending cuts. Also, SAPs undermine the potential for community-based action and weaken the capacity of communities to adapt to changing ecological conditions, thus reducing the possibility of implementing the community-based “primary environmental care” approach.

The environmental effects of trade and trade liberalisation in the transfer of inappropriate technologies, production methods and consumption patterns have been examined in Khor (1996). The view that “free trade” is the best route to environmental protection (because it generates wealth to pay for protection measures) ignores the role that trade liberalisation plays in facilitating resource depletion and unsustainable production and consumption patterns. The present pattern of trade has in fact helped accelerate environmental degradation worldwide.

Investment liberalisation, without corresponding tightening of regulation but instead accompanied by further deregulation, can be predicted to accelerate the process further. The higher flows of FDI in recent years to developing countries are increasing the tempo of ecologically damaging activities. The proposed multilateral agreement on investment (developed in the OECD, but negotiations there have stalled indefinitely) and similar moves in the WTO to liberalise investment rules will have very wide environmental implications, and have raised serious concerns with many environmental groups.

(d) Regulating new technologies: The case of genetic engineering and biosafety

Globalisation is also facilitating the spread of new technologies. A major weakness of UNCED is the absence of a systematic approach to risk assessment and regulation of the introduction and spread

of new technologies that may be harmful to the environment or human health. There is no systematic mechanism or agency that examines and regulates new technologies for their environmental and social impacts. An example is the rapid development of the new biotechnologies, especially genetic engineering and their application in agriculture and medicine. These rapid developments have generated increasing public concerns about the potential environmental and safety effects of the use of genetically modified organisms (GMOs) and about safety aspects of genetically engineered foods.

The development of biosafety disciplines was not due to any systematic arrangement, but to: (a) the initiatives of some countries in placing the biosafety issue in the CBD and then pushing for a protocol, whilst facing tremendous opposition from a few countries; (b) the determination of NGOs and independent scientists that campaigned for a protocol and national regulation, and they also faced tremendous opposition from the industry and some governments.

In the biosafety protocol negotiations, a few countries attempted to use “scare tactics” by putting out the argument that some aspects being proposed would violate WTO rules. Presently the US is also putting pressure on some developing countries (and also the EU) not to place restrictions on imports containing GMOs. The misuse of the “free trade” principle by a major country can have a “chilling effect” on other countries, i.e. making them fearful of taking legitimate environmental or safety measures as they could face bilateral or multilateral pressures or sanctions.

(e) Lack of progress on sustainable agriculture

In the past decades, the globalisation process has spread environmentally unfriendly agriculture technology to many parts of the

South. In recent years, the harmful effects of this model have been recognised. UNCED has agreed that in its place, “sustainable agriculture” should be promoted. Unfortunately, little has been done at the international level to implement sustainable agriculture. This lack of commitment is probably related to the fact that the current dominant models of chemical-based agriculture are relied upon by commercial agribusiness corporations for generating their revenues, whereas ecological and organic forms of agriculture rely on low inputs and are thus not in the interests of commerce.

In the past, most agricultural aid has been for promoting the Green Revolution model, which uses seeds with a high response to big doses of inorganic fertiliser and chemical pesticides. These few seed varieties have displaced a wide range of traditional seeds, thus eroding crop biodiversity. There is also mounting evidence of other ecological problems, such as increasing soil infertility, chemical pollution of land and water resources, pesticide poisoning, and pest infestation due to growing pest immunity to pesticides. These are symptoms of a technological system in decline and the system’s main claimed benefit, high productivity, is itself now in question.

With disillusionment setting in on the Green Revolution, commercial resources are now turning to the new biotechnologies. There is need for great caution in this regard, for the claimed benefits of genetic engineering are far from being proven, whilst there is increasing evidence of real and potential risks.

Given the concerns about biosafety, aid resources should not be channeled to developing the new biotechnologies as a new technological panacea. Instead, priority should be given to support research and projects on ecological and community-based farming practices and systems. So far, relatively little resources have been made available for this. There is a premise that whilst “sustainable agriculture” may be ecologically good, it is inferior and inadequate in terms of productivity. This premise could actually be a preju-

dice, for there is evidence that ecological farming can be high yielding as well, higher yielding in fact than the Green Revolution method.

Since UNCED in 1992, there has been little coordinated official action at global level to phase out chemical-based agriculture nor to promote sustainable agriculture despite a tremendous increase in public demand for organic foods. As a result of lack of support, sustainable agriculture today remains at the level of anecdotes and case studies and the biases against it are deep-seated.

A positive recent development is the shift in policy in some European countries (especially Germany) towards promoting organic farming. This is the result of the series of problems linked to conventional farming, biotech farming and livestock rearing, including BSE, foot and mouth disease and the public unpopularity of biotech agriculture. However much more needs to be done at the scientific, field and training levels to promote sustainable agriculture.

(f) Mining activities

Mining is closely linked to globalisation as much of the products are internationally traded. The extraction of minerals, including fossil fuels, was conspicuously absent from the UNCED negotiations, and thus from Agenda 21. It is a serious anomaly and deficiency in Agenda 21, which should be rectified. Perhaps it was an admission that mining cannot be sustainable: the destabilisation of local environments caused by mining is undeniable, with forests stripped bare, soils degraded and water channels polluted. Besides suffering the ecological effects, millions of people also find their land rights and livelihoods are threatened by mining activities.

In recent years there has been an escalation of mining projects. Massive projects are underway or proposed in every continent,

accompanied by violent protests in a number of cases. As technology advances, and the more accessible deposits are exploited, mining companies are penetrating more remote areas. These are usually remaining forests, watersheds and mountainous regions. To mine these areas would be to cause more devastating environmental damage. Most of these areas are also indigenous peoples' lands, recognised or claimed.

At the same time, many developing countries have been attracting foreign investments in mining, and introduced or amended mining laws that have enabled more generous concessions and licenses to foreign firms. Investment liberalisation in mining is likely to damage the environment and result in widespread dislocation of communities.

In a study of recent trends in the global mining industry, Corpuz (1997) concluded: "In the mid-1990s technological advances coupled with the fast globalization and liberalization of the mining industry, which is called the "the mining sustainability framework", allowed the transnational mining corporations to temporarily ease themselves out of a crisis (that they faced in the 1980s due to low prices). The higher profits by the mining TNCs, however, meant higher sacrifices on the part of the majority who are marginalized and greater devastation for the global environment. Among those who have suffered the most from the liberalization of mining are indigenous peoples, the women, and even the workers, despite the promise that this will increase employment."

CHAPTER NINE

SOME PROPOSALS FOR SUSTAINABLE DEVELOPMENT

Given the unequal economic effects of the present process of globalisation, and its adverse social and environmental costs, there is a need for fundamental reforms of policy and practice, at both the international and national levels. The following are suggestions for changes to enable conditions for sustainable development.

(a) NEED FOR APPROPRIATE & DEMOCRATIC GLOBAL GOVERNANCE

In order to have a favourable international environment for sustainable development, it is vital for the democratisation of international relations and institutions, so that the South can have an active role in decision-making whilst civil society can also have its concerns taken into account. The role of the United Nations should be strengthened whilst the IMF, World Bank and WTO should be made more accountable to the public and to the poor. Democratisation in global governance structures is a pre-requisite to reforms in content of policies, which can then result in more equitable sharing of benefits and costs.

The major global economic actors are the transnational corporations, the international banks, the World Bank, IMF and the WTO. The operations of the corporations and financial institutions should be made much more accountable to the public, and indeed to the

governments. The decision-making processes in the Bretton Woods institutions and the WTO are mainly controlled by the industrialised countries. The procedural and legal aspects of decision-making should be democratised so that developing countries can have their proper share of participation. These institutions must also be more open to public participation and scrutiny.

(b) REBUILDING THE ROLE OF THE UN

As it is the most universal and democratic international forum, the United Nations and its agencies should be given the opportunity and resources to maintain their identity, have their approach and development focus, reaffirm and strengthen their programmes and activities. The recent trend of removing the resources and authority of the UN in global economic and social issues, in favour of the Bretton Woods institutions and the WTO, should be reversed.

In particular, those Northern countries that have downgraded their commitment to the UN should reverse this attitude and instead affirm its indispensable and valuable role in advocating the social, equity, developmental and environmental dimensions in the process of rapid global change. The UN could at least be a counterweight to the similar *laissez-faire* approach of the IMF, World Bank and WTO.

Strengthening the UN will allow it to play its compensatory role more significantly and effectively. But of course a complementary “safety net” function is the minimum that should be set for the UN. The UN must be able to make the leap: from merely offsetting the social fallout of unequal structures and liberalisation, to fighting against the basic causes of poverty, inequities, social tensions and unsustainable development. The more this is done, the more options and chances are there for developing countries and for sustainable development.

There is a danger that some UN agencies (and the Secretariat itself) may be influenced by conservative political forces to join in the laissez-faire approach or merely be content to play a second-fiddle role of taking care of the adverse social effects of laissez-faire policies promoted by other agencies. The UN should therefore keep true to its mission of promoting sustainable development and justice for the world's people, and to always advocate for policies and programmes that promote this mission, otherwise it would lose its credibility and its reason for existence.

(c) REFORMING THE GLOBAL ECONOMIC SYSTEM TO BENEFIT THE SOUTH

Reforming the inequitable global economic system is needed as part of the battle for sustainable development. The substance of the demands for a new international economic order should be seriously addressed instead of being ignored or treated as extremist. Due to the imbalances, the outflow of real and financial resources from South to North far exceeds the flow of aid from North to South. The transfer of resources from the South makes it extremely difficult, if not impossible, for Third World countries to adequately implement sustainable development policies, even if they wanted to. Thus, of major importance is the reversal of these South-to-North flows of resources.

A major area of reform is in the terms of trade between Northern and Southern exported products. The poor and deteriorating terms of trade for Third World commodity exports vis-a-vis Northern manufactured exports has been a major source of the lack of foreign exchange and income in the South. The low prices of raw materials have also contributed to the high volume of extraction and production (to maintain export earnings); and thus become a big factor in natural resource depletion. To rectify the unfair economic trade terms as well as reduce resource depletion, the prices

of raw materials could be significantly raised to reflect their real and ecological costs. This may require a new round of commodity agreements or other mechanisms.

An enlarged role should be given to a revitalised UNCTAD and other UN agencies to assist developing countries in areas such as improving commodity prices, building supply capacity, and formulating trade, production and development policies.

Another area for reform is the resolution of the external debt burden of poor and middle-income developing countries. Debts of LDCs and other poor countries should be written off so that they can make a fresh start. The recent financial crisis involving high external debts in East Asian countries again highlights the need for countries of the South to guard against falling into a debt trap. A fair resolution to the existing debt problem, that would not continue to squeeze Third World economies, is important to widening the options of developing countries for the future.

In the area of investment and technology, the South and the UN had in earlier decades tried to establish codes of conduct for TNCs and for the transfer of technology, but eventually these efforts were abandoned in the early 1990s. Instead the Northern countries are attempting to establish a multilateral agreement on investment rules, under the WTO (since their efforts to create one under the OECD failed). The investment policy rules sought by the North would largely prevent the developing countries from having meaningful options for policy-making over strategic investment and development issues. Developing countries should therefore exercise their membership rights and not allow the WTO to negotiate investment rules. Instead, the right of Third World countries to determine their own economic policies, and to have control over their natural resources, should be recognised in practice as well as in principle. This would include the right to determine the terms under which foreign companies can invest in a country.

New efforts should be made for codes or arrangements to regulate TNCs, to regulate restrictive business practices and to foster technology transfer to developing countries.

(d) REVIEWING THE BRETTON WOODS INSTITUTIONS AND THEIR POLICIES

The “globalisation” of a particular set of macroeconomic policies was achieved through the structural adjustment programmes (SAPs) which the World Bank and IMF designed and exported to more than 80 developing countries. The SAPs led to widespread public discontent, including street riots and demonstrations in many countries undergoing adjustment, and opposition by several people’s organisations and NGOs in both the South and the North. The most important issues voiced by developing country governments and especially by a wide range of Southern and Northern NGOs were the negative economic and social effect of structural adjustment policies, the non-accountability of the Bretton Woods institutions and the need to resolve the South’s debt crisis. They have argued that debt and structural adjustment were the most important impediments to social and sustainable development in developing countries.

These are indeed the key issues in the required reform of the Bretton Woods institutions and their policies. The external debt overhang of highly indebted developing countries should be resolved as soon as possible (as earlier mentioned). And in light of the new round of debt and structural adjustment problems arising from the Asian crisis, it is urgent that a process of reform or revamp be initiated on the IMF and World Bank, including on their processes of decision-making and on their inappropriate economic policies. Unless this is done, many developing countries that are still under structural adjustment programmes would find it very difficult (and more difficult as well) to maintain the right to make policy choices.

A serious search for the elements of an appropriate approach to macroeconomic policies and development strategies, including the proper balance of roles between the state, the public sector and the private sector, is essential.

(e) REFORMING THE WTO

The WTO should be made more transparent and accountable to the larger international framework of cooperation and sustainable development. This is critical because the rapid developments in the WTO have such major ramifications for sustainable development and yet there is a lack of information and participation from the public, from many sections of national governments and Parliaments, and from other international institutions. There should also be greater internal transparency within the WTO and developing country Members must have full participation rights in discussions and decision-making.

There is a need to assess the implications of existing WTO agreements and to address the imbalances and deficiencies that lead to unequal outcomes at the expense of developing countries. The WTO agreements have on the whole benefited the stronger trading countries much more, and many weaker countries are likely to suffer net losses in many areas. The inequities should be redressed during the review of the agreements that is mandated to take place in the WTO in the next few years.

In particular, the WTO agriculture agreement has not taken into account the needs and interests of small farmers, especially the non-commercialised farmers in developing countries that form a large section of the population. The Agriculture Agreement should thus be reviewed and reformed to take into account its impact on small farmers and in the context of food security and sustainable agriculture.

A review and reform of TRIPS is urgently needed (see sub-section (g) below).

The problems of implementation facing developing countries should be dealt with as a matter of top priority, and a strengthened special mechanism should be set up to satisfactorily resolve the problems (including through amendments of agreements) as soon as possible.

The special and differential rights of developing countries should be strengthened and operationalised. In this context, the main operational principle of the WTO, which is liberalisation and “national treatment” for foreign products, should be reviewed in the light of the experiences of many developing countries, which have suffered adverse effects from liberalising their imports too rapidly, whilst not being able to increase their export capability, access and earnings.

Developing countries that encounter problems arising from liberalisation should be able, in practice, to make use of their right to special and differential treatment, so that they can have the option of having the right balance between opening to the world market and promoting the interests of local firms and farms. The main goal of WTO is sustainable development, whilst liberalisation is only a means (and should be done appropriately) and this central theme should be operationalised in the workings of the WTO.

Finally, the WTO should not take up issues that are not trade-related. The attempts by some countries to introduce such new issues as investment rules, competition policy, government procurement and labour standards should not be accepted, as developing countries will be disadvantaged by the way the WTO is likely to treat such issues, and moreover the WTO would be seriously overloaded with such an expanded portfolio when most developing countries are already unable to cope with the current set of agreements and with the present volume of negotiations.

(f) TRADE AND ENVIRONMENT

Discussions within the WTO entailing the environmental effects of WTO rules can be beneficial, provided the environment is viewed within the context of sustainable development and the critical component of development is given adequate weightage. The principle of “Common but Differentiated Responsibility” derived from UNCED should guide discussions on trade and environment in the WTO and elsewhere.

The Committee on Trade and Environment should orientate its work to the more complex but appropriate concept and principles of sustainable development. But there should not be any move to initiate an “environment agreement” in the WTO that involves concepts such as PPMs and eco-dumping. Thus, there should not be the linking of environmental standards (and the related issues of PPMs and eco-dumping) to trade measures.

(g) REVIEWING IPRs REGIMES

There should be an urgent review of the current international IPRs regimes, particularly the TRIPS Agreement, to assess the impact on sustainable development. The mandated reviews of Article 27.3b and of the overall TRIPS agreement are occasions to undertake such an assessment and based on the assessment appropriate changes should be made.

In the review of TRIPS, serious consideration should be given to the following:

- In Article 27.3b, changes should be made to enable Members to exclude all living organisms and biological materials as well as living processes from patentability; and it should be clarified that Members can have the option of a *sui generis* system for plant varieties that protects traditional knowledge, farmers’

rights and local community rights.

- It should be clarified that nothing in TRIPS prevents Members from taking measures needed to protect and promote public health; moreover, Members should be enabled to exclude from patentability medicines needed to treat life-threatening diseases and diseases related to poverty.
- Measures should be allowed for the effective transfer of environmentally sound technology, including exclusion from patentability.
- Measures for technology transfer to developing countries should be made operational and binding.

(h) REFORMING THE GLOBAL FINANCE SYSTEM

Reforms are needed in the global finance system. There should be regulation of capital flows to prevent the disruptive effects and avoid financial crises. Countries that face debt default should be able to have access to debt standstill and debt workout under an international debt arbitration institution. A more democratic system of governance and decision-making on international financial matters is also needed.

(i) TECHNOLOGY ASSESSMENT AND PRECAUTIONARY PRINCIPLE

UNCED did not deal with the theme of assessment and regulation of environmentally unsound technology in a systemic manner. What is required is a competent international centre or agency, under the UN, that carries out sustainable development assessments of technologies, especially new and emerging technologies. The centre should establish systems for governing and regulating tech-

nologies. The precautionary principle should be applied in technology policy.

(j) INTERNATIONAL ENVIRONMENTAL GOVERNANCE

There are many gaps in the current system of International Environmental Governance (IEG). The World Summit on Sustainable Development should reach some conclusions about the future evolution of IEG. There should be better coordination and rationalisation among the various multilateral environment agreements, and between these and UNEP as well as CSD. Future initiatives on environment regulation, and on IEG, must place the environmental issues within the context of sustainable development, so that the development dimension is streamed into environmental policy.

(k) SEEKING ALTERNATIVE DEVELOPMENT STRATEGIES

As the UNCED process realised, a reconceptualisation of development strategies is required. For example, the recent Asian financial crisis makes it crucial to reflect on the dangers to a country of excessive openness to foreign funds and investors.

An important issue is whether developing countries will be allowed to learn lessons from and adopt key aspects of these alternative approaches. For this to happen, the policy conditions imposed through structural adjustment have to be loosened, and some of the multilateral disciplines on developing countries through the WTO Agreements have to be reexamined.

In the search for alternative options for developing countries, approaches based on the principles of sustainable development should be given high priority. The integration of environment with eco-

nomics, and in a socially equitable manner, is perhaps the most important challenge for developing countries and for the world as a whole in the next few decades. So far there has been a recognition that something should be done but the real work has only now to begin.

It is crucial that the research in this area is increased. It would be very useful if economic arguments could be put forward to show policy makers that it makes better economic and financial sense to take care of the environment now, even as a country progresses, rather than later. More work needs to be done, including at regional and national levels in developing countries, to produce evidence and to make both the public and policy makers aware that environmental damage is economically harmful, and that environmental protection and eco-friendly technology and practices are themselves economically efficient ways of conducting development.

It would also be very useful to highlight examples of components of successful implementation of sustainable and human development policies and approaches and to draw lessons from these. The emerging "sustainable and human development" paradigm could then contribute to the debate on appropriate macroeconomic policies; the appropriate relations between state, markets and people; and appropriate development styles and models.

In the ecological sphere, the series of negotiations initiated by UNCED is an opportunity for all countries to cooperate by creating a global framework conducive to the reduction of environment problems and the promotion of sustainable economic models. However, international discussions on the environment can only reach a satisfactory conclusion if they are conducted within an agreed equitable framework. The North, with its indisputable power, should not make the environmental issue a new instrument of domination over the South. It should be accepted by all that the North should carry the bulk of the burden and responsibility for adjustment towards more ecological forms of production. This is because

most of the present global environmental problems are due mainly to the North, which also possesses the financial resources and the economic capacity to reduce their output and consumption levels.

There should be much more focus on changing economic policies and behaviour in order that the patterns of consumption and production can be changed to become environmentally sound. What needs to be discussed is not only the development model of the South but even much more the economic model of the North, and of course the international economic order. Key issues to resolve include:

- How to structurally change the Northern model of production, and consumption or lifestyles;
- How to promote ecologically-sound and socially-just development models in the South;
- How to structurally adjust the world economic institutions so as to promote fairer terms of trade and reverse the South-North flow of financial resources;
- How to come towards a fair distribution of the sharing of the burden of adjustment necessitated by ecological imperatives, as between countries and as within countries.

Whilst the international elements of a fair and sustainable global order are obviously crucial, there must also be substantial changes to the national order as a complement. In both North and South, the wide disparities in wealth and income within countries have to be narrowed. In a situation of improved equity, it would be more possible to plan and implement strategies of economic adjustment to ecological and social goals.

In the South, the policy option can be taken to adopt more equitable and ecological models of development. With more equitable

distribution of resources such as land, and greater access to utilities and housing, the highest priorities of the economy should be shifted to the production of basic goods and services to meet the needs of the people. Investments (including government projects) should be channeled towards basic infrastructure and production, in contrast to the current bias for luxury projects and status symbols of progress.

Social investment in primary health care, education, housing for people, public transport and popular cultural activities should also be emphasised, rather than the high-level luxury services that now absorb a large portion of national expenditure. In this social context, changes also have to be made to make the economy follow the principles of ecology. There should generally be a reduction in the extraction and production of primary commodities: this would reduce the problem of depletion of natural resources such as forests, energy and minerals.

The decline in output and export volume could be offset if commodity prices were to rise, thereby providing a fair value of export earnings. In agriculture, the ecological methods of soil conservation, seed and crop diversity, water harnessing and pest control, should replace the modern unecological methods. With a reduction in production of agricultural raw materials, more land can also be allocated for food crops. There should be as much conservation of primary forests as possible; and the destructive methods of trawler fishing should be rapidly phased out whilst fishery resources are rehabilitated and the environmentally sound fishing methods of small fisherfolk are promoted. In industry and construction, ecologically appropriate forms of production should be given priority. There should be strict limits on the use of toxic substances or hazardous technologies, a ban on toxic products and the minimisation of the volume of toxic waste and of pollution.

Of course, to make this move towards a better global order possible, there must be people's participation, because the radical

changes being called for can be realised only when there is popular will. It is crucial that information be provided to the people through the media and popular education methods, and that the people be given the freedom to make their views known to the policy makers and to others.

It should be stressed that the elements proposed here for a fair and sustainable global order have to be taken together, as a package. Social justice, equity, ecological sustainability and people's participation are all necessary conditions for this order, and the change must apply at both national and international level. Policies that promote equity alone would not necessarily result in a more environmentally sound world. On the other hand, measures to solve the ecological crisis without being accompanied by a more equitable distribution of resources could lead to even greater inequity and injustice.

NOTE

This paper draws heavily on some other papers written by the author, especially "Globalisation and its Effects on Sustainable Development" (Khor 1996); and "Responding to the Challenges of Globalisation" (Khor 2000).

GLOBALISATION & THE CRISIS OF SUSTAINABLE DEVELOPMENT

The process after the 1992 United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, has largely failed to fulfill its promises and commitments. The Summit had placed the environment crisis at the top of the international agenda but today such a priority is fast vanishing. It had linked environment and development in a new paradigm of sustainable development, but the globalisation paradigm has far outstripped the former, resulting in more socio-economic inequities. Instead of a supposed North-South partnership in dealing with the environment and development, a widening gap exists .

This paper re-states the principles of the Rio Summit, in particular the principle of “Common but Differentiated Responsibility”, and reviews the weaknesses and the problems of non-implementation of the Rio agreements. It gives examples of how globalisation has undermined sustainable development goals. The paper outlines proposals for dealing with some of the problems in the interface between globalisation and sustainable development. It also proposes some necessary reforms in policy, practice and institutions, at both international and local levels – towards a fair and sustainable global order.

MARTIN KHOR is an economist trained in Cambridge University. He is the Director of Third World Network, and the author of several books and articles on trade, development and environment issues. He is also the Honorary Secretary of the Consumers' Association of Penang in Malaysia and a board member of the International Forum on Globalization. He was formerly a Vice Chairman of the UN Commission on Human Rights Expert Group on the Right to Development and a consultant in several research studies under the United Nations.

TWN ENVIRONMENT & DEVELOPMENT SERIES

is a series of papers published by *Third World Network* on the increasing challenges to the relationship between the environment and development, in particular those posed by the process of globalisation, liberalisation and new technologies. It aims to advance a Third World perspective of analyses, strategies and proposals for reforms of policy, practice and institutions, at both the international and national levels — towards greater social justice, equity and ecological sustainability.