

## OPINION OF A SCHOLAR

### IDEALISM AND SELF-INTEREST IN INTERNATIONAL ENVIRONMENTAL LAW: THE RIO DILEMMA

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This world of ours has changed dramatically in the past few years. A world Superpower, the U.S.S.R. has dissolved into numerous component countries, ethnic minorities are forcing the break-up of Yugoslavia and Czechoslovakia. Separatist groups are clamoring worldwide for recognition and a nation state of their own. The end of the Cold War has created an international situation filled with promise but fraught with peril. The absolutes of Cold War politics have been replaced by an international atmosphere of insecurity, aggression and tension. It is as if the Cold War acted as a curb on all the nations of the world which bowed to its dynamic. Now released from the threat of total annihilation, the nations of the world appear to be indulging in an orgy of pent-up emotions which have simmered under the surface since the end of the Second World War. There seems little doubt that future historians will characterize this period as a turning point, an era when the peoples of the world selected or were forced into new directions, novel attitudes and innovative ideas. Whether these directions, attitudes and ideas are ultimately for the good of mankind or contribute to its eventual extinction will probably be determined in the present decade. The sheer exuberance of the era; the energy with which former totalitarian states are embracing democracy; the enthusiasm for "newness" would indicate that this is the appropriate moment to channel these tendencies into positive directions which will benefit the entire planet.

Idealism and self-interest have converged and conflicted at various times in history. These two concepts have played a dramatic role, the one propping and supporting the other, and on occasion, the two at odds with each other. Idealism has been defined as "the pursuit of high or noble principles" and goals.<sup>1</sup> On the other hand, self-interest refers to a "regard for one's own interest or advantage especially with disregard for others."<sup>2</sup> Frequently these two concepts appear to be in serious conflict with each other. Indeed it could be argued that the history of mankind mirrors the great tussle between the higher priorities—idealism—and the harsher realities dictated by pragmatically-inclined self-interest. Perceptions of idealism and

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1. WEBSTER'S ENCYCLOPEDIA UNABRIDGED DICTIONARY 707 (1989).

2. *Id.* at 1294.

self-interest are often induced by circumstances, personalities of leaders and by prevailing conditions, both economic and political. When idealism and self-interest blend and direct and determine the nature of political and economic action, profound beneficial change can occur. This article suggests a new focus on these two timeless concepts in the search for solutions to the problems which plague and threaten the survival of our planet.

It is unfortunate that the termination of the Cold War has resulted in a resurgence of nationalism because this makes the future of the entire planet more uncertain. Nationalism, fuelled as it is by self-centered notions of "us" against "them" has already exercised considerable influence on the history of mankind. It was in Europe that this idea first emerged in its modern form as medieval universalist philosophy grounded in the Christian faith gave way to a more secular, more exclusivist outlook. Language, geography, culture, history—all of these were channelled in the service of a new philosophy which incidentally suited the aims and ambitions of monarchs of England, Spain and France. The concept of the nation state forced a new focus of loyalty, loyalty circumscribed not by heavenly boundaries but by geographic lines demarcating the areas within which each sovereign nation exercised its supremacy. Within his nation the monarch sought peace, security and conformity to his views, both political and religious. Churches were controlled (as in Tudor England), trade was encouraged largely to swell the coffers of the national government so that the ruler could exercise that most characteristic of national actions—the acquisition of territory through war. And so through the centuries the monarchs of Europe fought and the map of Europe changed like a kaleidoscope as the geographic boundaries moved hither and thither and smaller, weaker entities were gobbled by first one and then another sovereign nation. It was the merging of the monarch's personal ambition and self-interest with the concept of national glory which became the means of promoting war among his people who after all, had to pay the ultimate price in human sacrifice for those ever-changing border lines.

It was nationalism which sparked off the greatest adventure of them all—imperialism. The insatiable ambition for national glory could hardly be satisfied with acquisition of the limited territories provided by Europe. It was so much easier to take over non-European territories where the people were neither afflicted with the concept of national prestige nor even conscious of the "us" and "them" syndrome which prompted so much of this action. Historians may not agree on the time-frame of the age of nationalism. Some may concede, however, that from approximately the period of the European religious Reformations, the dynamic of politics and economics has propelled most of the peoples of the world in this direction. Nationalism resulted in both unification and disruption. It brought together disparate peoples and gave them a new linkage, a binding force to a sovereign entity called the Nation State. Yet it also disrupted the cultural and economic systems which had guided the lives of millions of people for centuries in the old civilizations of Africa, Latin America and Asia.

Nationalism was perceived as being the ultimate form of self-interest and was projected as the greatest type of idealism. The pillage and devastation of entire civilizations were justified in the name of religion—the spreading of Christianity to the ‘heathen’ of the world—and excused by the need for the European imperial power to outdo its neighboring rivals in territorial acquisitions and economic enrichment. In the Hobbesian state of nature which prevails between nations to this day, whenever self-interest is exercised on the international stage, idealism is often utilized, rather cynically by governments to explain, rally the people of the nation and popularize and gain acceptance for the prevailing policies. The peoples of Europe were encouraged to go forth and colonize the world, to spread the benefits of Christianity and civilization to the ‘savages’ of America, Africa and Asia, to bring European ways of business and industry to the rest of the world. If in the process, individuals were able to enrich themselves beyond their wildest expectations, this was small payment for the great sacrifice they were making!

Ironically, nationalism which had propelled the nations of Europe into imperial ventures, would ultimately destroy all their empires. It was not long before the populations of the colonies began to resent the Europeans even as they adopted their ways, their politics and their notions of national sovereignty. If national sovereignty could lead Europe to conquer the world, what might it not do for the peoples of Asia and Africa? In India, China and the colonial territories of Africa, the imported concept of nationalism was eagerly seized by dedicated idealists and projected as the ultimate form of both idealism and self-interest. This idea focused the energies of entire generations of Asians and Africans who fought and eventually won independence from colonial rule. India was the first in this group to use the ideas of the West to win its independence, though its nonviolent freedom struggle drew on centuries-old indigenous spiritual and religious traditions. The Indian struggle of freedom was also the longest, deemed by some nationalist historians of India to have begun in 1857—the year of the mutiny or revolt—and ended in 1947 when Britain finally left India. China, carved up like a melon by several European powers found its independence in the process of a long civil war between the Nationalist forces of Chiang Kai-shek and the Communists led by Mao Zedong. Africa, also chopped up by the European Powers at the Conference at Berlin in 1884-1885, went through a process of upheaval as imperial rule departed in the twentieth century, often, as in the Congo, too abruptly and chaos ensued. The drama of Africa is still being played out and the ultimate fate of South Africa still an open question. In Latin America, the decimation of the indigenous populations did not prevent widespread resentment against foreign and local elites whose grip on the economies of these resource-rich areas was hard to break. The combination of multinational companies and local tinpot dictators proved to be a real challenge for nationalist and rebel groups and instability has characterized the politics of several Latin American nations for decades.

Nationalism in the newly-emerging nations displays many of the characteristics which marked the early phases of national sovereignty in Europe some centuries ago. A sense of cocky self-assurance combined with a fierce competitive spirit motivates the international actions of the Afro-Asian world. Having seen their interests subsumed for so long in the larger priorities of imperial politics, these nations are very sensitive to any resumption, however inadvertent, of imperial attitudes or colonial tendencies on the part of either the Europeans or the Americans. To the Afro-Asians and Latin Americans, self-interest dictates that the horrors of the past never recur; that political sovereignty be protected at all cost; that economic independence be maintained even at a price which burdens their people. This self-interest has become the ultimate form of idealism for it seeks to cherish national identity, protect an ancient culture and ensure the survival of a unique way of life.

An understanding of this historical background is essential for anyone seeking to gain some insight into the reason why there is so much controversy about the threat to our planet and so much resistance to the attempts to rectify the damage to the air, water and land which have been degraded at an alarming pace since the Industrial Revolution in Britain and Europe. The environmental issue has become bogged down in a morass of historical antipathies and political misunderstandings. Nations of the North, long accustomed to dictating their will to the South are now finding their wishes thwarted with an assertive, almost aggressive Southern reaction that often surprises and mystifies them. The developing nations, now called the South, always remember the imperial past and frequently react in an almost prickly manner to any suggestions which might impinge on their sovereignty.

Though the European and American people now project a greater awareness of and sensitivity to global problems and they share a keen appreciation of the fragility of the planet, their governments still appear to formulate policies motivated more by immediate self-interest than by long-term concerns. In fairness, it must be stated that this approach is now changing. Populations in Europe and North America are now light years ahead of their governments in globally-oriented patterns of thought. Idealism in environmental concerns has almost acquired the comfortable prominence of a sacred cow, a deity to be ignored or slighted at one's peril. Governments are catching up or are, more appropriately being dragged into environmentalism by popular concern. Idealism in environmental matters is now perceived as the ultimate self-interest. The problem, as governments in Europe and particularly the Bush Government in the United States believe, is how to translate this idealism into a pattern of action which does not cause undue economic or social disruption. European and American nations, with a centuries-long enjoyment of popular sovereignty, economic and political independence and an enviable lifestyle can afford now to view the larger picture, the planetary outlook, the global rather than the narrowly national map as pre-eminent in their perceptions. As they do so, they clash with the perceptions of the new nations of the developing world and this conflict of

perceptions of what is idealism and what is in one's self-interest posed the great dilemma in the extravaganza played out at the Rio Summit in June 1992.

It has to be remembered that the developed nations enjoy a pre-eminence in the global economy both because they reaped the fruits of their own endeavor within the nation state and also because they could command at will and even at whim the enormous resources of the colonies. There would be no First World today with a minority of the world's population enjoying a comfortable life-style if the majority of the world's people in what used to be called the Third World had not contributed the incredibly cheap rubber, cotton, minerals, oil and labor (including slave labor) which enabled the Europeans and Americans to industrialize, produce cheap factory goods and sell these back to the areas of their empires which had provided the raw materials. In the process of creating what is now called the developed world, the European and American governments, driven as they were by an ethic which is now not regarded as favorably as it was then, destroyed the economic self-sufficiency of African and Asian countries under their control; converted varied agricultural systems into a precarious reliance on cash crop production (rubber in Malaya, cotton and tea in India); forced colonial exports to bow to the dictates of fluctuating world trade pricing and all but wiped out their local crafts and ancillary production which provided supplementary income for hard-pressed farmers. At the same time, the Western nations introduced modern communications systems and brought railroads telegraphs and telephones, systems which ironically would eventually serve to knit the various ethnic groups of colonies like India into a greater national awareness and consciousness. While it serves no purpose to harp on past exploitation, it is important to understand that present perceptions in both the developed and developing nations have been forged by the past and the future cannot be shaped without an awareness of the history shared by the thirty thousand diplomats, environmentalists, journalists and businessmen<sup>3</sup> who converged on Rio in a grand-stand attempt to undo and halt the decline of the planet.

Although Rio may, in retrospect be deemed only a limited success, it did generate awareness and enhanced consciousness around the world about the fact that nationalism may have to chart a new course and make some concessions to international concerns. Popular idealism now dictates that air be purified, that water be cleansed of pollutants, that food be free of toxic contaminants. This is now perceived to be in the ultimate self-interest of the survival of the species, indeed of all life on this planet. For weeks before Rio, the media poured forth a torrential display emphasizing the unhealthy state of our environment, the poisons in the air, the depletion of the ozone, the destruction of lakes and wilderness areas, the ravaging of centuries-old

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3. Dianne Dumanoski, *Rich nations urged in Rio to aid planet*, BOSTON GLOBE, June 4, 1992, at 1.

forests, the human encroachment on the Amazon—no one can now dispute that the planet is in serious trouble. The problem is how to repair the damage already caused.

The concerns of people in all nations have increased considerably in the past decade and with ample justification. “Worldwide, carbon emissions could rise from 6 billion tons to 20 billion tons by 2100.”<sup>4</sup> Approximately two-thirds of the carbon dioxide arises from the use of fossil fuels. “They released about 5.3 billion tons of carbon in 1986.”<sup>5</sup> William Cline, an economist with the Institute of International Economics in Washington suggests that the warming of the Earth’s surface temperature caused by these emissions is irreversible.<sup>6</sup> Although the impact on the economy of the United States could be minimal (on a conservative estimate, a lowering of economic output by 1 per cent by the year 2050,<sup>7</sup>) in certain areas of the developing world the damage and flooding could be extensive.<sup>8</sup> Scientists have speculated that the average surface temperature could rise by 1.5 to 4.5 degrees.<sup>9</sup> Although “[t]he science on this has the clarity of a mudpie,”<sup>10</sup> there is “plenty of scientific evidence that greenhouse gases are increasing in the atmosphere. Meteorological records show that, since comparative records began in the 1850s, the past decade has been the warmest yet.”<sup>11</sup> On the assumption that by the beginning of the next century greenhouse gases will have doubled from pre-industrial revolution levels, “most scientists assume there will be a 2.5 degree increase in average temperatures by the year 2040.”<sup>12</sup> Estimates of losses to the economy of the United States hover around the staggering figure of \$60 billion, including \$7 billion in land loss and preventive measures against oceans rising and \$18 billion in agricultural losses<sup>13</sup>.

It has been estimated that by the year 2000 carbon dioxide emissions from the burning of fossil fuels will contain about 7 billion tons of carbon.<sup>14</sup>

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4. Mark Trumbull, *Battle in the Greenhouse: Economy vs. Environment*, CHRISTIAN SCI. MONITOR, June 4, 1992, at 6.

5. UNITED NATIONS, GLOBAL OUTLOOK 2000: AN ECONOMIC, SOCIAL, AND ENVIRONMENTAL PERSPECTIVE at 79, U.N. Doc. ST/ESA/215/Rev. 1, U.N. Sales No. E.90.II.C.3 (1990) [hereinafter GLOBAL OUTLOOK 2000].

6. Peter Cook, *The Earth Summit: How much is our children's future worth?*, THE GLOBE AND MAIL, June 3, 1992, at B1. (The Globe and Mail cites can be obtained from Globe Information Services, Toronto, Ontario, Canada.)

7. *Id.*

8. *Id.*

9. Stephen Strauss, *The Earth Summit: What Science Says*, THE GLOBE AND MAIL, June 3, 1992, at A6.

10. *Id.*

11. Cook, *supra* note 6, at B1.

12. Colin MacKenzie, *High global warming bill predicted*, THE GLOBE AND MAIL, May 7, 1992, at A1.

13. *Id.*

14. GLOBAL OUTLOOK 2000, *supra* note 5, at 79.

This figure could rise to between 13 and 23 billion tons by 2050.<sup>15</sup> There are further gases released by deforestation, other forms of burning and general exploitation of land.<sup>16</sup> "The developed market economies of North America, Western Europe and Japan produce 49 per cent of global carbon dioxide emissions, the economies of Eastern Europe 25 per cent and the developing countries 26 per cent."<sup>17</sup> However, it is likely that developing countries, the so-called South, will replace the developed world (the North) in the next century if present pollution trends continue unabated. The developing nations are already and rapidly assuming the dubious distinction of being significant polluters in the field of greenhouse gas emissions.<sup>18</sup>

Global warming is not the only threat to our planet. In 1928, the much lauded discovery of a use for chlorofluorocarbons (the chemicals which are found in an assortment of products from refrigerators to drink containers<sup>19</sup>), has resulted in a chemical attack of unprecedented proportions on the ozone layer which protects the earth from the sun's ultraviolet radiation. The ozone consists of a thick belt of "triple-oxygen atoms (ozone) that encircles the Earth between 15 and 50 kilometers from the ground."<sup>20</sup> It has been estimated that one CFC molecule can decimate approximately 100,000 ozone molecules.<sup>21</sup> "A decrease of only 1 per cent in ozone concentration can lead to an increase of approximately 2 per cent in the effective irradiance of ultraviolet B (UV-B) light at the earth's surface."<sup>22</sup> The results on human beings will be a higher incidence of skin cancer and cataracts.<sup>23</sup> A reduction in agricultural output and in food supplies generally is also possible.

Given its present population of about 5.48 billion,<sup>24</sup> Spaceship Earth may just barely survive the rigors of global warming and ozone depletion but the population expansion exacerbates all the other aspects of this crisis. The population of the world increases by about one million every four days.<sup>25</sup> The United Nations estimates that world population will be six billion by 1998.<sup>26</sup> Projections for 2100 are 11.2 billion.<sup>27</sup> At present four-fifths of

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15. *Id.*

16. *Id.*

17. *Id.* (quoting Steward Boyle, *Global Warming—A Paradigm for Energy Policy*, ENERGY POLICY, Feb. 1989).

18. IVAN L. HEAD, ON A HINGE OF HISTORY 93-94 (1991).

19. THE EVERGREEN FOUNDATION, Apr. 15, 1992, at 7.

20. Stephen Strauss, *The Earth Summit: Ozone Hole, warming may cancel each other*, THE GLOBE AND MAIL, June 4, 1992, at A12.

21. *Id.*

22. HEAD, *supra* note 18, at 95.

23. *Id.*

24. Michael McCarthy, *Population issues drops off summit agenda*, THE TIMES, Apr. 30, 1992, overseas news section.

25. Bruce Babbitt, *The World After Rio. Green Concerns Will Be the Foreign Policy of Every Nation*, WORLD MONITOR, June 1992, at 28, 31.

26. McCarthy, *supra* note 24, overseas news.

the world's people inhabit developing countries, the area collectively labelled the South.<sup>28</sup> Most of the estimated growth will occur in the poorest regions of Africa and southern Asia.<sup>29</sup> "The growth rate will be the equivalent of one new country the size of Mexico every year."<sup>30</sup> Of the 92 million people added each year to the population of this planet, approximately 88 million are born in the developing countries.<sup>31</sup> This population growth continues to be the most serious aspect of the many challenges facing mankind. The consequences of such unprecedented growth are staggering for the next century.

If current population levels and increases continue, "[t]wo-thirds of the people of Africa—about 1.1 billion people—will be without adequate water supplies by 2025."<sup>32</sup> The World Health Organization has estimated that each year food, clothing and shelter will have to be provided for an additional 80 to 100 million people.<sup>33</sup> In a twenty year period, this could mean a need for a 36 per cent increase in food, drinking water and agricultural products.<sup>34</sup> At the present time malnutrition and preventable disease kill about 10 million children every year.<sup>35</sup> The depredations of human activity on the environment are daily killing 40,000 of our Earth's most vulnerable people, children whose deaths (according to the United Nations) are related to hunger and its health consequences.<sup>36</sup> Given a huge increase in population, the tragedy of such deaths will become even more catastrophic.

It would be naive to assume that the developed world can somehow immunize itself from these crises. "The main leverage that the poor now have over the rich is the threat that they may drop in—indeinitely. As disparities among nations grow, pressures to migrate are rising. According to the UN, 75 million people are migrating illegally every year, skipping from country to country in search of work or food."<sup>37</sup> Poverty and political unrest have generated huge refugee flows as desperate men, women and children flee from their homes in search of a safe haven and sustenance to

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27. Christina Mungan, *The Earth Summit: What Science Says*, THE GLOBE AND MAIL, June 6, 1992, at A4.

28. HEAD, *supra* note 18, at 3.

29. Jeff Sallot, *U.N. calls women 'wasted asset', Key to prosperity for developing world lies in equality for women*, THE GLOBE AND MAIL, Apr. 29, 1992, at A1.

30. *Id.*

31. Sandra Postel, *Denial in the Decisive Decade*, in STATE OF THE WORLD 1992, 3 (1992).

32. Sallot, *supra* note 29, at A1.

33. Brad Knickerbocker, *World Leaders Gather at Rio for Earth Summit*, CHRISTIAN SCI. MONITOR, June 2, 1992, at 1, 4.

34. *Id.* at 4,

35. Brad Knickerbocker, *From Rio de Janeiro*, CHRISTIAN SCI. MONITOR, June 10, 1992, at 3.

36. Knickerbocker, *supra* note 33, at 1.

37. Robert Greenberger, *THE PRICE OF PEACE*, THE GLOBE AND MAIL, May 26, 1992, at B18.



keep them alive.<sup>38</sup> The search for a better life drives 2 million people to immigrate from the poor nations to the richer countries annually.<sup>39</sup>

Were the problem confined only to the climate and population, it would be serious enough. However, the land, the oceans, all that sustains life is now imperilled by the actions of the human species. The outlook is worse than grim. The land on this planet is rapidly losing its fertility because of human activity which is literally working the soil to death. "In the past 45 years, an area approximately the size of China and India combined has experienced moderate to extreme soil degradation as a result of human activities, according to UN studies"<sup>40</sup> This area of almost 3 billion acres is approximately 11 per cent of the vegetated surface of the planet.<sup>41</sup> Deforestation, animal grazing and heavy agricultural usage have combined to degrade 1.1 billion acres in Asia and 793 million acres in Africa.<sup>42</sup> The agricultural abuse of land has resulted in extensive erosion and the loss of 25 billion tons of topsoil each year,<sup>43</sup> this at a time when the world desperately needs more food because in the past two decades the ranks of the chronically hungry have increased by 90 million to a frightening total of 550 million.<sup>44</sup> Some estimates of annual soil loss are even higher, approaching 28 billion tons.<sup>45</sup> The International Soil Reference and Information Centre in the Netherlands has concluded that human activity has resulted in the degradation of approximately 15 per cent of the land area of this planet.<sup>46</sup> Hence when more space and more food producing land will be required, these vital necessities are likely to be in short supply.

The oceans of this planet serve in vital ways to sustain and nourish human and animal life. Human beings have responded to this beneficent element by annually dumping six and a half million tons of garbage into the world's oceans.<sup>47</sup> The United Nations estimates that normal oceanic shipping activities result in oil spillage or seepage of about 600,000 tons each year.<sup>48</sup> In a 1985 review the National Research Council estimated that considering various sources of origin, between 1.7 and 8.8 million metric

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38. See Ranee K.L. Panjabi, *The Global Refugee Crisis: A Search for Solutions*, 21 CAL. W. INT'L L. J. 247, 247-263 (1990).

39. Sallot, *supra* note 29, at A1.

40. Scott Stevens et al., *Global Resources; Systems at Risk*, CHRISTIAN SCI. MONITOR, June 10, 1992, at 10.

41. *Id.*

42. *Id.*

43. Knickerbocker, *supra* note 33, at 4.

44. *Id.*

45. *Soil Alarm*, WORLD MONITOR, July 1992, at 8.

46. James Rusk, *Pollution challenges Earth's ability to pay*, THE GLOBE AND MAIL, May 20, 1992, at A1.

47. Knickerbocker, *supra* note 33, at 4.

48. Stevens, *supra* note 40, at 10.

tons of petroleum enter the oceans each year.<sup>49</sup> N.B.C. Correspondent Arthur Kent, on assignment covering Greenpeace commented on pollution in the Mediterranean Sea: "The Med. is a vast open sewer for the nations of Europe. Greece pumps 98 per cent of its sewage raw into the Mediterranean, Italy 89 per cent."<sup>50</sup>

Besides oil, sewage and garbage the oceans have also been used as dumping grounds for nuclear waste.<sup>51</sup> It is certainly true that "[p]olluters will dump on the site that offers the least resistance."<sup>52</sup> These acts of sheer "ecostupidity"<sup>53</sup> (or worse) threaten the world's fisheries which presently provide 16 per cent of the animal protein consumed by the people of this planet.<sup>54</sup> Pollution threatens the breeding grounds of this vital food supply and over-fishing to meet present needs promises to decimate it altogether. "Intensive fishing has mined many coastal and open-ocean fisheries. Catches of Atlantic cod and herring, Southern African pilchard, Pacific Ocean perch, King Crab, and Peruvian anchovies have all declined over the past two decades."<sup>55</sup> At the very moment when the human species is expanding beyond control, we are destroying the other planetary species which alone could sustain this human population explosion in the future. Brian Mulroney, Prime Minister of Canada emphasized this problem: "Overfishing, especially off of Canada's east coast, requires the urgent attention of the world's fishing nations, particularly the nations of the European Community."<sup>56</sup> A moratorium on cod fishing off the coast of Newfoundland in Eastern Canada has been the result of overfishing by several nations.

The resilience and durability of this planet for so many thousands of years ought not to lull us into believing that it will all sort itself out somehow. The variety of plant and animal life, on this Earth of ours must also be protected. The destruction of entire species is one of the most tragic consequences of human activity run amok. Though no one is precisely certain, it appears that there are at least 10 million species of life on this planet.<sup>57</sup> The United Nations estimates the number of species at 30 million.<sup>58</sup> At least 140 plant and animal species become extinct every day.<sup>59</sup> So serious a loss of biological diversity has aroused global concern

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49. HEAD, *supra* note 18, at 82 (citing NATIONAL RESEARCH COUNCIL, OIL IN THE SEA: INPUTS, FATES, AND EFFECTS (1985)).

50. Arthur Kent, interviewed on *Dateline* (NBC television broadcast, Aug. 11, 1992).

51. Stevens, *supra* note 40, at 10.

52. Gregg Easterbrook, A House of Cards, *NEWSWEEK*, June 1, 1992, at 24, 30.

53. *Id.* at 37.

54. Stevens, *supra* note 40, at 10.

55. John C. Ryan, *Conserving Biological Diversity*, in *STATE OF THE WORLD 1992*, 9, 13 (1992).

56. Brian Mulroney, Address at the Canadian Museum of Civilization, Hull, Quebec, Canada (June 1, 1992).

57. Stevens, *supra* note 40, at 10.

58. Rusk, *supra* note 46, at A1.

59. Postel, *supra* note 31, at 3.

among environmentalists who predict serious consequences for the future sustenance of human life on earth if this present trend continues. It is almost impossible to estimate the problems which will arise with the expected loss of about one quarter of the 30 million species (United Nations estimate) projected to become extinct in the next two or three decades.<sup>60</sup> The problem affects every form of life from plants and insects to birds, mammals, reptiles and primates. Declining numbers and near extinction threaten three fourths of the world's species of birds and two thirds of the 150 known primate species.<sup>61</sup> Cautioning against this unprecedented destruction of life on Earth, the United Nations has pointed out that:

Biological diversity must be viewed as a global resource, like the atmosphere or the oceans. New uses for it are being discovered that can relieve human suffering and environmental destruction. Only a tiny fraction of species with potential economic importance have been utilized; 20 species supply 90 per cent of the world's food, and just three (wheat, maize, and rice) provide more than half. In most parts of the world, these few crops are grown in monocultures that are particularly sensitive to insect attacks and disease. Yet tens of thousands of edible species—many possibly superior to those already in use—remain unexploited. . . . The maintenance of biological diversity is a precondition for sustainable development.<sup>62</sup>

This incredible and wonderful variety of life represents the "Earth's genetic insurance policy,"<sup>63</sup> and there is a possibility that at least 7 per cent of this natural wealth could be lost in the next quarter century.<sup>64</sup> There can be little doubt that the problems of this planet are reaching catastrophic proportions and further that there is very little time to solve these crises and yet sustain life at an acceptable level in the future. Dr. Mostafa Tolba Director of the United Nations Environment Programme highlighted the serious nature of the problem: "Humans continue to alter in a few decades precise ecological balances that have evolved over billions of years." Dr. Tolba continued, "The facts show again and again—in dwindling fish stocks, projected shortfalls in fuel wood, quickening soil erosion and millions of tons of greenhouse gases spewed into the atmosphere—that time is running out."<sup>65</sup>

The very fact that representatives from 167 countries,<sup>66</sup> led by more

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60. Rusk, *supra* note 46, at A1.

61. Ryan, *supra* note 55, at 13.

62. GLOBAL OUTLOOK 2000, *supra* note 5, at 95.

63. *Biodegradable Treaty*, THE TIMES (London), June 3, 1992, at 15.

64. *Id.*

65. Knickerbocker, *supra* note 33, at 4.

66. Brad Knickerbocker, *Alternate Earth Summit Gives Voice to Grass Roots*, CHRISTIAN SCI. MONITOR, June 8, 1992, at 3. The New York Times estimated 178 nations attended the Rio Conference. William K. Stevens, *The Earth Summit: New Lessons of Rio: A New Prominence and an Effective Blandness*, N.Y. TIMES, June 14, 1992, at 10.

than 150 world leaders<sup>67</sup> attended the Conference on Environment and Development held in Rio this June 1992 is indicative of the nearly universal interest and concern about the fate of this planet. The presence of so many heads of state at Rio demonstrates the awareness at the highest levels that environmentalism is The Issue of our time. While cynics would argue that association with environmental concerns is good public relations for any politician, there is definitely a dawning consciousness that “[u]ltimately all environmental protection is in everybody’s self-interest.”<sup>68</sup> Whether such consciousness will result in a spate of national legislation to clean up the damage remains to be seen. As with most such international gatherings, the level of rhetoric at Rio surpassed the extent of action taken. This dilemma was explained by Brazil’s Acting Environment Minister, Jose Goldemberg: “There’s a big difference between rhetoric and action. Rhetoric is very easy, action is very difficult.”<sup>69</sup>

The action required at Rio was the expansion of the parameters of international environmental law to meet the challenge posed by the catastrophic destruction and degradation of the elements of sustainable life on Earth. The challenge was only barely met and time alone will tell whether the initial steps taken at Rio will bear fruit in more stringent regulations and tighter controls on pollution. Whether or not nations take extensive action to clean up their own air, land and water will also depend on the extent to which public pressure can be brought to bear on governmental leaders who beamed during the Rio photo opportunities but may now balk at the expensive implementation of environmental programs. In an apparent effort to goad the dignitaries at Rio to live up to their commitments, in his farewell address United Nations Secretary General Boutros-Ghali reminded them that “[t]he function of the United Nations is not to mask general inaction with verbiage, speeches, reports and programs.”<sup>70</sup>

The actual achievements of the Rio conference were not insignificant, given the numerous obstacles placed in the path of progressive, effective action to cope with the environmental crisis. Global warming, raised as an internationally vital issue at the Toronto Conference on the Changing Atmosphere (1988)<sup>71</sup> was now tackled at Rio in a treaty limiting global emissions of carbon dioxide and other greenhouse gases.<sup>72</sup> The so-called Climate Treaty aims to stabilize emissions of these gases to a safe level soon

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67. Michael McCarthy, *Rio Summit Opens to Silence Before the Expected Storms*, THE TIMES (London), June 4, 1992, at 1.

68. Easterbrook, *supra* note at 52, at 33.

69. Brad Knickerbocker, *Summit Bogs Down in Debate on Details*, CHRISTIAN SCI. MONITOR, June 11, 1992, at 5.

70. James Brooke, *U.N. Chief Closes Summit With an Appeal for Action*, N.Y. TIMES, June 5, 1992, at A8.

71. Michael McCarthy, *Bush Will Sign Pact on Global Warming*, THE TIMES (London), June 1, 1992, at 12.

72. Stevens, *supra* note 40, at 10.

enough to “allow ecosystems to adapt naturally to climate change, to insure that food production is not threatened and to enable economic development to proceed in a sustainable manner.”<sup>73</sup> The Treaty, criticized for its weakness,<sup>74</sup> does take some important steps to deal with the problem. First, national programs have to be created to mitigate changes in the climate. The developed nations are required to “limit their emissions of greenhouse gases, to protect forests and other systems that absorb greenhouse gases and to demonstrate that they are taking steps toward meeting these objectives.”<sup>75</sup> All parties are required to report bi-annually on measures taken to reach their 1990 levels of gas emissions and conduct periodic reviews of progress taken to implement the provisions of the Treaty.<sup>76</sup> There is also a commitment by signatories from the developed world partially to fund efforts by developing nations to control emissions of these gases.<sup>77</sup> Developed nations are required to assist in technology transfers to the developing world in its efforts to implement measures aimed at stabilizing emissions.<sup>78</sup>

Although some of the negotiators in favor of a Treaty on climate change were quite moderate in their requirements—parties “agree to try to hold greenhouse-gas emissions in the year 2000 to 1990 levels”<sup>79</sup>—achieving any such specific binding goals proved to be a real challenge, particularly in view of the strong negotiating position taken by the Government of the United States. Though the White House staff denied the charge, the American Government was accused both before and during the Rio Summit of having “watered down the summit’s central global warming treaty.”<sup>80</sup> Lester Brown, President of the World Watch Institute criticized the United States’ position: “The U.S. used to be in a leadership position in terms of the environment; now it has become the problem.”<sup>81</sup> Brown’s concerns center on the fact that stabilizing emissions to 1990 levels by 2000 will only result in a 11 per cent reduction in carbon dioxide emissions by the year 2050.<sup>82</sup> Motivated by the possible economic consequences of drastic environmental clean-up programs, particularly when unemployment rates in his country are at an eight-year high,<sup>83</sup> U.S. President George Bush refused to allow “the extremes of the environmental movement to shut down the U.S. on science

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73. William K. Stevens, *The Earth Summit: With Climate Treaty Signed, All Say They'll do Even More.*, N.Y. TIMES, June 13, 1992, at 4 [hereinafter Stevens, *Climate Treaty*].

74. Strauss, *supra* note 9, at A6.

75. Stevens, *Climate Treaty*, *supra* note 73, at 4.

76. *Id.*

77. Stevens, *supra* note 40, at 10.

78. Stevens, *Climate Treaty*, *supra* note 73, at 4.

79. James Rusk, *The Earth Summit: Austria campaigns for tougher controls, Says U.S. to blame for emission limits*, THE GLOBE AND MAIL, June 5, 1992, at A8.

80. Martin Fletcher & Robin Oakley, *Major Cautions Against Too Much Optimism over Rio*, THE TIMES (London), June 2, 1992, at 1, 16.

81. Strauss, *supra* note 9, at A6.

82. *Id.*

83. Chris Black, *In six weeks, a race reshaped*, BOSTON GLOBE, Nov. 5, 1992, at 27.

that may not be as perfected as we in the U.S. 'could have it.'<sup>84</sup> As his nation emits the largest amount of carbon dioxide (approximately 23 per cent of the world's total,<sup>85</sup>) the cost of implementing binding time deadline targets was unacceptable to the U.S. President. Eventually the "binding commitments were dropped"<sup>86</sup> to satisfy the apprehensions of the United States and President Bush agreed to attend the Rio Summit. The Times of London called the compromise a "toothless treaty."<sup>87</sup> and stated that "[t]he compromise explains the differing accounts of the treaty as historic breakthrough and sell-out."<sup>88</sup>

Unfortunately, the spirit of compromise which enabled the world's only remaining Superpower to sign the Climate Change Treaty did not extend to its participation in the second major achievement of the Rio Summit—the Convention on Biological Diversity, popularly referred to as the Bio-diversity Treaty. The Treaty seeks "to reconcile the goal of preserving species and ecosystems with that of economic development and reduction of poverty."<sup>89</sup> Signatories promise to attempt a blend of conservation and economic development with less resource exploitation, establishment of protected areas, preservation of ecosystems and species and restoration of damaged ecosystems. Again, technology transfers and funding from the North may well be the only means for developing nations' to implement their treaty obligations.<sup>90</sup> "Under its terms, developing countries agree to preserve areas of biological importance in return for financial aid from developed countries, in the form both of foreign aid and of royalties from companies that use material gathered in Third World countries."<sup>91</sup> There was less inclination on the part of all parties to compromise on this Treaty. The stakes for both sides of the dispute were perceived as being much higher than with the Climate Change Treaty. The Bio-diversity Treaty binds not merely governments but businesses as well. It has been called a "two-way street."<sup>92</sup> Not only is this Treaty a significant step forward in the protection of the global environment but it also ensures that countries in the South still rich in bio-diversity get a fair share of the utilization of this resource. "Developed nations have agreed to pay developing countries for conserving and controlling the use of their plants and animals. And developing nations are agreeing to let other countries purchase samples of those species to maké

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84. Fletcher & Oakley, *supra* note 80, at 16.

85. McCarthy, *supra* note 71, at 12.

86. *Id.*

87. *Id.*

88. *Id.*

89. William K. Stevens, *To U.S., Treaty's Flaws Outweigh Its Benefits*, N.Y. TIMES, June 6, 1992, at 6.

90. *Id.*

91. Strauss, *supra* note 20, at A6.

92. Robert M. Press, *Biodiversity Pact Ready For Ink at Summit*, CHRISTIAN SCI. MONITOR, May 26, 1992, at 3.

products such as improved food crops, medicines and cosmetics.”<sup>93</sup> There is now a clear incentive for developing nations, rich in bio-diversity to conserve this resource and to protect it from short-term schemes which call for rapid deforestation and consequent species destruction. Although environmentalists at Rio argued in favor of a stronger legal framework to protect the Earth’s genetic diversity the present Treaty, while far from perfect, “does provide a solid framework on which to build.”<sup>94</sup> There appears to be wide recognition that the Treaty has expanded the boundaries of environmental law and alerted nations both in the North and the South to the fact that a new order now governs the use of this resource. Environmental groups in England have also concluded that: “The convention is likely to become the most effective instrument for promoting global conservation in the coming decades.”<sup>95</sup>

The Government of the United States expressed its opposition and refused to sign this Treaty because of its apparent desire to protect the patent rights of American companies working in the expanding biotechnological field.<sup>96</sup> Given the dominance of the United States in this field of research and development, the position of the Bush Government is understandable in terms of American self-interest. Unfortunately, the consensus at Rio was highly critical of both the American President and of his commitment to economic priorities over the cause of environmental protection. The Americans were also opposed to some of the financing provisions of the Bio-diversity Treaty.<sup>97</sup> The Times (London) expressed some of the apprehensions shared by the rich nations: “developed countries could be obliged to contribute whatever sum the majority of signatories—which will be Third World countries—decide is needed to meet the aims of the convention.”<sup>98</sup> Even as he voiced his very strong objections to the Treaty, President Bush committed his nation to protection of bio-diversity. “We come to Rio,” he said, “prepared to continue America’s unparalleled efforts to preserve species and habitat . . . our efforts to protect bio-diversity itself will exceed . . . the requirements of the treaty. But that proposed agreement threatens to retard biotechnology and undermine the protection of ideas . . . it’s financing scheme will not work.”<sup>99</sup> Clearly, the environmental ideal had to be trimmed to a perceived self-interest concerning American economic circumstances. Environmentalist groups at Rio retaliated by unanimously

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93. *Id.*

94. *Groups Lobby for Britain to Sign Rio Wildlife Convention*, THE TIMES (London), June 4, 1992, at 15.

95. *Id.*

96. Strauss, *supra* note 20, at A6.

97. *Id.*

98. *Biodegradable Treaty*, *supra* note 63, at 15.

99. *Excerpts From Speech By Bush On 'Action Plan'*, N.Y. TIMES, June 13, 1992, at 5.

declaring the United States the worst of the environmentally offending nations.<sup>100</sup>

Even though the United States Government was similarly opposed to the third major document to be propounded at Rio, it did eventually sign it, albeit with some misgivings. Agenda 21, a lengthy blueprint for the clean-up of the environment concerns "almost every environmental issue from overpopulation to overfishing."<sup>101</sup> Labelled an "absurd project,"<sup>102</sup> Agenda 21 has been criticized for not presaging "any fundamental change in the economic relationship between the rich nations of the developed world and the poor nations of the developing world, a change that many feel is necessary if poor countries are not to slip ever deeper into poverty and environmental degradation."<sup>103</sup> The underlying problem with Agenda 21 is not so much its ideals which have wide support but the potential difficulties which will arise when the world attempts to implement these ideas into concrete programs of action. Proponents of the document suggest that the cost of implementation could run as high as \$125 billion per year.<sup>104</sup> The economies of the North, reeling from the recession of the 1990's, balk at the massive cost of Agenda 21, an expense which would involve at the very least a doubling of their foreign aid budgets.<sup>105</sup>

On the 11th June 1992, the delegates at the Rio Summit unanimously accepted the Rio Declaration, the fourth significant document of the Conference. It is basically a statement of environmental principles which are not legally binding.<sup>106</sup> Though some member nations at the Summit had serious reservations about some of the principles, the acceptance of the Declaration provides a direction for all nations provided they have the will to implement a program of sustainable development. That there are serious flaws in the Declaration cannot detract from its environmental principles, however limited the scope of the latter may appear to be. Criticism has been severe. The Canadian Participatory Committee of non-government agencies which advised the Canadian Government commented that, "some of the principles are so gaseous as to dissolve upon examination."<sup>107</sup> Briefly, the Rio Declaration endorses the primacy of human beings as the centre of

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100. *The Earth Summit: U.S. unanimous choice as environmental bad boy*, THE GLOBE AND MAIL, June 9, 1992, at A12.

101. *Id.*

102. *A Bargain not a Whinge*, THE TIMES (London), June 1, 1992, at 15.

103. James Rusk & Isabel Vincent, *Summit brought down to earth, Rio talks leave much undone*, THE GLOBE AND MAIL, June 15, 1992, at A1.

104. Suzanne Clabon & John Faulks, *A Limit to the Summit*, THE TIMES (London), June 9, 1992, at 27.

105. *The Earth Summit: U.S. unanimous choice as environmental bad boy*, *supra* note 100 at A12.

106. Michael McCarthy & Robin Oakley, *Green Charter Agreed at Rio*, THE TIMES (London), June 12, 1992, at 1.

107. Geoffrey York & James Rusk, *The Earth Summit: PM urges action to save species*, THE GLOBE AND MAIL, June 2, 1992, at A1.



concerns for sustainable development. It blends the priorities of development and environment and somewhat half-heartedly, tries to urge implementation of the right to development through exchanges of science and technology. States are urged to resolve environmental problems nationally and internationally in a peaceful manner in accordance with the principles of the United Nations Charter.<sup>108</sup>

Having explored both the serious nature of the global environmental crisis and the steps taken at Rio to meet some of these problems, it would be worthwhile now to analyze the achievements of the Earth Summit in order to determine whether this great event was indeed a significant landmark in the creation of international environmental law or whether, as some observers suggest, it was nothing more than a "gabfest."<sup>109</sup> The Rio Summit has to be assessed from a varied perspective and any fair analysis must include consideration of the very real and compelling conflict between idealism and self-interest evident throughout the conference.

There was a definite theatricality to the entire Rio event, an atmosphere akin to that of a gala performance or a Hollywood opening night. The vast numbers of the immediate audience, approximately 30,000 makes it one of the largest extravaganzas ever.<sup>110</sup> There were innumerable world leaders, potentates and prime ministers, governmental delegations and non-governmental organizations, all vying for media attention and for a voice in the formulations being presented to the Conference. The entire world was watching on television and reading about the event in its newspapers as approximately 6000 journalists from every corner of the Earth covered the Summit.<sup>111</sup> Though the entire world had gathered to avert a tragedy, the atmosphere at Rio was almost that of an elaborate carnival and one wonders whether this was really the ideal way to formulate principles of environmental law. Though it is true that similar spectacles have often resulted in significant Treaties as at the Congress of Vienna in 1815 (following the Napoleonic Wars), the sheer size and impressive aura of the gathering at Rio may have led nations to posture more, to harden their positions and to exaggerate their differences, factors which could have had a significant negative impact on the achievements of the Conference. One would like to think that legal principles, particularly when these involve several nations, will not be hammered out in the glare of world publicity and global interest. It was perhaps fortunate that the basic elements of the Treaties and of the Declaration were formulated in a series of meetings preceding the Summit. It was also prudent of most supporters of the compromise Treaties which emerged from those earlier sessions to resist the urge to re-negotiate to any

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108. *Id.*

109. Elliot Diringer, *The Road From Rio Looks More Promising*, S.F. CHRONICLE, June 15, 1992 at A1 (quoting Scott Hajost, Environmental Defense Fund).

110. Dumanoski, *supra* note 3, at 1.

111. Vianney Carriere, *Much ado and then nothing: Earth Summit*, THE GLOBE AND MAIL, June 3, 1992, at A17.

great extent at Rio what had already been agreed to in earlier meetings. If Rio was largely an event to bring global attention to the tragedy of environmental degradation, then it can be deemed an unqualified success.

It was also successful in exposing the positions of various governments and in revealing which world leaders were sincere in their commitment to the environment. Rio was ultimately an exercise in global idealism, the vision of its creator, Maurice Strong who firmly believes that the planet must be revitalized if the human species is to survive. This great and noble vision collided headlong with the national self-interest of a variety of political players at the Conference. Ironically, the positions of the United States and the more assertive of the developing nations like Malaysia were remarkably similar in terms of the primacy of self-interest over environmental concerns. The American Government's refusal to risk jobs in an economy battered by recession was interpreted at Rio as selfishness and callousness. That President Bush is standing for re-election this year was frequently alluded to in an explanation of the American reluctance to play the role of environmental world leader. Interestingly, some developing nations also presented a position based largely on self-interest. Malaysia, rich in forests, a resource it is logging at a rate which alarms most environmentalists, resisted efforts to deem this natural treasure of wood and bio-diversity part of the global heritage of mankind. Malaysia was both strident and defensive in its stance at Rio and argued very strongly that if the North wants the world's forests saved then the North must be willing to subsidize the preservation of this resource. Malaysian diplomat, Ting Wen-Lian commented assertively that if developed countries want developing countries to conserve their forests, they should attend to "the poverty, famine and crushing burden of external debt" which compel the poorer nations to fell their trees in order to survive.<sup>112</sup> It is significant to note that though the United States and Malaysia seemed to represent opposite poles in the environmental dialogue at Rio, both nations, in emphasizing the primacy of national self-interest over global idealistic notions were on a remarkably similar plane of thought. Both nations are committed to environmental improvement but both resist the economic sacrifice inherent in its implementation. Though the rhetoric highlighted the North-South divergence, the primacy of immediate national priority in the policies of both nations demonstrates how akin they really are in their underlying attitudes. Both Malaysia and the United States figured in the top five list of the worst environmental nations.<sup>113</sup> The list was prepared and widely publicized by the various environmental activists gathered to share ideas in the unofficial people's summit, labelled the Forum which also convened in Rio at the same time as the more formal Earth Conference.

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112. Mungan, *supra* note 27, at A4.

113. *The Earth Summit: U.S. unanimous choice as environmental bad boy*, THE GLOBE AND MAIL, *supra* note 100, at A12.

Although the nations on the extremes of the North-South drama as played out at Rio were the major hindrance in the passage of strong measures to clean-up and preserve the environment, most nations in both North and South overcame their nationalistic apprehensions to sign the compromise agreements which were passed at the Earth Summit. The adherence of so many nations to each of the Treaties and the unanimous acceptance of the Rio Declaration presage a new global consciousness on many levels, that the pre-eminence of national self-interest must now give way to the ideals of sustainable development. It is as if the majority of the nations of the world have finally realized that there is a clear difference between short-term self-interest which would resist environmental legislation in order to safeguard economic concerns and long-term self-interest in which the entire planet survives and perhaps even thrives because timely measures have been taken to implement the ideals expounded by environmentalists. Among the nations of the North, the American position was regarded as extreme and was in marked contrast to that of the European nations, some of which argued emphatically for firm timetables for the curbing of carbon dioxide emissions in the carbon dioxide treaty—a provision not acceptable to the United States and therefore dropped in the final document. Austria, the Netherlands and Switzerland initiated a proposal to commit signatory nations to immediate stabilization of emission levels, a move which, according to one Austrian delegate, resulted in a threatening letter from the U.S. Government.<sup>114</sup> Clearly the American position had led to its isolation in the sphere of environmental diplomacy and regrettably, an opportunity to assume the mantle of world leadership in this important facet of international relations was forsaken.

It is impossible to speculate on the probable consequences of a vigorous American assumption of leadership in this attempt to expand the parameters of environmental law. Certainly, the inclusion of firm time-tables in the Climate Change Treaty and U.S. adherence to the Bio-diversity Treaty would have made a profound difference. The implementation of sustainable development in the South will undoubtedly be more difficult because of the fact that the world's most powerful nation has not committed itself wholeheartedly to that ideal. It is only when the U.S. Government is prepared to concede that American self-interest dictates a more progressive international environmental activism that America can again assume the leadership role which it rejected at Rio.

The fact that countries like Canada and the United Kingdom signed the Treaties,<sup>115</sup> propounded at Rio underscored the isolation of the United States. On June 12, 1992, Canadian Prime Minister Brian Mulroney

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114. James Brooke, *To Protect Bush, U.N. Will Limit Access to Talks*, N.Y. TIMES, June 8, 1992, at A5.

115. Robin Oakley, *Major Promises £100 More for Green Projects*, THE TIMES (London), June 13, 1992, at 1. See also Canada and the Earth Summit (Canadian Government Press Release at the Rio Summit, June 1992).

promised at the Earth Summit that his country would “undertake to ratify both agreements this calendar year [1992].”<sup>116</sup> In Canada and the United Kingdom, public pressure in favor of environmentalism has been very strong and Governments have acceded, despite reservations, to the principles and formulations of Rio largely in response to the will of their constituencies at home. The Chairman of the American Senatorial delegation to the Rio Summit was Senator Albert Gore, now Vice President-elect. Gore was highly critical of the stance adopted by the White House,<sup>117</sup> and deplored the failure of his country to provide leadership in this matter.<sup>118</sup> So intense was the hostility to the position of the American Government that few environmentalists or official delegations were prepared to give due credit to President Bush for agreeing to provide \$150 million in new aid for the protection of forests.<sup>119</sup>

It is clear from the plethora of speeches, policy papers and official statements which poured out of the Earth Summit that most nations of the world have awakened to the impending crisis in the environment and are anxious to do something about it. While there is no dearth of motivation or inclination, resolute action is another matter altogether. First, both North and South plead that no matter how ideally desirable it is to clean up the planet, realistically and in economic terms this is likely to be a prohibitively expensive venture, one which no country can envisage at the present time. So while subscribing with enthusiasm to the ideals of environmentalism, few nations are willing to pursue those ideals into concrete plans of action which would fund the clean-up of rivers and lakes or stop the felling of forests. At the point where rhetoric has to be translated into action, the factor of self-interest, clothed in the language of the priority of saving jobs or encouraging development takes over and rivers continue to be contaminated and forests disappear before our very eyes. It remains to be seen whether the signatories to the two Treaties will in fact take measures to implement the provisions within the realm of their own nations.

Part of the problem at Rio was the indulgence by all sides in the rather useless exercise of flinging blame and responsibility on the other party. The North blamed the South for exacerbating an already severe problem by overpopulating the world. The South retaliated by flinging in the North's face its wasteful, extravagant lifestyle which causes most of the global pollution. The North, or rather its American leadership, refused to consider vital changes to the way of life of its people. The South countered by insisting on its right to develop in much the same resource-wasteful manner that the North had relied on for its earlier industrialization. The bickering and

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116. Brian Mulroney, *Earth Summit; World's Leaders Speak Out*, L.A. Times, June 13, 1992, at A23.

117. Mungan, *supra* note 27, at A4.

118. Dan Fagin, *Environmentalists Welcome Gore*, NEWSDAY, July 10, 1992, at 16.

119. Stevens, *supra* note 66, at 10.

quibbling before and during Rio demonstrate clearly that for a number of countries, self-interest is still the guiding principle of foreign and domestic policy and there is not as yet a clear realization that environmental idealism has to be adopted to ensure the survival of the planet.

If the nations of the world, East, West, North and South could view the long-term perspective of present policies they would see a world in which the deserts keep expanding because agricultural abuse and deforestation have destroyed the soil which sustains and nourishes plant life. If the pollution of Earth's rivers, lakes and oceans continues at present levels, we can expect to lose fish and shell fish as a normal food source for land animals and Man. The elimination of this source of protein will not merely result in greater hunger on Earth. It will also wipe out thousands of jobs for those who have depended on the water to earn their livelihood. If the air becomes dirtier because of industrial and automobile emissions, we can expect higher rates of illness worldwide and this is likely to affect children and the elderly who are most susceptible to the ailments associated with pollution. A reliance on present policies sacrifices the future to an extent which ought to be unacceptable to any government in any nation. This form of immediate self-interest, gratified at enormous risk to future, long-term considerations, hardly seems worth the price. If nations fail, at this crucial juncture, to subsume their own perceived self-interest in the greater interest of the entire planet, they risk not merely diplomatic isolation but economic loss and environmental degradation.

There is evidence that some Governments and business leaders have already understood that environmental action is likely to be not only idealistic but very profitable in the near future. "U.S. corporations are taking the initiative in getting rid of their ozone-reducing chemicals. The Hughes Corp. now uses a chemical derived from lemon juice (yes, lemon juice) instead of CFCs in its weapons-manufacturing program."<sup>120</sup> 3M has reduced pollution and increased profits in its U.S. operation.<sup>121</sup> Northern Telecom has taken measures to end its use of CFCs.<sup>122</sup> Business executives from Chevron, Volkswagen and Mitsubishi, among others, have banded to form the Business Council for Sustainable Development in an attempt to encourage the translation of environmental ideals into pragmatic business practices worldwide.<sup>123</sup> The Canadian Chemical Producers Association has initiated a Responsible Care program which blends business interests with environmental responsibility. As of early June 1992, the program had affiliates in 20 countries including the United States, Japan, Australia and a number of

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120. Philip Elmer-Dewitt, *How do you Patch a Hole in the Sky that Could be as Big as Alaska*, TIME, Feb. 17, 1992, at 64, 67.

121. Michael D. Lemonick, *Summit to Save Earth; The Big Green Payoff*, TIME, June 1, 1992, at 62, 64.

122. Elmer-Dewitt, *supra* note 120, at 67.

123. Lemonick, *supra* note 121, at 64.

European nations.<sup>124</sup> It is clear that in a number of cases, “[b]usiness is moving faster than the laws require.”<sup>125</sup>

In the United States, environmentalism is itself becoming a major industry.<sup>126</sup> The present myopic self-interest which persuades some governmental leaders that jobs rely on polluting industries has to be re-examined in light of the possibilities opening up for employment in the clean-up of the planet. Nations like the United States, gifted with inventive genius and a tradition of individualism and innovative entrepreneurship could stand to gain considerably by becoming active participants in this real new world order which has already arrived. By clinging to an out-dated perception of self-interest, the world’s one remaining Superpower risks isolating itself and being unable to compete in a rapidly changing economic and environmental attitude now sweeping the planet. If the United States commits itself to the implementation of sustainable development globally and evinces an interest in assisting the poorer nations to develop in an environmentally safe manner, it will not only enhance its international image but safeguard its political pre-eminence in the world. It would be naive to assume that with the conclusion of the Cold War there are no serious threats to the Free World. While the prospect of world war is now remote, the likelihood of global pollution on a mass scale is an ever-growing threat. The consequences of death by war or death by foul air are the same. If the American Government can devote the same energy to the environment that it was able to bring to the expulsion of Saddam Hussein from Kuwait, much can be done to protect future generations of every nation and ensure that the legacy we leave will not lead our children to curse us for befouling their world. Although the Treaties signed at Rio are only a small step in the expansion of international environmental law, a sincere commitment to implement these provisions would galvanize the developing world to follow suit and could well lead to an era of greater understanding and harmony. We all need a global recognition that the ideals of environmentalism are ultimately the most realistic form of self-interest. All nations can only benefit from an awareness that idealism and self-interest are not at odds with each other, that in fact they complement and sustain each other. What is at stake in acting on this new awareness? Only the future of our species and of our home, Earth.

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124. RESPONSIBLE CARE, June 5, 1992, at [??].

125. Elmer-Dewitt, *supra* note 120, at 67.

126. David A. Pease, *Sustainable Development: A game with no losers*, 119 FOREST INDUSTRIES, 22 (May 1992).