UNIT 11 GLOBAL INITIATIVES

Structure

11.1 INTRODUCTION

In the 1970s, it was realised that there were 'limits to growth'. If growth continued unbridled at the then existing rates, it was asserted that it would exhaust the limited stock of natural resources of the earth. Although technological innovations have contributed in pushing outwards the 'limits to growth', it is now being argued that there may be limits in terms of the 'carrying capacity' of the environment. There is a consensus over the fact that growth without commensurate efforts at environmental protection will represent a global threat.

The international community has responded to this perceived threat and environmental protection and sustainable development concerns are a high priority on the international agenda. The last century has seen a proliferation of international legal instruments – declarations and agreements – aimed at environmental protection. Whereas declarations are more general in nature, containing a general commitment to environmental protection without being legally binding, agreements contain binding obligations for member states and deal with specific issues relating to particular environmental problems.

On various occasions, the highest representatives of states and governments have got together in international conferences on environmental protection and development. The basic principles for environmental protection, such as the precautionary principle, the polluter pays principle and the principle of sustainable development etc., have also taken shape. Moreover, an international structure has been put in place, which is devoted to further the objective of environmental protection. There is also talk of setting up a centralised world body – a World Environment Organisation (WEO) – to address the problems of environment. However, despite the intensified efforts at the international level, there are numerous challenges that must be met in order to allow these initiatives to be successful in their endeavour.

Various environmental problems have been identified, some related to the conservation of natural resources and ecosystems, such as forests, wildlife, bio diversity, wetlands, migratory species etc. These issues put a question mark on how much the earth can ***give***. Other issues relate to ensuring that we stay within the limits of the 'carrying capacity' of the environment. These issues, mostly relating to ozone depletion, global warming, hazardous wastes, persistent organic pollutants (POPs), hazardous chemicals, genetically modified organisms (GMOs), atmospheric pollution, marine pollution etc., relate to the basic question of how much the earth can ***take***.

Because of the diversity of environmental problems, the legal regime at the international level is necessarily fragmented, with over 200 Multilateral Environmental Agreements (MEAs) each dealing with different environmental problems. In this unit, we provide you an overview of the global initiatives taken towards environmental protection.

Objectives

After studying this unit you should be able to:

- explain what the international community has done to achieve the goal of environmental protection;
- describe the international legal mechanism in place for environmental protection;
- outline the principles that guide the global initiatives for environmental protection;
- discuss the institutional mechanism in place at the international level for environmental protection; and
- analyse the challenges faced by the global initiatives.

11.2 MAJOR CONFERENCES ON ENVIRONMENT AND DEVELOPMENT

Starting with the Stockholm Conference on Human Environment in 1972, the largest gathering ever of heads of state/government took place at Rio de Janeiro in Brazil in 1992, indicating the high priority accorded to the objective of environmental protection by the international community.

Fig.11.1: We do not inherit the earth from our ancestors; we borrow it from our future generations

The Stockholm Conference: The *United Nations Conference on the Human Environment* (UNCHE) (more popularly known as the Stockholm Conference) held in Stockholm, Sweden, in 1972, was the first step towards putting environmental concerns on the global agenda. Issues such as air and water pollution and chemical toxicity were discussed in a global forum for the first time. It was agreed at Stockholm that environmental protection required a holistic approach spanning the interconnected elements of peace, international cooperation, development and poverty reduction. One hundred and thirteen states participated in the UNCHE, though only two were represented by the Heads of State/government, one of which was India. The Indian Prime Minister, Mrs. Indira Gandhi was a forceful presence at Stockholm, emphasising that '*poverty is the biggest polluter*'.

The Stockholm Conference resulted in the ***Stockholm Declaration*** containing twenty six principles "to inspire and guide the peoples of the world in the preservation and enhancement of the human environment" and an Action Plan containing 106 recommendations for environmental policy. The Stockholm Conference also resulted in the setting up of the **United Nations Environment Programme** (UNEP), a new UN machinery to serve as a catalyst in developing and coordinating an environmental focus in the programmes of other organisations.

Following the success of UNCHE, a number of strategic conferences were convened by the UN on issues relating to the Stockholm issues such as population, water, food, habitat and desertification, resulting in a number of declarations and resolutions.

It is interesting to note that the General Assembly Resolution convening the Stockholm Conference noted that eliminating the impairment of the human environment was necessary for sound economic and social development. Thus the linkage between environment and development has been expressed since the outset of the UNCHE.

Fig.11.2: Dr. Gro Harlem Brundtland, former Prime Minister of Norway is the architect of the Brundtland report

In 1987, the Brundtland Commission Report entitled ***Our Common Future*** more clearly articulated the now widely accepted definition of sustainable development as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". The Brundtland Commission Report also laid the groundwork for holding a global conference on the twentieth anniversary at Stockholm.

Rio Earth Summit: Twenty years after the Stockholm Conference, the *UN Conference on Environment and Development* (UNCED), popularly known as the Rio Earth Summit, was held in Rio de Janeiro, Brazil in 1992. Rio was attended by over 100 heads of states and government, the highest ever attendance in an international conference. The Earth Summit was marked with a heightened awareness of the negative impact on the environment of human activities. The issues that were centrestage at Rio included climate change, conservation of bio diversity and forests. But the Rio Earth Summit was marked with a clear-cut division of views between the countries of the North and those of the South. Developing countries ('South') tended to view environmental concerns as a 'disease of the rich'.

The Earth Summit produced many legal instruments. The *Rio Declaration on Environment and Development*, like its predecessor, the Stockholm Declaration, laid out the principles to guide environmental protection and development activities. Agenda 21, a voluminous document of forty chapters, contained the blueprint of action in the 21st century in a number of development-related sectors. It effectively integrates environment and development concerns and stresses the need for bottom-up, participatory and community-based approaches.

Two binding legal instruments were adopted on climate change and bio diversity – the *UN Framework Convention on Climate Change* (UNFCCC) and the *Convention on Biological Diversity* (CBD). The Forest Principles were also adopted though they were not legally binding and the negotiation process for the *Convention to Combat Desertification* was also launched. The Rio Summit also laid the foundation of the UN *Commission on Sustainable Development* (CSD).

Rio +5: Five years after the Rio Earth Summit, a Special Session of the UN General Assembly in 1997, popularly known as Rio +5, devoted itself to evaluating the progress made since the Rio summit. It pointed to the growing problems of poverty, inequality and environmental degradation.

Rio +10: A ten-year assessment of the Rio outcomes (Rio +10) took the shape of the *World Summit on Sustainable Development* (WSSD) held at Johannesburg in 2002. WSSD aimed to review the progress made towards the aims set out in Agenda 21 and the impediments encountered by countries in implementing them, to accelerate the implementation of commitments and to infuse the process with political momentum. The key issues and concerns discussed at Johannesburg were the controversial and crosscutting issues of finance, technology transfer, capacity building, trade and governance etc. The WSSD produced the *Johannesburg Declaration on Sustainable Development* and the *Johannesburg Plan of Implementation*.

Apart from these world conferences that directly addressed sustainable development, various other international conferences have had an impact on sustainable

development including the *Cairo Declaration of the International Conference on Population and Development, 1994.*

The World Summit for Social Development (WSSD): The United Nations World Summit for Social Development was held in March 1995 at Copenhagen which brought 'people' at the centre of development. Governments of different nations met and discussed three core socio-economic issues that were essential for development. They are:

- eradication of poverty,
- promotion of full employment, and
- fostering of social integration.

In this summit, the governments agreed on 10 commitments which are as follows:

1. Create an economic, political, social, cultural and legal environment that will enable people to achieve social development
2. Eradicate absolute poverty by a target date to be set by each country
3. Support full employment as a basic policy goal
4. Promote social integration based on the enhancement and protection of all human rights
5. Achieve equality and equity between women and men
6. Attain universal and equitable access to education and primary health care
7. Accelerate the development of Africa and the least developed countries
8. Ensure that structural adjustment programmes include social development goals
9. Increase resources allocated to social development
10. Strengthen cooperation for social development through the UN

WSSD +5: After five years of WSSD, as a follow up to the WSSD, the governments met in June 2000 and assessed 'progress made in combating poverty, and outline(s)d a common vision for the way forward'. The emergin g issues like globalisation and social equity had also been discussed.

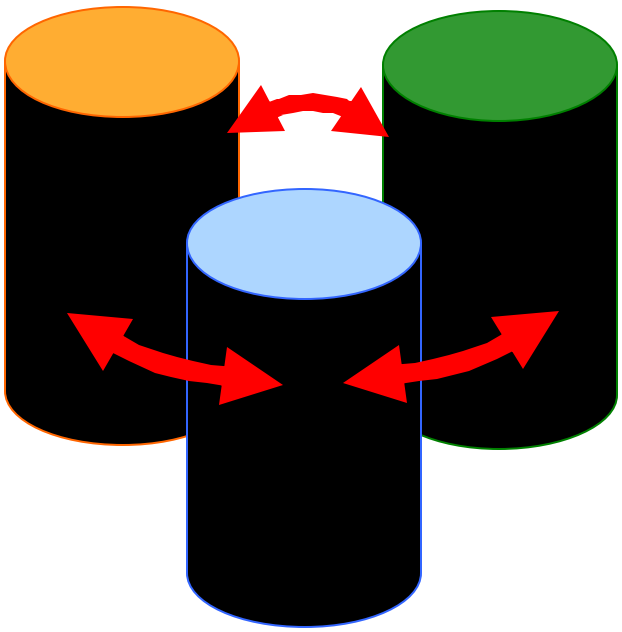

Fig.11.3: The international community has to cooperate politically for the cause of environmental protection. This involves among other things l ocal environment protection, R& D in State-of-the Art environment technologies and global environment charter

Most international conferences result in the adoption of declarations and guidelines of action. Generally termed as 'soft law', these non-legally binding instruments deal with

the aims, goals and objectives, stated in broad terms. Though they carry no legal obligations, they carry significant political weight. Some 'soft law' instruments of general application include the *Stockholm Declaration on the Human Environment, 1972*; the *World Conservation Strategy, 1980*; the *World Charter for Nature, 1982*; the *Hague Declaration, 1989*; the *Rio Declaration on Environment and Development, 1992*; *Agenda 21*; the *Forest Principles*; and the *Johannesburg Declaration on Sustainable Development, 2002.* These world conferences and soft law instruments demonstrate the resolve of the international community to cooperate politically for the cause of environmental protection.

SAQ 1

Describe the various global initiatives for environmental protection and outline the issues being addressed.

11.3 INTERNATIONAL CONVENTIONS / AGREEMENTS ON SUSTAINABLE DEVELOPMENT

International Environmental Law (IEL) is the principal vehicle for international cooperation and collaboration between members of the international community for the purpose of environmental protection. Apart from the countless 'soft law' instruments mentioned above, such as Declarations and Guidelines, IEL comprises over 200 Multilateral Environmental Agreements (MEAs), some of which are discussed below:

Convention on Wetlands of International Importance Especially as Waterfowl Habitat, 1971

Wetlands represent a valuable habitat, providing sustenance to concentrations of birds (especially waterfowl), mammals, reptiles, amphibians, fish and invertebrate species, countless plant species as well as human beings. Wetlands are also extremely valuable as sources of water, fisheries, timber and energy as well as recreation and tourism opportunities. These fragile ecosystems are however, highly endangered from population density, overexploitation, pollution from oil spills, fishing activities and discharges from industries, conversion of natural habitat for development purposes, etc.

This convention (Ramsar Convention), one of the earlier modern global conservation treaties, was adopted in 1971 at Ramsar, Iran and entered into force in 1975. The convention provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. There are 135 contracting parties to the convention, with 1235 wetland sites, totalling 106.6 million hectares, included in the Ramsar List of Wetlands of International Importance.

Though the original emphasis of the convention was on the conservation and wise use of wetlands primarily to provide habitat for water birds, the scope of the convention has broadened over the years to cover all aspects of wetland conservation and wise use.

A Member State of the Ramsar Convention agrees to facilitate the development of national-level policies and actions, including legislation that would ensure the best possible use of its wetland resources. It must designate at least one or more, suitable wetlands within its territory for inclusion in the *List of Wetlands of International Importance* (the 'Ramsar List') and promote its/their conservation or wise use. It must formulate and implement its land use planning, keeping wetland conservation considerations in mind in order to promote the wise use of all wetlands (including those not listed as Ramsar sites) in their territory. It must establish nature reserves in wetlands, whether or not they are included in the Ramsar List, and promote training in

wetland research and management. It must consult with other contracting parties about implementation of the convention, especially in case of shared wetlands, water systems or species. It must report on the progress in implementing its commitments under the convention by submitting a National Report to the Conference of Parties once in three years.

Convention Concerning the Protection of the World Cultural and Natural Heritage, 1972

Certain cultural and natural sites are of such 'outstanding universal value' that irrespective of the country in which they are located, they constitute a common heritage, the loss of which would be an irreparable loss to mankind. And yet, most are threatened by the negative impact of overuse, pollution, unregulated tourism, development activities, etc.

This convention (the World Heritage Convention) was adopted on 23 November 1972 and entered into force on 17 December 1975. The convention has a membership of 175. The primary mission of the Heritage Convention is to identify and conserve the world's cultural and natural heritage. It does this by drawing up a list of 'heritage sites', which are cultural, natural or mixed areas of 'outstanding universal value' and therefore need to be preserved for all humanity. Their protection is to be ensured through efforts at the international level.

The most significant feature of the convention is that it links together as a single effort conservation of nature and preservation of cultural sites. It views nature and culture as complementary, based on the premise that cultural identity is strongly related to the natural environment in which it develops. Around 730 properties are currently inscribed on the *World Heritage List*, of which 563 are cultural sites, 144 are natural sites and 23 are mixed sites in 125 different countries. The convention also provides for a *List of World Heritage in Danger*, containing sites that are entitled to particular attention and emergency action.

Fig.11.4: World cultural and natural heritage
(Source: www.freemedia.ch/unescoart/**)**

A party to the World Heritage Convention must identify and delineate the cultural and natural heritage sites on its territory. It must take all efforts to conserve the sites situated within its territory – the World Heritage sites as well as its national heritage. Such efforts include adopting a general policy to integrate the protection of a heritage into planning programmes; setting up services for the conservation and presentation of heritage; developing scientific and technical studies and research; taking appropriate

legal, scientific, technical, administrative and financial measures; and fostering the establishment or development of national or regional training centres and encouraging scientific research in this field. It must extend help in the identification, protection, conservation and presentation of heritage sites located in other countries.

It must not take any deliberate measures that might directly or indirectly damage cultural and natural heritage. It must submit to the World Heritage Committee an inventory of the cultural and natural heritage situated in its territory and suitable for inclusion in the World Heritage List. It must also submit reports to the general conference of United Nations Educational, Scientific and Cultural Organisation (UNESCO) containing information on the legislative and administrative provisions which it has adopted and other action which it has taken for the application of this convention. Every two years, it must pay to the World Heritage Fund, contributions in the form of a uniform percentage applicable to all States, not exceeding 1% of its contribution to the regular budget of UNESCO.

Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973

International trade in wildlife and wildlife products is a thriving business worth billions of dollars. Hundreds of millions of plant and animal specimens are the victims of the demand from international markets. Valuable species of wildlife suffer as a result of this demand for exotic food, leather goods, musical instruments, jewellery, timber, tourist curios and medicines, some even being driven to extinction.

Trade in wildlife is spurred by demand from across borders and efforts to counter it need to be taken at the international level. This convention (CITES) was signed on 3 March 1973 and entered into force on 1 July 1975. There are 160 Parties to CITES. The primary aim of this convention is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. Accordingly, it extends varying degrees of protection to roughly 5,000 species of animals and 25,000 species of plants through the regulation of trade in wildlife products.

CITES provides a general framework to be followed by the Parties to the Convention. Each Party must then adopt its own domestic legislation to make sure that CITES is implemented at the national level. The convention subjects international trade in specimens of selected species to certain controls. It requires that all import, export and re-export of species covered by the convention have to be authorised through a licensing system. The species covered by CITES are listed in three Appendices according to the degree of protection they require.

Appendix I includes species threatened with extinction. Trade in specimens of these species is permitted only in exceptional circumstances. *Appendix II* includes species not necessarily threatened with extinction, but in which trade must be controlled in order to avoid utilisation incompatible with their survival. *Appendix III* contains species that are protected in at least one such country that has asked other CITES Parties for assistance in controlling the trade.

Under the licensing system set up under the CITES regime, a specimen of a CITES-listed species may be imported into, exported from or re-exported from a state party to the convention only if the appropriate document has been obtained and presented for clearance at the port of entry or exit. Different conditions apply for each Appendix species and these are laid out in the convention.

Certain exceptions from the general requirements are permitted by the convention for *inter alia* specimen in transit, specimen that are personal or household effects, specimen bred in captivity and those destined for scientific research. Special rules apply to such specimen. Trade with states not party to the convention is permitted only on issuance of comparable documentation by the competent authorities in that State which conforms with the CITES requirements.

A party to CITES must fulfil various commitments. It must ensure that any trade in specimen of CITES-listed species must be carried out in accordance with the provisions of the convention. It must take appropriate measures to enforce the provisions of the convention and to prohibit trade in specimen in violation. Also, proper records must be maintained of trade in specimens of CITES -listed species. It must designate one or more management authorities in charge of administering the licensing system and one or more scientific authorities to advise them on the effects of trade on the status of the species. It must submit periodic reports to the CITES Secretariat on the status of implementation of the convention, including the legislative, regulatory and administrative measures taken to enforce the provisions of CITES.

Convention on the Conservation of Migratory Species of Wild Animals, 1979

Migration of wild animals is a global phenomenon. Migratory animals include terrestrial, avian and marine species, some of the more commonly known ones being antelopes, dolphins, turtles, bats and birds. Since migratory animals travel across national jurisdictional boundaries, they are especially vulnerable. They are biologically dependent on the specific sites throughout their journey that may be located across different countries with different conservation priorities and conditions. Migratory species are therefore exposed to a wide range of threats, including habitat shrinkage in breeding areas, excessive hunting along migration routes and degradation of feeding grounds. They thus require targeted efforts for the conservation of their entire range.

This convention (also known as the CMS or the Bonn Convention) was adopted on 23 June 1979 in Bonn and entered into force on 1 November 1983. The convention currently has 80 Parties. The CMS convention is a global effort aimed at conserving terrestrial, marine and avian migratory species throughout their range. The convention seeks to conserve migratory species and their habitats by providing protection to migratory species listed in Appendices as per the level of protection they require.

Appendix I lists endangered migratory species that enjoy strict protection. These include 85 (as of September 2002) endangered species, including the Siberian crane, the White-tailed eagle, the Hawksbill Turtle and the Dama gazelle.

Appendix II lists migratory species that require or would benefit significantly from international cooperative action. Multilateral agreements are to be concluded for the conservation and management of these migratory species. Amendment of the Appendices is allowed based on the 'best scientific evidence available'. The convention also mandates the undertaking by parties of co-operative research activities.

Article V lays out in detail the guidelines for agreements. Several agreements have been concluded under the auspices of the CMS focusing on the conservation of bats in Europe; cetaceans in the Mediterranean and the Black Seas; small cetaceans of the Baltic and the North Seas; seals in the Wadden Sea; African-Eurasian migratory waterbirds; the Siberian crane; the slender-billed curlew and marine turtles of the Indian Ocean and South East Asia.

By becoming a party to the CMS, a member state gives its consent to protect the migratory species of wild animals that live within or pass through its national jurisdiction, and has the following obligations.

It must endeavour to promote, co-operate in and support research relating to migratory species; to provide immediate protection for migratory species included in *Appendix I*; and to conclude agreements on the conservation and management of migratory species included in *Appendix II*. For *Appendix I* species of which it is a range state, it must prohibit their taking, unless it is for specified exceptional reasons. Also, it must endeavour to conserve and restore habitats of migratory species, minimise obstacles in migration and prevent any factors that are endangering the species. For *Appendix II*

species of which it is a range state, it must endeavour to conclude agreements to benefit the species. It must inform the secretariat, at least six months prior to each ordinary meeting of the conference, on measures that it has taken to implement the provisions of this convention.

(a)

(b)

(c)

(d)

Fig.11.5: Some endangered species: a) Siberian crane; b) the White-tailed eagle; c) the Hawksbill Turtle and d) the Dama gazelle

Vienna Convention for the Protection of the Ozone Layer, 1985 and Montreal Protocol on Substances that Deplete the Ozone Layer, 1987

The Ozone layer, found in the stratosphere, between 10 to 50 km above the ground, provides protection from the harmful effects of certain wavelengths of ultra-violet (UV) light from the sun, specifically UV-B. Increases in levels of UV-B radiation can result in increased incidences of skin cancers, suppression of the immunity system, eye disorders such as cataracts etc. It also has a damaging effect on plants, animals and plastic materials. Ozone depletion is caused by chlorofluorocarbons (CFCs), which are used in aerosols, foams, refrigeration, air conditioners, solvents, fire extinguishers etc. Ozone depletion was confirmed by the discovery of the 'Ozone Hole' over the Antarctic discovered in 1985 and observations, since then, confirm ozone depletion.

This Convention (Vienna Convention) was adopted on 22 March 1985 and entered into force on 22 September 1988. As per the Vienna Convention, parties agree to take 'appropriate measures' to prevent modification of the ozone layer. But what these 'appropriate measures' are, is not unspecified. The main thrust of the convention was to encourage research, cooperation among countries and exchange of information. The Vienna Convention represented the first instance when nations agreed to make to address a global environmental problem even before it was scientifically established.

Obligations under the Vienna Convention include the following. A member must cooperate in the observation, research and information exchange on ozone layer depletion and its impact on human health and the environment. It must also cooperate in the international efforts to formulate and implement the ozone regime. It must initiate and cooperate in the conduct of research and scientific observations. It must also cooperate in legal, scientific and technical fields and transmission of information on the measures adopted by them in the implementation of this convention. It must adopt legislative and administrative measures to control, limit, reduce or prevent human activities that have an adverse effect on the ozone layer.

Montreal Protocol on Substances that Deplete the Ozone Layer

After the fact of ozone depletion was confirmed in a paper published in May 1985 by British scientists followed by observations by American satellites, the Montreal Protocol was signed on 16 September 1987. The Montreal Protocol, which entered into force on 1 January 1989, outlined the specific measures to be taken in order to control the use of Ozone Depleting Substances (ODSs). The protocol aims to reduce and eventually eliminate the emissions of man-made ODSs. Since its adoption, the Montreal Protocol has been modified five times through adjustments and amendments. Its control provisions were strengthened in London (1990), Copenhagen (1992), Vienna (1995), Montreal (1997) and Beijing (1999).

Under the Montreal Protocol, a member agrees to take precautionary measures to control emissions of ODSs, with the ultimate objective of their elimination. The emission reduction obligations are laid out in detail in the protocol. It agrees to ban the import of the controlled substances in Annex A from non-parties.

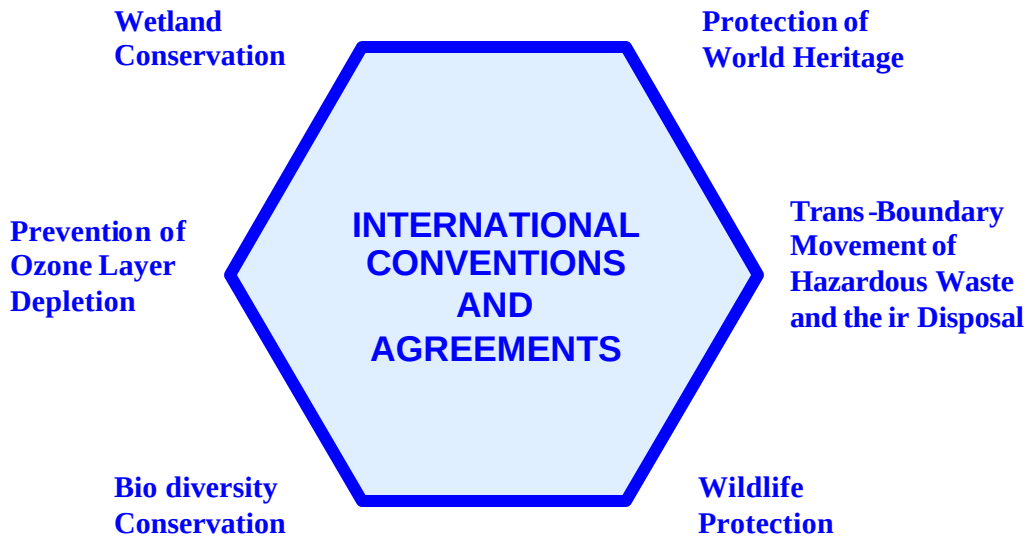

Fig.11.6: The international agreements and conventions cover a wide range of environmental matters related to sustainable development

Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and Their Disposal, 1989 and its Liability Protocol

The 1980s saw the manifestation of the NIMBY ('Not In My Backyard') syndrome in the form of disposal of large quantities of hazardous wastes on the high seas and in small underdeveloped and developing countries with inadequate facilities or capabilities to dispose off the waste. The unwise disposal of hazardous wastes emerged as a major environmental hazard in the face of increased generation of waste, and especially hazardous waste, worldwide.

This Convention (Basel Convention) was adopted on 22 March 1989 and entered into force on 5 May 1992. It currently has 130 parties. The Basel Convention addresses the risk to human health and environment caused by hazardous and other wastes and more specifically, their trans-boundary movement. It aims at the reduction of their generation and disposal in an 'environmentally sound manner'.

A member to the Basel Convention must inform the secretariat of national definitions of hazardous wastes and also make this information available to their exporters. It must also inform other parties of their decision to prohibit the import of hazardous or other wastes for disposal. In case of an accident involving hazardous or other wastes that is likely to cause harm in other states, it must ensure transmission of information. It must take appropriate legal, administrative and other measures to implement and enforce the provisions of this convention.

It must also take appropriate measures to ensure that the generation of hazardous and other wastes within its jurisdiction is reduced to a minimum; adequate disposal facilities are available; persons involved in the management of hazardous or other wastes take steps necessary to prevent pollution due to hazardous and other wastes; if pollution occurs, its consequences for human health and the environment are minimised; trans-boundary movement of hazardous wastes and other wastes is reduced to the minimum and is conducted in a sound manner.

A member must not permit hazardous or other wastes to be exported to a non-party or to be imported from a non-party. It must also ensure that hazardous or other wastes are not exported to any State that has prohibited imports through legislation. Also, it must not allow the export of hazardous or other wastes for disposal within the area south of 60° south latitude. Most importantly, it must ensure that all trade in hazardous and other wastes that it is involved in is carried out in conformity with the provisions of this convention. It must designate a competent authority and focal point to facilitate the implementation of this convention. It must take steps to prevent illegal traffic in hazardous and other wastes. Further, it must cooperate with other parties in improving environmentally sound management of wastes, developing appropriate technical guidelines and codes of practice and promoting public awareness.

Article 12 of the Basel Convention contained an obligation for parties to consult on liability. Pursuant to this provision, the Liability Protocol to the Basel Convention was finally adopted in 1999, a full ten years after the adoption of the Basel convention, indicating the difficulties in negotiating on issues of liability.

Convention on Biological Diversity

'Bio diversity', the variability of life on earth, refers to the wide variety of plants, animals and micro-organisms. Though around 1.75 million species have been identified so far, it is estimated that there are actually about 13 million species. The term 'bio diversity' also incorporates genetic differences within each species as well as the variety of ecosystems.

Increasing population pressure on the limited available natural resources has led to a severe and alarming loss of bio diversity. The 20th century has seen a fourfold increase in population and an eighteen-fold growth in world economic output. This has been accompanied by unsustainable patterns of consumption and the use of

environmentally unsound technologies, leading to an accelerating rate of acceleration of loss of bio diversity.

The *Convention on Biological Diversity* (CBD) was adopted at the Rio Earth Summit on 5 June 1992 and entered into force on 29 December 1993. With 187 Parties, the CBD truly boasts global membership. The CBD sets out commitments for ensuring that the global ecology does not suffer from the business of economic development. The three main goals of the CBD are the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits from the use of genetic resources.

Pursuant to Article 19.3 of the CBD, the *Cartagena Protocol on Biosafety* (Cartagena Protocol) was adopted on 29 January 2000. The Protocol entered into force recently, on 11 September 2003. The Cartagena Protocol seeks to protect bio diversity from the potential risks posed by living modified organisms (LMOs) resulting from biotechnology. It establishes a procedure – the Advance Informed Agreement (AIA) procedure – for ensuring that export of LMOs takes place only with an advanced and informed consent of the importing State.

A member to the CBD incurs the following obligations. It must cooperate with other Parties and international organisations for the conservation and sustainable use of biological diversity. It must take general measures for conservation and sustainable use such as developing national strategies/programmes for bio diversity conservation and wise use. It must identify components of bio diversity important for its conservation and sustainable use and monitor these components. It must also identify processes and activities that are likely to have significant adverse impacts on bio diversity and monitor their effects.

It must take appropriate measures for *in situ* conservation of species. For instance, it must establish a system of protected areas; regulate or manage biological resources; promote the protection of ecosystems; promote environmentally sound and sustainable development in areas adjacent to the protected areas; rehabilitate and restore degraded ecosystems; establish means to regulate the risks associated with the use and release of LMOs resulting from biotechnology; prevent the introduction of alien species and respect the knowledge and practices of indigenous communities. It must also develop necessary legislation and/or other regulatory provisions for the protection of threatened species and cooperate in providing financial and other support for *in situ* conservation.

A member must also adopt measures for the *ex situ* conservation of components of bio diversity, such as establishing facilities for *ex situ* conservation; adopting measures for the recovery and rehabilitation of threatened species; regulating collection of biological resources and cooperating in providing financial and other support for *ex situ* conservation. Further, it must integrate consideration of bio diversity conservation and sustainable use into national decision-making and adopt relevant measures accordingly. It must also protect and encourage customary use of biological resources and support local populations to implement remedial action in degraded areas. Cooperation between its governmental authorities and its private sector in developing the methods for sustainable use of biological resources must be encouraged.

It must adopt measures that act as incentives for bio diversity conservation. Also, it must promote appropriate research and training as well as public education and awareness. Procedures requiring Environmental Impact Assessment (EIA) of projects that are likely to have an impact on bio diversity must be instituted. It must try to create conditions to facilitate access to genetic resources for environmentally sound uses by other Parties. It must facilitate exchange of information relevant to bio diversity conservation and sustainable use. There is also an obligation of scientific and technical cooperation.

SAQ 2

Outline the major features of the various international agreements and conventions for environmental protection presented here.

11.4 INTERNATIONAL AGENCIES

United Nations Environment Programme (UNEP): The United Nations Environment Programme (UNEP), which was set up after the Stockholm Conference in 1972, is the principal body of the UN in the field of environmental protection. The UNEP assesses the state of the global environment, facilitates development of international environmental law and coordinates the activities of the UN.

Fig.11.7: The UNEP is the principal body of the United Nations for environmental awareness and protection

UNEP plays a leading role in facilitating international negotiations on Multilateral Environmental Agreements (MEAs) and also acts as a Secretariat to a number of MEAs. It also hosts an annual Global Ministerial Environment Forum, wherein environmental ministers from around the world meet to discuss the issues of contemporary interest.

Commission on Sustainable Development (CSD): The UN *Commission on Sustainable Development* (CSD) was set up in 1992 as a follow-up mechanism to the Earth Summit. It is a functional commission of the Economic and Social Council (ECOSOC) and is composed of 53 members elected for three-year terms by the ECOSOC from amongst the UN Members. The CSD acts as a catalyst for actions that support the objectives of sustainable development. Its mandate is to monitor and report on the implementation of the Earth Summit agreements such as Agenda 21 and the Rio Declaration at the local, national, regional and international levels.

After the *World Summit on Sustainable Development* in 2002, the CSD now monitors the follow-up of the *Johannesburg Plan of Implementation.* It meets annually for a period of two to three weeks in order to address the issues relating to sustainable development. The relationship between UNEP and CSD has not always been clear, although their mandates are clearly different.

MEA Secretariats: Apart from these institutions concerned with environmental protection in general, each of the MEAs is serviced by its own secretariat. Thus the institutional structure underlying the international environmental law comprises various MEA Secretariats, each looking after their own sector of the environment.

Global Environment Facility (GEF): The *Global Environment Facility* (GEF) is an international funding mechanism that was set up in 1991 to facilitate environmental protection in the developing countries by funding projects and programmes in these countries. The GEF addresses six environmental problems that have been identified as critical for the global environment – loss of bio diversity, climate change, ozone layer depletion, degradation of international waters, desertification and persistent organic pollutants (POPs). The GEF is the designated financial mechanism for the *Convention on Biological Diversity, 1992* and the *UN Framework Convention on Climate Change, 1992*.

The GEF has given $4 billion in grants and generated $12 billion in co-financing with other sources to support over 1000 projects in over 140 developing countries. In 2002-2003, a replenishment of $2.9 billion was agreed upon. The United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP) and the World Bank are the 'implementing agencies' of the GEF – i.e. they manage the actual implementation of projects. The GEF secretariat operates from Washington D.C. There are 175 participant countries in the GEF, including India, which joined in 1994. The participating states meet at the GEF Assembly every 3-4 years to assess the progress of GEF projects.

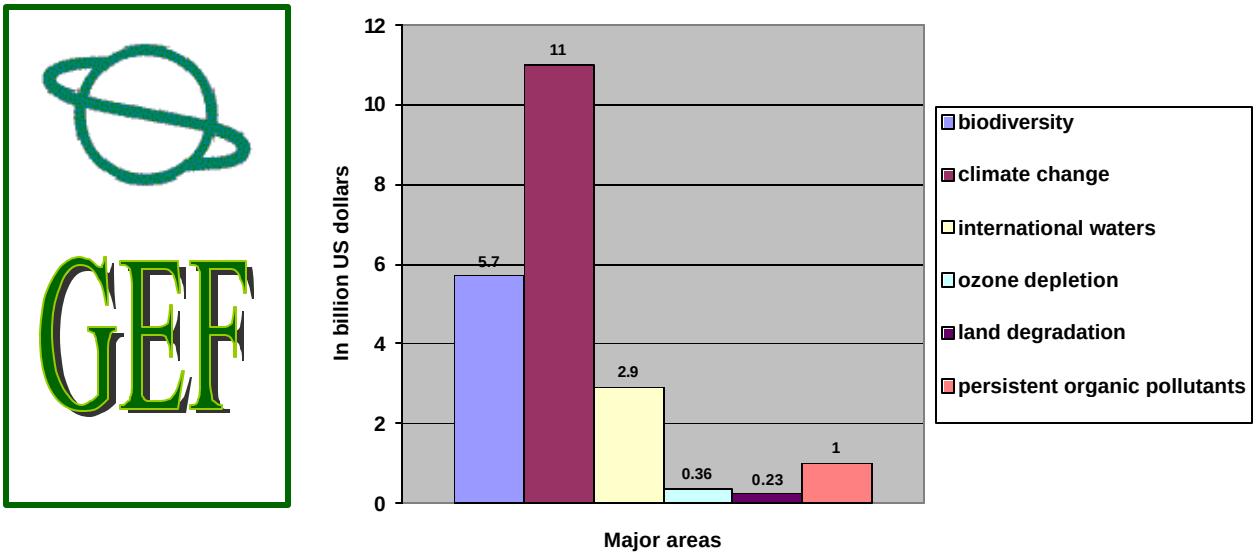

Fig.11.8: The Global Environment Facility arranges grants and co-financing in six major areas

Other Institutions: Other agencies also play a considerable role in environmental protection. These include the scientific and technical bodies. For instance, the *Intergovernmental Panel on Climate Change* (IPCC) studies the scientific aspects of climate change. Standard setting bodies such as the *International Plant Protection Convention*, the *Codex Alimentarius* and the *Office of Epizootics* are involved in standard setting relating to human, animal and plant health.

Also, institutions not directly aimed at environmental protection often have a role to play in the environmental agenda. These include institutions such as the World Bank, the International Monetary Fund and the World Trade Organisation apart from the other specialised agencies of the UN system. International NGOs have also played an increasingly significant role in efforts towards environmental protection. These are discussed in detail in Unit 12.

World Environment Organisation: Proposals for a new *World Environment Organisation* (WEO) have been floated from time to time. At Rio+5 in 1997, a proposal was put forth for an improved cooperation among various environmental organisations in the short term and in the long term, for establishing an umbrella organisation for the environment with the UNEP at its centre. These proposals stem from the need for environment and sustainable development to have a 'clear voice' at the UN. Current discussion regarding a WEO aims to address the fragmentation of the current system and the imbalance between MEAs and the WTO.

There may be a case for the creation of a new global environmental organisation of some kind but many questions remain to be answered. It is not clear what the mandate of such an organisation would be and whether it would represent any value-addition to the existing system. The basic problems underlying global environmental policy – lack of resources, lack of political will and inadequate policy integration – need to be addressed first. The finer points of the debate are far from resolved and much would depend on the level of political support. Most participants in this debate agree that whatever the shape of the institutional structure, the ultimate aim is an enhanced capacity for global environmental management.

SAQ 3

Discuss how you can enhance the capacity for global environmental management with the help of the various international agencies.

11.5 ROADBLOCKS TO GLOBAL INITIATIVES

International initiatives for environmental protection face numerous challenges. The magnitude of the environmental problem and its acceleration at alarming rates means the legal system must respond quickly in order to be effective. For instance, problems such as ozone depletion and bio diversity loss have to be addressed before they spiral out of control and become irremediable. This is in keeping with the dictates of the preventive principle. Thus, International Environmental Law (IEL) must work within time constraints, ideally preventing an environmental problem from arising rather than addressing it later.

However, it is often not possible to forge quick solutions at the international level. The membership of the international community spans nation states at diverse levels of development and with diverse value systems and priorities. Thus an international system which requires consensus of all participating member states often results in 'lowest common denominator' solutions. Thus, a major challenge is to reconcile the assertion of 'sovereignty', by member states with the growing environmental interdependence and the need for concerted action.

Moreover, arriving at common solutions at the international level becomes even more difficult in the face of the North-South divide that runs through international negotiations. The countries of the South have traditionally held the view that by introducing environmental requirements, the North is trying to "pull up the ladder of development behind them". They are keen not to allow environmental protection turn into 'green protectionism'. Overcoming the North-South divide is one of the major hurdles facing the international environmental protection regime.

Many of the principles of IEL, although broadly acceptable in theory, are very difficult to implement in practice. For instance, it is not an easy task to define the parameters of a principle such as 'intergenerational equity' or even 'sustainable development' for that matter. Further, principles such as the 'precautionary principle' have engendered controversy owing to their potential for misuse as a justification for protectionist actions.

The design of technological production systems are themselves roadblocks. These are open questions. Thus, it becomes important to identify the correct 'science' underlying the global initiatives for sustainable development. The work of technical bodies and standard setting bodies sometimes comes under question. Moreover, scientific expertise is monopolised by the North, ensuring domination in these international scientific bodies. Ultimately, the provisions of legal instruments are also connected to the underlying 'scientific' explanations.

There are also problems relating to the 'global commons' (Oceans, Space and Antarctica). How are the global commons to be monitored and regulated? Being nobody's property may act as a disincentive for protection. Thus special thought needs to be given to the protection of the global commons. Also to be addressed is the 'free rider' problem, wherein a state, without taking on any obligations seeks to reap the benefits of global initiatives towards environmental protection.

The most challenging issue, however, is the reconciliation of environmental and development objectives. Any attempt at environmental protection is likely to entail a curb and redirection of activities aimed at economic growth. Whereas the development imperative is central to the interest of all nation states, the real challenge is to design and promote a development trajectory that ensures a right balance between environmental protection and economic development.

11.6 SUMMARY

- The international community today accords a high priority to environmental protection in their agenda. This is evident by the effort at various international conferences where political leaders from all over the world reiterated their concern over and support for any attempt at environmental protection.
- A large body of declarations and principles has also developed codifying these intentions.
- Nation states have gone further to undertake numerous legal obligations to ensure the protection of various sectors of the environment.
- A large body of MEAs have emerged in response to specific problems and the fact that this is the fastest growing branch of international law.
- Various institutions have been set up to ensure continued momentum towards environmental protection initiatives, although there is considerable debate over the strengths and weaknesses of these institutions.
- There has also been felt the need to set up a World Environment Organisation. As evident from the above discussion, this large legislative and institutional mechanism must overcome many challenges in order to effectively achieve its objectives.

11.7 TERMINAL QUESTIONS

1. Do you think the existing institutional system for environmental protection at the international level is adequate?
2. What is the significance of 'soft law' instruments for environmental protection?
3. What are the hurdles in the way of effective implementation of environmental law at the international level?
4. What is the contribution of environmental principles in environmental protection? Does having a large body of law for environmental protection imply that we are adequately equipped to achieve sustainable development?

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