
UNIT 5 INTERNATIONAL SUMMITS AND DECLARATIONS

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5.1 INTRODUCTION

In Block 1 of this course, you have studied about natural and man-made disasters and the havoc caused by these disasters to life and properties of human and other living being. Besides, we have also discussed the remedial measures that we can take to meet the onslaught of these eventualities. In this Unit we shall discuss the environment in a global perspective dealing with Summits and Declarations. International Law traditionally embodies the rules that are legal bindings on the states in their interaction and exchange. These rules derive their authority from four sources: treaties or conventions, international customs, general principles of law and other sources such as courts and tribunals. Beyond these sources of “hard law” that establish legal binding obligations, there are also “soft law” such as principles, declarations, rules, charter and standards that are not binding as such but seem to have played an important role in setting moral and ethical background for the acceptable and desirable forms of behaviour among member states, non-governmental organisations and trans-boundary corporations.

Objectives

After studying this unit, you should be able to:

- trace the history of Environmental Negotiations;
- discuss the impact of trade related treaties on the environment; and
- list some important declarations and explain their salient features.

5.2 TREATIES, PROTOCOLS AND DECLARATIONS

Before beginning the discussion, we would like you to understand some terms used in international negotiations related to environmental issues.

Treaties: Treaties are also referred to as conventions, accords and agreements as they are the primary source of international legal rights and obligations in relation to environmental protection.

Protocols: Environmental treaties have some special features other than international treaties. Usually first of all a framework of treaty is adopted that sets out general obligations, and basic institutional arrangements. However, procedures for the

adoption of detailed obligations are usually developed and provided in Protocols subsequently. For example, after signing the Convention on Climate Change by the member countries, a detailed procedure for member states' obligation to reduce their green house gas emissions was subsequently developed (not yet fully adopted) in Kyoto Protocol. Similarly, the convention of biodiversity has set the general framework for biodiversity conservation and use but the detailed binding obligation for trans-boundary movement of genetically modified organisms was developed through Bio-safety protocol.

Declarations and Summits/Conferences: Many conferences have been convened at the intergovernmental level to address environmental issues and issues linking environment and development. These conferences are aimed at adopting declarations, principles, statements or rules that are not binding as treaties but contribute in creating appropriate environment for negotiations and the development of such binding treaties. The most important international conferences on the issue of environment and development have been 1972 Stockholm Conference and 1992 United Nations Conference on Environment and Development held in Rio. Each one adopted non-binding declarations known as Stockholm Declaration, Rio Declaration and Agenda 21 which include important elements that reflect or have contributed in developing international environmental law. So, declaration and summits are not binding for member countries but they set the moral background with which legally binding treaties and conventions are negotiated.

North-South Divide

At a very abstract level all environmental negotiations have taken place on the interface of the north-south divide. As the following description clarifies, almost all negotiations crucially debated on the differing positions between northern and southern, or in other words between the developed and developing countries. Questions arise as to what are these north and south countries.

The North is represented by the developed countries. It comprises forty countries plus the European Union consisting of 15 countries. Other than the most influential US, EU is the dominant group in Northern coalition.

The South is generally represented by G-77. G-77 was established in 1964 to help the south to group and negotiate. It has at present a membership of 133 nations. However, in the division of the world in developing and developed countries, the word developing is a residual category. It consists of 153 countries, of which 133 are G-77 countries. Twenty three countries neither belong to north nor to G-77 but are clubbed together with south, some of which like Kazakhstan at times prefer to align with developed countries.

Having spelt out the meaning of various terms used in the discussions on globalisation and environment, we present the environmental negotiations in a historical perspective so that you understand why these issues have become so important.

5.3 HISTORY OF ENVIRONMENTAL NEGOTIATIONS

Early attempts to develop environmental rules focused on the conservation of wildlife such as fisheries, birds and seals and to a limited extent, protection of rivers and seas. These early rules for bilateral and multilateral conflict resolution and attempts at conservation of wildlife and natural resources were shaped by three distinct aspects.

First of all, many of these developments were inspired by the efforts of private individuals, scientists and environmental organisations in the United States and Europe. Scientists played an important role in establishing connection between the overuse of natural resources and environmental degradation. Some other scientists who established the relationship between deforestation and reduced water availability inspired early environmental legislation at the national and international levels. Secondly, in general these developments were based on the growing awareness that

exploitation of natural resources cannot occur on an unlimited basis and that technological development brought with them pollution and other problems. International measures, some kind of regulatory incentives, including trade restrictions and economic incentives were, therefore, required to be provided.

Thirdly and most importantly, these early rules, conventions and treaties although intended to solicit international and bilateral cooperation for environmental conservation, largely acknowledged the sovereignty of nation states in determining their actions for environmental conservation. This principle of sovereignty of nation states has remained as one of the foundational principles in the subsequent international negotiations on global environment.

We give below a list of important international laws/rules/treaties developed before the establishment of the United Nations that subsequently undertook a leading role in environmental negotiations:

- In 1872, Switzerland proposed an international regulatory commission on protection of birds. This led to the formation of International Ornithological Committee in 1884, which formulated a treaty proposal and resulted in the adoption of the Convention to Protect Birds Useful to Agriculture.
- In 1916, the first bilateral treaty for the protection of migratory birds in the United States and Canada was signed between Great Britain and the United States.
- On the pollution front, the United States and Canada adopted a Water Boundary Treaty to prevent pollution. A treaty on pollution prevention was drafted in 1920 but not adopted. Another draft instrument was prepared during this period on the prevention of oil pollution of seas but was not adopted.
- The first international institution to address the natural protection was formed in 1909 in the international congress for the Protection of Nature in Paris which culminated into the first multilateral treaty of its kind. This was signed in Berne by seventeen countries in 1913 in the form of an Act of Foundation of Consultative Committee for the International Protection of Nature. This consultative committee was committed to the task of collecting, classifying and publishing information on international protection of nature.

5.4 SOME IMPORTANT DECLARATIONS AND CONVENTIONS

With the establishment of the United Nations in 1944, a new chapter in environmental negotiations began. The important conferences and declarations undertaken by the UN are discussed in this section.

5.4.1 The 1972 United Nations Conference on Human Environment

The conference was organised by the United Nations General Assembly in Stockholm from 5 to 16 June, 1972. It provided a general framework for the preservation and conservation of human environment. It provided common principles to inspire and guide people of the world in the preservation and enhancement of the human environment.

Conservation of environment remained a dominant theme in the conference. Trends underway before the Stockholm Conference relating to marine pollution, trans-boundary air and water pollution, and protection of wild and marine endangered species were reinforced. The issue of relationship between development and environmental degradation was only peripherally addressed in the Conference.

The new environmental movement that emerged in the 1960s was sparked off by Rachel Carson's book *Silent Spring*; the book drew attention of the world to the destruction of

wildlife by the use of pesticide DDT. She warned that these chemicals contained the prospect of a dying world in which springtime would no longer bring forth lease to new life but only silence. Carson revealed that our actions could lead to seriously damaging environmental consequences when we interfered with the natural systems we fully did not understand.

Source: *Simon Dresner, The Principles of Sustainability, Earthscan Publications, London, 2002. p.21*

The Conference adopted three non-binding instruments:

1. A resolution on institutional and financial arrangement;
2. A declaration containing 26 principles; and
3. An action plan containing 109 recommendations.

These non-binding instruments set the stage for subsequent international negotiations on environment. Apart from the creation of appropriate institutional arrangements to carry out future environmental negotiations, the most important contribution of the Stockholm Conference was the development of a set of principles that formed the backdrop of all subsequent international negotiations on environment. For example, principle 24 called for international cooperation to effectively control, prevent, reduce and eliminate adverse environmental impact in such a way that did not compromise the sovereignty of an individual state (see box below). Principle 21 affirmed that all states have to ensure that activities in their jurisdiction do not cause damage to other states. Principle 1 linked environmental protection to human rights as the norm. It declared the right to adequate environmental quality as a fundamental right. The Conference spurred international negotiations on environmental protection which resulted in the modification of these principles and their further refinement in the next international conference on environment in Rio-de-Janeiro, Brazil in 1992.

Principles of Stockholm Declaration, 1972

1. Human rights must be asserted, apartheid and colonialism condemned.
2. Natural resources must be safeguarded.
3. The Earth's capacity to produce renewable resources must be maintained.
4. Wildlife must be safeguarded.
5. Non-renewable resources must be shared and not exhausted.
6. Pollution must not exceed the environment's capacity to clean itself.
7. Damaging oceanic pollution must be prevented.
8. Development is needed to improve the environment.
9. Developing countries therefore need assistance.
10. Developing countries need reasonable prices for exports to carry out environmental management.
11. Environment policy must not hamper development.
12. Developing countries need money to develop environmental safeguards.
13. Integrated development planning is needed.
14. Rational planning should resolve conflicts between environment and development.
15. Human settlements must be planned to eliminate environmental problems.
16. Governments should plan their own appropriate population policies.
17. National institutions must plan development of states' natural resources.
18. Science and technology must be used to improve the environment.
19. Environmental education is essential.
20. Environmental research must be promoted, particularly in developing countries.
21. States may exploit their resources as they wish but must not endanger others.
22. Compensation is due to states thus endangered.
23. Each nation must establish its own standards.
24. There must be cooperation on international issues.
25. International organisations should help to improve the environment.
26. Weapons of mass destruction must be eliminated.

Source: <http://www.unep.org/geo/geo3/english/039.htm>

SAQ 1

Describe the **context** of the 1972 Stockholm Conference and its outcomes.

5.4.2 World Commission on Environment and Development (WCED)

Before the Rio Conference, the World Commission on Environment and Development was established by the UN General Assembly and chaired by the Norwegian Prime Minister Gro Harlem Brundtland. The commission was established outside the control of the governments and the UN system. The commission was asked to develop a “global agenda for change”. Brundtland, as part of the mandate of WECD, wrote a report which is now famously known as the Brundtland Report or “Our Common Future”. In many ways the Brundtland Report proved a catalyst for changing the direction of international negotiations on environmental degradation and conservation. Most importantly the report has contributed the concept of sustainable development that firmly relates environmental degradation with developmental activities.

‘The present decade (1980s) has been marked by a retreat from social concerns. Scientists bring to our attention urgent but complex problems bearing on our survival: a warming globe, threats to the Earth’s ozone layer, deserts consuming agricultural land. We respond by demanding more details, and by assigning the problems to institutions ill equipped to cope with them’ (WCED 1987).

Although the idea of sustainability has longer history, sustainability as a physical-biological-social concept was first dealt with in the Brundtland Report. It has not only popularised the concept but also elevated it to the global ethic. Sustainable development is defined by the Brundtland report as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”

This notion of sustainable development has attracted quite a lot of critical thinking. However, the most important contribution of the Brundtland report in the international negotiations on environment comprises two aspects. First, the Brundtland approach has placed human welfare and human beings above the concepts of environmental sustainability. Secondly, it has introduced the notion of social equity directly in the negotiations on environment.

The United Nations Conference on Environment and Sustainable Development was prompted by the report *Our Common Future* (1987, World Commission on Environment and Development, also known as the **Brundtland** Commission), which called for strategies to strengthen efforts to promote sustainable and environmentally sound development. The most widely used definition of sustainable development is:

development that meets the needs of the present without compromising the ability of future generations to meet their own needs. It contains within it two key concepts:

- ✓ The **concept of needs**, in particular the essential needs of the world’s poor, to which overriding priority should be given; and
- ✓ The **idea of** limitations imposed by the state of technology and social organisation on the environment ability to meet present and future needs (Brundtland).

Sustainable development, according to one definition, demands that we seek ways of living, working that enable all people of the world to lead healthy, fulfilling, and economically secure lives without destroying the environment and without endangering the future welfare of people and the planet. The precise meaning of sustainable development has been widely debated. For example, two years after the Brundtland Commission’s Report popularised the term, over 140 definitions of sustainable development had been catalogued.

Source: http://en.wikipedia.org/wiki/Sustainable_development

Influenced by the agendas set by the Brundtland report, which also resonates the concerns of developing countries, international environmental negotiations are no longer focused on protection and conservation of environment. Environmental matters are now being addressed in the context of economic matters, such as trade and development lending. The impact of Brundtland report is far reaching as it has

changed the direction of international negotiations on environment by relating it with development.

Polluter pays principle, differential standards for developed and developing countries and precautionary principle are some of contributions of Brundtland report. While the first two concepts are self-explanatory, the third one needs explanation. Brundtland report argued that a lack of adequate knowledge as to the potential environmental effects shall not be used to hinder policies and actions to prevent environmental degradation. This principle has been widely accepted in the subsequent treaties on climate change, biodiversity convention and bio safety protocol.

SAQ 2

In what ways was the Brundtland report different from the Stockholm Conference and a step forward?

5.4.3 United Nations Conference on Environment and Development (UNCED)

In December 1987, the UN General Assembly accepted the Brundtland report and the following year it called for a UN Conference on Environment and Development, which finally took place in June 1992 in Rio, Brazil. Taking on from the Brundtland report, the UNCED has declared its mandate to develop strategies and measures to halt and reverse the effects of environmental degradation to promote sustainable and environmentally sound development in all countries.

5.4.4 The Convention on Biodiversity (CBD)

The negotiations on conventions on biological diversity largely remained focused on the sharp conflict between conservation and use of world's biodiversity. After the adoption of the convention in Rio the negotiations are still going on especially on the issues of indigenous/local community/farmers' rights to use their own resources and commercial rights to use biodiversity for generating profit.

The suggestion to combine existing conservation treaties into a comprehensive convention on biodiversity initially has come from the US in 1987. Initially the negotiations on biodiversity convention were focused on the conservation of environment considering as a common resource of the entire humanity, but the developing countries wanted sovereign control over their biological and genetic resources and refused to sign conservationist treaty.

The developing nations have challenged the developed countries' assertion that world's biodiversity, 80 percent of which exists in the developing countries (Fig. 5.2) was the common heritage of the humankind. They have succeeded to some extent to include in the convention that biodiversity is a common concern of humankind but not a common heritage and developing nations have sovereign right over their biological resources. The final text of the CBD lays down three principles:

1. conservation of biodiversity,
2. its sustainable use, and
3. fair and equitable sharing of benefits arising out of its use.

However, these principles of conservation, sustainable use and equitable distribution of benefits have produced conflicting negotiations rather than resolving any differences between the developing countries that hold biological resources and developed countries that have technological capacities to convert these resources into marketable commodities.

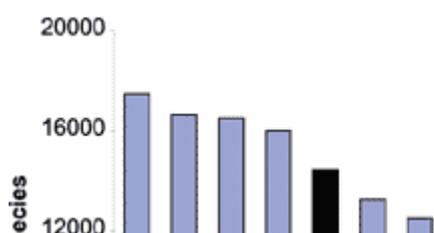


Fig.5.2: The number of endemic vascular plant species in 17 mega diverse countries
(Source: www.deh.gov.au/)

CONVENTION ON BIOLOGICAL DIVERSITY
UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP)
Na.92-7807(5 June, 1992)

Article 10. Sustainable Use of Components of Biological Diversity

Each Contracting Party shall, as far as possible and as appropriate:

- a) Integrate consideration of the conservation and sustainable use of biological resources into national decision-making;
- b) Adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity;
- c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements;
- d) Support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced; and
- e) Encourage cooperation between its governmental authorities and its private sector in developing methods for sustainable use of biological resources.

Source: <http://www.libertymatters.org/biodiversityconvention.htm>

Roads that led to CBD

The discussions on this global agreement began at various forums such as UNEP in the mid 1980s. In 1988, the UNEP set up an ad hoc working group of experts on biological diversity. Based on its report, the UNEP established a group of technical and legal experts to work out a legal document. In 1991, this group was renamed as Intergovernmental Negotiating Committee (INC). The INC hammered out the text of the convention by 1992 to be signed at the Earth Summit at Rio in 1992.

However, before the draft text was tabled in the Rio, all INC discussions were hampered on the differences between the north and the south on the key issue. The North wanted an unabated access to germplasm in the South but was reluctant to provide equal access to technology and knowledge and share in the profit to the South. The developing countries, on the other hand, were determined to make access to genetic resources conditional to being given access to technology and profit. The subsequent meetings and debates centred on similar issues.

In spite of all the differences, the draft text of the convention was tabled at the Rio Conference. The US refused to sign it on the ground that the treaty gave too much leeway to the developing countries; the UK first objected to it but finally signed it; France, also wanting to have a global list on endangered species, refused to sign it. The developing countries also signed it but not without asking for more clarification on financial arrangements. The South also called for a protocol on bio-safety and asked for the supremacy of CBD over any other international agreements such as the World Intellectual Property Organisation (WIPO) and GATT (General Agreement on Tariff and Trade).

At that meeting almost every other country signed the CBD; by early 1996 it was ratified by 140 countries. On 29th December 1993, the convention was brought into force as international law.

The boat of CBD is heavily rocked by four important questions on which the negotiations are still continuing in four Conferences of Parties (CoP) since the signing of the treaty.

1. Should biological resources of one country be freely available to another country in the spirit of common human heritage? Or should countries have the right to demand appropriate financial and other returns on the transfer of their genetic and biological resources?
2. If local communities have nurtured and developed biological and genetic resources for generations, how should the benefits arising from commercial use be shared with them?
3. Do humans have the right to patent other life forms?
4. Should private monopolistic rights be allowed on genetic and other resources or on knowledge and other technologies related to these resources?

Continuing Negotiations: Farmers' vs. Breeders Rights

Business interests of biotechnology companies largely located in the US form powerful interests against the CBD. The power of these corporations came to light in Rio. Under the pressure of these business groups in the US, President George Bush's administration declared that the convention was an assault on the concept of intellectual property rights (IPR). Based on these objections to the treaty, the US refused to sign the treaty. The US refused to accept the ownership and knowledge rights of local communities and at the same time strongly asserted the ownership right of technology and know-how of bio-technology, pharmaceutical and agriculture based companies. The US has signed but still not ratified the treaty.

This conflict between the community vs. commercial rights was also manifested almost a decade before the Rio summit. At the time of negotiations on the International Undertaking of Plant Genetic Resources at the conference organised by the UN Food and Agricultural Organisation (FAO) in 1983, a free flow of plant germplasm was proposed. Over one hundred countries have so far adhered to the Undertaking. However, several industrialised countries (including the US, UK, France and Germany) have so far refused to be a party. This was because the Undertaking clearly included free flow of all types of genetic resources, not just biological and genetic resources conserved by the communities in developing countries but also new varieties developed by scientists and multinational corporations of the developed world. While it was argued that genetic and biological resources conserved by the traditional communities in the south were common human heritage, the new varieties developed in scientific and business establishments in the north were not common heritage of humankind. This knowledge was considered as an exclusive right of those who developed it. This double standard has remained at the core of all negotiations on biological and genetic resources leading to the CBD subsequently.

5.4.5 Trade and Environment: From GATT to WTO

In 1944, after the World War II, a recommendation was made in the conference among the international leaders in Bretton Woods to set up three international organisations:

1. International Monetary Fund (IMF)
2. International Bank for Reconstruction and Development (IBRD or the World Bank)
3. International Trade Organisation (ITO).

The first two were set up in 1945 but there were serious controversies about the third. The US, UK and a few other countries had set up in 1947 an interim organisation called General Agreement on Tariffs and Trade (GATT). In spite of many recommendations to set up the ITO under the US leadership, GATT continued because the US refused to ratify it. All the three organisations now popularly known as Bretton Woods institutions were, from the beginning, dominated by the US. The GATT in particular was biased towards developed countries and was called informally as the “rich men’s club”.

On the insistence of developing countries that strongly protested against the bias of the GATT, the UN set up UNCTAD (United Nations Conference on Trade and Development) in 1964. During the negotiations of setting up UNCTAD, the developing countries established an organisation called G77. This group of developing countries was later joined by other developing countries; but the group still remained to be known as G77. Many developed countries known as G7, specially the US were opposed to the formation of the G77 but on the other side many Scandinavian countries were very sympathetic to G77.



Fig.5.3: The G77 countries in an UNCTAD meeting
(Source: www.unctadxi.org/sections/u11/photos/G77-08.jpg)

The pressure of G77 gave legitimacy to UNCTAD and at one point it was perceived that UNCTAD would replace GATT. But the US strongly supported the GATT; hence it remained powerful. The sustained pressure of G77 made GATT progressively more liberal. Further amendments in GATT were called for because both G77 and G7 were not content with its provisions. The Uruguay round of discussions started in 1986. In these discussions, G77 for a while maintained its united position. The core group of G77 led by India and Brazil functioned quite effectively but in 1989 India accepted some of the proposals made by the US unilaterally. As a result India was isolated, but other countries also made their own compromises with the US. The end result was that the united position among the G77 countries was considerably weakened. At the same time, after the break up of the USSR, the US emerged as the most powerful nation on the Earth.

SAQ 3

Discuss the perspective of G77 countries and their role in the protection of the environment without compromising national interests.

With the strong support of the TNCs (trans-national corporations), the US pressed that GATT should not remain confined to only trade and tariffs but should also include services, investments and intellectual property rights and there should be World Trade Organisation (WTO) to oversee all the four. Several strong arguments for and against such a reformed role of GATT were expressed. At that point, the then Director General of GATT – Dunkel – put forward a draft of his recommendations – now popularly known as Dunkel draft of proposals. With some modifications, Dunkel proposals were accepted by all the members of the GATT in March 1994 at the ministerial level. At the time of signing, a dozen countries, including US and India, expressed reservations about the article 301 that seriously undermined the sovereignty of individual countries to decide trade related matters.

In spite of all reservations, finally in 1995, the WTO with its ancillary agreements, namely GATT (General Agreement on Trade and Tariff), GATS (general agreement on trade and services), TRIMS (trade-related investment measures) and TRIPs (trade-related intellectual property rights) came into effect.

One of the most important goals of WTO is to ensure the removal of all trade related distortions. The domestic trade related policies of each member country has to be harmonized with relation to international trade norms. The WTO, at the time of its establishment, declared in its preamble to increase the living standards and income, to expand trade and production and to preserve environment in a manner consistent with various levels of national economic development. The WTO intended to accomplish all these with the commitment to sustainable development.

Work on trade and environment at the WTO takes place in the *Committee on Trade and Environment* (CTE), which is responsible for covering the intersection of the environment services, goods and intellectual property. Paragraph 31 of the Doha Ministerial Declaration instructed the CTE to focus particular attention on market access for developing nations, intellectual property, and labelling. The WTO allows exceptions from its rules for environmental concerns provided that these policies are implemented without discrimination and must not be a disguised restriction on international trade.

The trade related aspects of WTO's negotiations are not discussed here in detail. The relation of trade with environmental aspects is discussed in detail as below. Three important areas that relate trade and environment are:

1. Trade related aspects of intellectual property rights (TRIPS);
2. Environmental standards and trade sanctions; and
3. Economic impact of WTO determined international trade regime and its impact on environment.

TRIPS

The TRIPS agreement sets out the rules for WTO members to protect intellectual property rights. Intellectual property rights are meant to be rights to thoughts, ideas, and information, especially regarding new inventions and processes. Copy rights, trademarks and patents are commonly known as IPRs. While such IPRs are several centuries old, their extension to the living things and related technologies is a new phenomenon and one that has evoked considerable controversy.

The two main categories of TRIPs are:

1. **Copyright and rights related to copyright:** i.e., rights granted to authors of literary and artistic works, and the rights of performers, producers of phonograms and broadcasting organisations. The main purpose of protection of copyright and related rights is to encourage and reward creative work.

2. **Industrial property:** This includes (a) the protection of distinctive signs such as trademarks and geographical indications, and (b) industrial property protected primarily to stimulate innovation, design and the creation of technology. In this category are included inventions (protected by patents), industrial designs and trade secrets.

Trade related aspects of intellectual property rights as provided for in the TRIPS through WTO come in conflict with those provided in CBD. While the CBD, in principle, gives primacy to conserve biodiversity, its sustainable use and fair distribution, TRIPS are based on ‘might is right’ principle. The bone of contention for southern countries with respect to IPR model currently adopted by both CBD and TRIPS is that, both do not recognise collective or community holding of intellectual property rights.

Much of the knowledge pertaining to biological and genetic resources in the developing countries has been guarded, nurtured and developed by local or traditional communities. For instance, knowledge about healing properties of turmeric and pesticidal properties of *neem* in many south Asian countries is known traditionally for centuries. This knowledge is held commonly and transferred to the next generation through cultural routes. The idea of patent on such knowledge sounds ridiculous to many of us; nonetheless, when someone attempts to get the patent on such collectively held knowledge, the current model of IPR does not allow collective patent.

Bio piracy, stealing of culturally and communally held resources and knowledge and patenting some aspects of such knowledge for monopolistic exploitation of commercial rights is the major threat that the developing countries face in the current model of IPRs. In such a case not only will the environmental resources and knowledge be depleted, but also those who took care of such resources and knowledge would have to pay in order to access their own resources and knowledge.

The entry of multinational agribusiness companies in the developing countries as a result of liberalisation in the WTO trade regime would also entail threat to the local seed and animal varieties. This is one major reason why this kind of a regime is meeting stiff resistance from people all over the world.

Patenting of Genetically Modified (GMOs) and Living Modified Organisms (LMOs) is another ethical issue that has generated major debate on WTO agreements. Apart from the ethical and very important issue concerning the patenting of living organisms, what kind of environmental and health threat cultivation and consumption of such organism would possibly generate is still largely debated. For example, trade in genetically modified corn is a major issue of tussle between the EU and the US. In January 2000, over 130 countries adopted the much debated Cartagena Protocol on Biodiversity. The Protocol establishes rules for trans-boundary movement of GMOs and LMOs.

In accordance with the precautionary approach contained in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Protocol is to contribute to ensuring an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, and specifically focusing on trans-boundary movements. **(The Cartagena Protocol on Bio safety)**

You may like to learn briefly about the Indian experience in this regard.

Protection of Biodiversity and Traditional Knowledge – The Indian Experience

India is one of the twelve-mega biodiversity countries of the world. With only 2.4 percent of the land area, India already accounts for 7 percent to 8 percent of the recorded species of the world. This number is based on the survey of 65 to 70 percent of the total geographical area of the country. Over 47,000 species of plants and 81,000 species of animals have been recorded by the Botanical Survey of India and the Zoological Survey of India respectively. It is anticipated that some of the remaining areas (e.g., Himalayan region, A & N Islands) may



Fig.5.4: Advocates say that genetically modified food will feed a hungry world, but activists argue that it threatens the environment. What do you say?

be far richer in biological diversity than most of the areas already surveyed. India is equally rich in traditional and indigenous knowledge, both coded and informal.

In the recent past, there have been several cases of bio piracy of traditional knowledge (TK) from India. First it was the patent on wound-healing properties of haladi (turmeric); now patents have been obtained in other countries on hypoglycaemic properties of karela (bitter gourd), brinjal, basmati rice variety etc. An important criticism in this context relates to foreigners obtaining patents based on Indian biological materials.

There is also the view that the TRIPS Agreement is aiding the exploitation of biodiversity by privatizing biodiversity expressed in life forms and knowledge. For preventing such instances in future there is a need for developing digital databases of prior art related to herbs already in the public domain. Following patents on brinjal, etc., in India, an exercise has been initiated to prepare easily navigable computerized database of documented TK relating to use of medicinal and other plants (which is already under public domain) known as TK Digital Library (TKDL). Such digital database would enable Patent Offices all over the world to search and examine any prevalent use/prior art, and thereby prevent grant of such patents and bio-piracy.

Source: http://commerce.nic.in/ip_c_w_198.htm
<http://webpages.charter.net/westons/biopiracy.html>

5.4.6 Rio Declaration on Environment and Development

The declaration that came out of UNCED, also known as Rio declaration, is a statement of principles or goals, which was adopted by 175 countries at the UNCED. According to some critics, it was drafted in a general and vague language, but it touches many of the political topics in the UN. The Secretary General of the UNCED expected the Rio declaration to become an “Earth Charter” that would have stirred the minds and hearts of the people and would have inspired them to join together to achieve a healthy planet. Whether or not the declaration succeeded in making such an emotional appeal to people on the Earth, it certainly succeeded in putting the agenda of the developing countries in the forefront. The declaration represents a series of compromises between the developed and the developing countries and a balance between the objectives of environmental protection and economic development.

The preamble declares the goal of the Declaration to be a “new and equitable global partnership.” The last line of the preamble was added on the insistence of the NGOs, that the preamble should reflect both an ecosystem approach (integral and independent nature of the Earth) and a foundation in basic human morality by declaring it as our home. Principle 1 declares to keep human beings at the centre of the sustainable development. On the insistence of the G77 and China, the declaration was drafted on the central theme that it was about people and their environment and development. Principle 2 strongly builds on the Principle 21 of Stockholm Declaration to emphasise that sovereign rights and duties are two sides of the same coin and cannot be analyzed separately. However, unlike the Stockholm declaration that declared the right to environment as a fundamental human right, the Rio declaration adopted “right to development so as to equitably meet development and environmental needs of present and future generations” as Principle 3. The concept of the right to development was included in the declaration on the insistence of G77 and China which the US, Canada and EU opposed saying that it was an artificial right. G77 argued that the concept of the right to development moved the focus away from the abuses of fundamental human rights.

G77 and China, on the other hand, brought the focus back to the political debate about the development aid, international economics and causes of poverty. This issue has remained contentious and spread across several other debates on human rights, environmental protection and development. The US refused to accept the Principle 3 that declared the right to development as a human right and recorded an objection to it at the time when the Rio declaration was adopted. The US objection rested on the argument that development is not a right but it is a goal which depends upon how human rights are protected and promoted.

Principle 4 came closest to the definition of sustainable development. It declared that in order to achieve sustainable development, environmental protection shall constitute an integral part of the development process. Principle 5 has further stated that eradication of poverty is an indispensable requirement of sustainable development. Principle 6 commits to provide special priority to the least developed and environmentally vulnerable countries.

Principle 7 became a battle ground for G77 and China on the one side and the developed countries on the other. Developing countries' delegates wanted a principle that laid the "blame" for current global environmental problem squarely on the industrialised countries. In their draft they wanted the developed countries to take the obligation to transfer clean technologies at non-commercial rate and to provide more financial assistance to deal with the environmental degradation to the developing countries.

The final principle text did not come close to the intentions of the developing countries which made them very reluctant to accept the final text of the declaration. Principle 7 does recognize that "in view of the different contribution the global environmental problems, states have common but differential responsibilities". Further, it has stated that the developed countries bear the responsibility for sustainable development in view of the pressure their societies put on the global environmental degradation.

The developing countries were not happy with mere acknowledgement of the developed countries' responsibility, whereas the developed countries delegates argued that it was not appropriate for the developed countries to take unilateral responsibility without a similar acknowledgement from the developing countries. The final text was a compromise text of the Chairman of the Prep-Corn committee. The United States recorded an interpretative statement on principle 7 saying that the US highlights special leadership for environmental protection and does not accept any obligation or liabilities to the developing countries. The remaining 20 principles have further defined rights and obligation of different actors for environmental protection, which are largely non-controversial.

The Rio declaration thus represents a careful improvement on Stockholm. However, the declaration carefully avoids the most difficult political issues such as resource transfer, historical responsibility, lifestyles and consumption, war and environment and trade and environment. Nevertheless, the declaration provides the most important guiding background for all negotiations on global environmental problems since its adoption.



Fig.5.5: The Rio 1992 logo

SAQ 4

In what respect can the Rio Declaration be called an improvement over the Stockholm Conference? What are the contentious issues that have not been addressed by it in relation to the interests of developing countries?

5.5 RIO +5 AND RIO+10

The focus of the Rio+5 Forum was to move sustainable development "From Agenda to Action." The Forum focused on identifying key strategies and management systems for "operationalising" sustainable development at the local, national and global levels.



Fig.5.6: Rio +5 initiated the move from agenda to action

It had to be admitted that Agenda 21 was not funded and very little progress was made in implementing the committed principles of the Rio Summit (1992). It was acknowledged that the planet's health was worse off than five years prior, but the measures as to how to finance sustainable development were left unsettled and few new commitments to concrete action were made by different governments.

The Five years that elapsed since the Rio conference have clearly shown that changes in the global political and economic structure have not been followed through by commensurate progress in the fight against poverty and the predatory use of natural resources. – President Fernando Henrique Cardoso of Brazil, whose country hosted the 1992 Earth Summit, Rio + 5, 1997.

The Johannesburg Summit of 2002 was a sequel to the 1997 meeting. The Summit on Sustainable Development was to discuss ways of judicious use of natural resources to save planet earth and alleviate poverty. It ended in a major disappointment as no new commitments were made to tackle any crisis and the lack of progress demonstrated the unenthusiastic response of the governments, even as the environment continued to deteriorate. It ended with weak and non-binding agreements to promote sustainable development.

5.6 FROM DECLARATION TO IMPLEMENTATION

Gro Harlem Brundtland has described the Rio declaration as the “promises made by world leaders.” Agenda 21 is described by many observers as a successor of the “common future” and, as one critic observed, it is most quoted, misrepresented, widely discussed and little-read document of the UNCED process. It was conceived as a plan for action by and for international community and is accordingly known as a plan of action that emerged from the Rio conference. The massive plan of the Agenda 21 contains 470 pages and 40 chapters. Its implementation is a specific mandate of the United Nations Commission on Sustainable Development (CSD). CSD is supposed to monitor and highlight the efforts of the nations to achieve the overall goals of Rio declaration.

Agenda 21 comprises a preamble and four sections. Section I provides for international action in relation to international cooperation, poverty, consumption patterns, population, human health, sustainable human settlement and integration of environment and development in decision making. Section II is concerned with the conservation and management of resources for development. Section III provides for public participation in decision making, it identifies interests groups and their mobilisation in order to increase public participation in the national and international cooperation. It was widely acknowledged in the post Rio conference that two issues of key concern of the southern countries were not adequately covered: the financing of sustainable development in the south and the transfer of technology from north to south for sustainable development. Through Section IV of Agenda 21, CSD is expected to bear the responsibility to carry forward the crucial north-south issues of financial aid and technology transfer. The long term implementation of the Rio declaration now rests with the CSD on the implementation of Agenda 21.

5.7 GLOBAL ENVIRONMENT FACILITY

At the September 1989 meeting of the Development committee, the World Bank was asked to assess the requirements for additional funding and potential interest from donors in supporting actions to address global environmental concerns in the developing countries. A paper entitled “Funding for the Global Environment” outlining the goals and general modalities were prepared for the March 1990 meeting convened by the World Bank in Paris. It was proposed to establish a Global

Environment Facility (GEF) as a pilot programme under which grants or concessional loans will be provided to the developing countries to help them implement programmes that protect the global environment. Four areas have been identified for the operations of the Facility. These areas are

- Protection of Ozone Layer
- Limiting Emissions of Greenhouse Gases
- Protection of Biodiversity
- Protection of International waters

The GEF portfolio in India is diverse and varied. As of January 1999, a total of US\$ 146.18 million under GEF has been programmed for India, of which UNDP/GEF India is responsible for US\$ 31.18 million and the World Bank/IFC for US\$ 115 million. India is the second highest recipient of GEF funding, and there have so far been 7 operational projects, 5 PDF projects and 7 pipeline/approved projects covering the focal areas of biodiversity and climate change.

As regards the distribution by focal areas, 10 projects fall under the climate change and 5 projects are covered under biodiversity. One of the major initiatives is its funding based in New Delhi, India's Capital City. New Delhi has the largest bus fleet among India's major cities. Since it is one of the most polluted cities, the importance of reducing pollution from these buses was recognised by the Supreme Court of India which mandated the replacement of the existing fleet. The GEF Grant, approved in 2001, would support the operation and testing of eight fuel-cell bus projects. The grant is for \$6.28 million dollars; support from other donors amounting to \$12.12 million would envision the operation of new technology under local conditions.

Source: <http://www.gefweb.org/main.htm>

In two more meetings convened in 1990 a number of developing countries participated and prepared modalities for the proposed GEF which were discussed covering the funding allocation criteria, and other organisational procedures. Among other things there was a consensus on the following points:

- GEF should support programmes and activities for which benefits would accrue to the world at large.
- GEF funded programmes should be implemented in consultation with the UNEP, UNDP and the World Bank.
- Contributions from the donors shall be on highly concessional terms.
- Non Government Organisations may be involved wherever possible, in the design and implementation of the environmental activities funded by the GEF.

The GEF was restructured in 1994 to ensure that the governance is transparent and democratic in nature and promote universality in its participation. The agreed incremental costs of the activities concerning hard degradation were also made eligible for the funding under Agenda 21.

In this unit, we have provided an overview of various international agreements related to the environment in the context of globalisation. We now summarise its contents.

5.8 SUMMARY

- Human greed rather than human need resulted in most of the causes for environmental degradations. Nations that have access to more capital and sophisticated technologies have exploited the natural non-renewable resources resulting in the division of the nations as haves and have-nots and in turn dividing the globe into the global north and global south. As it so often happens, the global commons have no longer remained as global commons.
- Global efforts for protecting the environment date back to 1870s when Switzerland tried to reach a regional agreement to protect nesting sites of migratory birds. It is only after the formation of the United Nations in 1944, that

the movement for establishing international environmental laws gained necessary momentum.

- The declaration of Permanent Sovereignty over Natural Resources (1962), Declaration of the United Nations Conference on the Human Environment Declaration on Environment (1989) culminated in the Rio Declaration on Environment and Development (1992). The establishment of Global Environment Facility (1990) and the creation of GEF Trust Fund (1994) resulted in focusing the importance of World Nations on the protection of global commons. It is an irony that on one hand technology has contributed to environmental degradation, and on the other it has been conceived as the saviour from global environment destruction.

5.9 TERMINAL QUESTIONS

1. Trace the History of Global Environmental Negotiations highlighting the salient features of some of the Declarations.
2. Explain the importance of Rio Declaration on Environment and Development.
3. Explain the role of General Environment Facility in providing a level field to the developed and developing Nations.

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