



From Stockholm to Rio+20: Green Economy and the Road Ahead.

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Abstract: The International Environmental Law has had a long and a bumpy ride from 1972 Stockholm Conference to the recent Rio+20, 2012 Conference. Many a principles were made in the process. Stockholm Conference set the platform for the International activities at the regional and the global level, also influenced legal and institutional developments both direct and indirect, to UNCED and even beyond. From Stockholm to Rio 1992, to Johannesburg in 2002 giving the millennium development goals, and nor Rio-20 has the Green Economy efforts are on the protect the Mother Earth.

Key Words: Stokholm Conference, Rio and Sustainable Development, Johannesburg and Millennium Development Goals, Rio-20 and The Green Economy.

The International Environmental Law has had a long and a bumpy ride from 1972 Stockholm Conference to the recent Rio+20, 2012 Conference. Many a principles were made in the process.¹ Although the Charter of United Nations does not specifically mention the environment or sustainable development, the Charter states that the United Nations is determined “to promote social progress and better standards of life in larger freedom”², while one of the basic purposes of the United Nations is “to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion”³.

The Stockholm Conference was convened by the UN General Assembly in December 1968.⁴ Preceding this, in July 1968, a resolution was passed, noting that ‘the continuing and accelerating impairment of the Quality of the human environment’, recommending that the General Assembly consider⁵ it desirable to convene a UN Conference.⁶ The proposal was first made by Sweden.

The United Nations Conference on the Human Environment⁷ took place in Stockholm from 5 to 16 June 1972⁸ and led to the establishment of the United Nations Environment Programme (UNEP), the lead programme within the UN working on environmental issues. It was attended by 114 States, large number of International institutions and non-governmental observers, under the Chairmanship of Mr Maurice Strong.⁹

The conference adopted 3 non-binding instruments namely: A resolution on institutional and financial arrangements.

¹ F Hinsley, *Power and the Pursuit of Peace: Theory and Practice in the History of Relations between States* (1963); F Walters, *A History of the League of Nations* (1960) *passim*

² Charter of the United Nations: Preamble. (n.d.). Welcome to the United Nations: It's Your World. Retrieved September 29, 2012, from <http://www.un.org/en/documents/charter/preamble.shtml>

³ Charter of the United Nations: Chapter I: Purposes and Principles. (n.d.). Welcome to the United Nations: It's Your World. Retrieved on September 29, 2012, from <http://www.un.org/en/documents/charter/chapter1.shtml>

⁴ At its 23rd session the General Assembly adopted resolution 2398 (XXIII) of 3 December 1968 convening a United Nations Conference on the Human Environment noting the “continuing and accelerating impairment of the quality of the human environment” and its “consequent effects on the condition of man, his physical, mental and social well-being, his dignity and his enjoyment of basic human rights, in developing as well as developed countries,” thus relating the Charter to emerging environmental issues. The resolution also recognized that “the relationship between man and his environment is undergoing profound changes in the wake of modern scientific and technological developments”.

⁵ The United Nations first considered environmental issues at the 45th session of the Economic and Social Council (ECOSOC), when in resolution 1346 (XLV) of 30 July 1968 it recommended that the General Assembly consider convening a United Nations conference on “problems of the human environment”.

⁶ ECOSOC Resolution 1346(XLV) takes note of the report submitted by the WHO(E/4482) to and the ECOSOC and FAO(E/4458)

⁷ Dinah Shelton, “Human Rights, Environmental Rights, and the Right to Environment” (1991) 28 *Stan.J. Int'l. L.* 103, at 110 [Shelton, “Human Rights, Environmental Rights”].

⁸ Declaration of the United Nations on the Human Environment, 16 June 1972, UN Doc. A/CONF.48/14/Rev.1, 11 I.L.M. 1416 [Stockholm Declaration].

⁹ Klaus Bosselmann, “Human Rights and the Environment: Redefining Fundamental Principles?” in Brendan Gleeson and Nicholas Low, eds., *Governing for the Environment: Global Problems, Ethics and Democracy* (Basingstoke, Hampshire: Palgrave, 2001)

1. A declaration containing 26 principles.
2. An Action Plan containing 109 recommendations.¹⁰

According to a commentator,¹¹ 'Stockholm' enlarged and facilitated means which were previously limited by inadequate perceptions of environmental issues and restrictive concepts of national sovereignty to international action. The significant elements of innovation are in respect of¹²:

1. Redefinition of international issues.
2. The rationale for cooperation.
3. The approach to international responsibility.
4. The conceptualization of International organisational relationship.¹³

The Declaration of Principle for the Preservation and Enhancement of Human Environment was based on a draft declaration prepared by the Preparatory Committee.¹⁴ It was intended to provide 'a common outlook and.....Common principles to inspire and guide the peoples of the world in the preservation and enhancement of the environment.'¹⁵

The legal tone of the document is found in provisions in principles 21, 22, 23, 24.

Principle 21 affirmed the responsibility of states to ensure that activities within their jurisdiction or control don't cause damage in another state or beyond national jurisdiction such as outer space or on the high seas. It is extended to activities under the states' control as those carried out by its national or by or on ships or aircrafts registered in its territory.¹⁶

Principle 22, States shall cooperate to develop further the international law regarding liability and compensation for the victims of pollution and other environmental damage caused by activities within the jurisdiction or control of such States to areas beyond their jurisdiction.

Principle 23 saw a limited role played by the International regulations and suggested that certain standards would have to be determined nationally on the basis of the value system in each country and their social costs and the need for different environmental standards in different countries.¹⁷

The Stockholm Principles are weak on techniques for implementing environmental standards as EIA¹⁸, access to environmental information and availability of administrative and judicial remedies.

Principle 24¹⁹ simply calls for International Organisations to play a coordinated, efficient and dynamic role.

The Draft Declaration prepared for the Preparatory Committee had included a third important legal principle which was originally to be Principle 20 stating as:

*Relevant information must be supplied by states on activities or developments within their jurisdiction or under their control whenever they believe, or have reasons to believe, that such information is needed to avoid the risks of significant adverse effects on the environment beyond their jurisdiction.*²⁰

¹⁰Report of United Nations Conference on the Human Environment, UN DOC.A/CONF.48/14 at p. 2-65

¹¹ Sumudu Atapattu, "The Right to Life or the Right to Die Polluted: The Emergence of a Human Right to a Healthy Environment Under International Law" (2002) 16 Tul. Envtl.L.J. 65 at 70 [Atapattu].

¹²Atapattu observes:

'It is ironic that at the time of the Stockholm Conference, the United States--which vehemently opposed the inclusion of a similar right twenty years later in the Rio Declaration--proposed the inclusion of a specific right to a clean environment in the Stockholm Declaration. The formulation proposed by the United States reads as follows: "Every human being has a right to a healthful and safe environment, including air, water and earth, and to food and other material necessities, all of which should be sufficiently free of contamination and other elements which detract from the health or well-being of man." The conference participants, particularly those from developing countries, however, preferred the indirect formulation in Principle 1; therefore, the American formulation was rejected.'

¹³L.K Caldwell, International Environmental Policy (Durham, N.C. Duke University Press), 1984.

¹⁴ Layla A. Hughes, "Foreword: The Role of International Environmental Law in the Changing Structure of International Law" (1998)

¹⁵UN DOC.A/CONF.48/PC.17

¹⁶Principle 21: States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

¹⁷Principle 23 *Without prejudice to such criteria as may be agreed upon by the international community, or to standards which will have to be determined nationally, it will be essential in all cases to consider the systems of values prevailing in each country, and the extent of the applicability of standards which are valid for the most advanced countries but which may be inappropriate and of unwarranted social cost for the developing countries.*

¹⁸ Environment Impact Assessment - EIA

¹⁹ Principle 24,

International matters concerning the protection and improvement of the environment should be handled in a cooperative spirit by all countries, big and small, on an equal footing.

Cooperation through multilateral or bilateral arrangements or other appropriate means is essential to effectively control, prevent, reduce and eliminate adverse environmental effects resulting from activities conducted in all spheres, in such a way that due account is taken of the sovereignty and interests of all States.

²⁰UN Doc. A/CONF.48/4, Annex,para. 20,at 4(1972)

This proposal prepared by the Preparatory Committee failed because of the concerns that it implied acceptance of a no fault or 'strict liability' for environmental harm. Certain states made clear their views that that liability to pay compensation would only arise where there had been negligence attributable to the state concerned.²¹

Due to the objections of the many of the developing countries, this principle was not agreed at the conference, but is now recognized by the International Law Commission and finds place in many conventions, as a basic requirement. The Developing countries feared that the obligation to consult might be abused by the developed states to impede development projects.

The other principles were in non-legal language. Principle 1²² links environmental protection to Human rights norms.²³

Other principles are grouped into themes Principles 2, 3 & 5 guidelines for safeguarding the natural resources for the present and the future generations.

Principles 4,6 and 7 identifying specific environmental threats, special responsibility to safe guard the habitat and wild life, halt the discharge of toxics, heat and other substances causing serious and irreversible damage.

Principles 8 to 15 addressed the relationship between environment and development.

Principles 16 to 20²⁴ recognised the need for appropriate demographic policies.

From Stockholm to Rio: (1972 - 1992):

Stockholm Conference set the platform for the International activities at the regional and the global level, also influenced legal and institutional developments both direct and indirect, to UNCED and even beyond.²⁵

Conspicuously the developments can be listed as:

- ❖ Establishment of a large number International Institutions.
- ❖ The existing Institutions took greater efforts to address environmental issues
- ❖ Organisations developed new sources of environmental obligations
- ❖ Establishment of new environmental norms²⁶
- ❖ New techniques for implementing environmental standards including EIA and access to information.
- ❖ Formal integration of Environment and Development, especially with respect to international trade and development assistance.²⁷

Ten years post the Stockholm Conference in 1982²⁸, the UN General Assembly through its resolution 37/7²⁹, adopted the World Charter for Nature. It set forth 'principles for conservation by which all human conduct affecting

²¹UN DOC.A/CONF.48/PC.12, Annexure 1 at 15(1971).

²²Preparatory Committee for the United Nations Conference on the Human Environment, U.N.

Doc.A/Conf.48/PC/17 (1972), cited in Rodriguez-Rivera,

See also Neil Popovic, "In Pursuit of Environmental Human Rights: Commentary on the Draft Declaration of Principles on Human Rights and the Environment" (1995-1996) 27 Colum.H.R.L. Rev. 487 at 504. He contends

that Principle 1 of the Stockholm Declaration contains an "expansive statement of environmental rights."

²³Principle 1

Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations. In this respect, policies promoting or perpetuating apartheid, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated.

²⁴Principle 20:

Scientific research and development in the context of environmental problems, both national and multinational, must be promoted in all countries, especially the developing countries. In this connection, the free flow of up-to-date scientific information and transfer of experience must be supported and assisted, to facilitate the solution of environmental problems; environmental technologies should be made available to developing countries on terms which would encourage their wide dissemination without constituting an economic burden on the developing countries.

²⁵ United Nations Declaration on the Rights of Indigenous Peoples, Human Rights Council Res. 2006/2, UN Working group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of the General Assembly resolution 49/214 of 23 December 1994, (2006) at art. 29 (establishing unique environmental rights of Indigenous peoples) [provisional], online: Office of the UN High Commissioner for Human Rights <<http://www.ohchr.org/english/issues/indigenous/docs/declaration.doc>>. See also, Convention on the Rights of the Child at arts. 2(c), 2(e) (establishing environmental rights of children).

²⁶World Commission on Environment and Development, Our Common Future (1989); see also report of the UNCED's Legal Expert Group on Environmental Law, Environmental Protection and Sustainable Development (1987). The General Assembly welcomed the establishment of a special commission of concerned governments and suggested the terms of reference for its work - see GA Res 165, 38 UN GAOR (102nd mtg), UN Doc A/Res38/165 (1983); 'Process of preparation on Environment and Development (1985) 14 Environmental Policy and Law 4. For the UNCED's progress see 'The World Commission on Environment and Development' (1985) 14 Environmental Policy and Law, 4; 'Legal Principles Approved by Experts Group' (1986) 16 Environmental Policy and Law 140. The UNCED report was debated in the UN General Assembly on 19 October, 1987; for details see 'UNEP/WCED' (1989) 19 Environmental Policy and Law 218.

²⁷P.Sands, Principles of International Law Second Edition, Cambridge University Press. page 40

²⁸ F Hinsley, *Power and the Pursuit of Peace: Theory and Practice in the History of Relations between States* (1963); F Walters, *A History of the League of Nations* (1960) *passim*.

²⁹ UNGA Res.37/7, 28th October 1982

nature is to be guided and judged.' The Charter is not binding. As Caldwell puts it, the Charter being 'an important symbolic expression of an intent among nations to achieve a more harmonious and sustainable relationship between humanity and the rest of the biosphere – between mankind and earth'.³⁰

In 1983 the General Assembly by resolution 38/161 of 19 December 1983 welcomed the establishment of a special commission to report on "environment and the global problematique to the year 2000 and beyond".

In 1983 an independent body, *World Commission on Environment and Development - WCED* was set up by the United Nations.³¹ It was headed by the Norwegian Prime Minister Gro Harlem Brundtland and her team of 21 representatives of the Developing and the Developed countries. The task of the WCED was to fashion a global agenda for change; ensuring that without bankrupting the resources for the future generation, progress would be sustained through Development.³²

The World Commission on Environment and Development (WCED) submitted its report i.e. The WCED³³ Report, "Our Common future," voicing its environmental and economic concerns, to the General Assembly, and was published in 1987 (also known as the "Brundtland report")³⁴. The report, based on a four-year study, developed the theme of sustainable development, the type of development that "meets the needs of the present generation without compromising the ability of future generations to meet their own needs".

WCED appointed a group of legal experts providing a legal framework formulating 22 legal principles and 13 proposals for strengthening the legal and the institutional framework. WCED suggested for convening a global conference to address the global environmental problems.

Pursuant to the report of the World Commission, the General Assembly adopted resolution 44/228 of 20 December 1988, convening the United Nations Conference on Environment and Development (also known as the "Rio Conference" or the "Earth Summit") to "elaborate strategies and measures to halt and reverse the effects of environmental degradation".³⁵ The resolution listed nine areas "of major concern in maintaining the quality of the Earth's environment and especially in achieving environmentally sound and sustainable development in all countries".

In 1991, a successor to the 'World Conservation Strategy-Caring for the Earth' was created. It defined the actions for achieving the goal of Sustainable Development.

In 1991, the 'Caring for the earth' Strategy was created. It restated the thinking about conservation and development with two basic aims:

- ❖ Securing a commitment to sustainable living
- ❖ Translating its principles into practice³⁶

In pursuance to the recommendations of the WCED, the United Nations convened a Conference on Environment and Development-UNCED at Rio de Janeiro in 1992 attended by 176 states,³⁷ more than 50 intergovernmental organizations and several thousand corporations and non-governmental organizations. The purpose of the conference was to 'elaborate strategies and measures to halt and reverse the effects of environmental degradation in the context of strengthened national and international efforts to promote sustainable and environmentally sound development in all countries'.³⁸

Taking stock of the primary documents emanating from the UNCED are as follows:

- Rio Declaration on Environment and Development.³⁹
- Agenda 21⁴⁰

³⁰ L.K Caldwell, *International Environmental Policy* (Durham, N.C. Duke University Press), 1984., 92

³¹ Thacher, 'The Role of The United Nations' in Andrew Hurrell and Benedict Kingsbury (eds), *The*

International Politics of the Environment, Actors, Interests and Institutions (1992) 183-211, 190; *Annex II to UNEP GC decision 15/2, May 1989*

³² World Conservation Strategy: Living Resource Conservation for Sustainable Development, prepared by the International Union for Conservation of Nature and Natural Resources (IUCN) with the advice, co-operation and financial assistance of UNEP and the World Wildlife Fund (WWF, now known as the World Wide Fund for Nature) in collaboration with FAO and UNESCO (1980); see also the updated version prepared for the UNCED, *Caring for the Earth: A Strategy for Sustainable Living* (1991)

³³ WCED – World Commission on Environment and Development.

³⁴ World Commission on Environment and Development, *Our Common Future* (Oxford: Oxford University Press, 1987).

³⁵ *Hague Declaration on the Environment, 11 March 1989, 28 I.L.M. 1308.*

³⁶ IUCN, UNEP and WWF, *Caring for the Earth: a Strategy for Sustainable Living* (1991)

³⁷ See UN Department of Economic and Social Affairs, Division of Sustainable Development: Documents, Online: Visited on 5/7/2013 <<http://www.un.org/esa/sustdev/documents/agenda21/index.htm>>.

³⁸ UNGA Res.44/228, para. 3.

³⁹ UN Conference on Environment and Development, 14 June 1992, UN Doc. A/CONF.151/5/Rev.1 (1992), 31 I.L.M. 874 (1992) [Rio Declaration].

⁴⁰ Agenda 21, UN Conference on Environment and Development, 14 June 1992, UN Doc.A/CONF. 151/26/Rev.1, online: Visited on 5/7/2013 <<http://www.un.org/esa/sustdev/documents/agenda21/english/agenda21toc.htm>>.

- Convention on Bio-diversity – CBD
- Convention on Climate change⁴¹
- Statement of Principles for Global consensus on Management, Conservation and sustainable Development.⁴²

Building on the Stockholm Declaration, the Rio Declaration, which contains 27 principles, introduces the mandate of Sustainable Development mentioning procedure and means to operationalise the same. The 21 Principles of Rio Declaration guides the behaviour of nations towards more environmentally sustainable patterns of development. The Declaration is a delicate compromise between developing and developed countries and was tortuously crafted at the preparatory meetings and was adopted without negotiations due to fears that further debate would jeopardize any agreement.⁴³ The Declaration proclaims that poverty is the main culprit for environmental degradation and aims at complying with the mandate of intergenerational and intragenerational equity. It projects the role of women, youth and indigenous people in achieving Sustainable Development.

Agenda 21 adopted the implementative programme of action for the Sustainable Development. It dealt with the Social and economic dimensions of Environmental problems. It provides that in order to meet the challenges of environment and development. It is a decision to establish a new global partnership. Agenda 21 provides that the Economic policies of individual countries and the International Economic relations, both together have great relevance to Sustainable Development. The Report suggests that the International economy should provide a supportive International climate for achieving environment and development goals by:

1. Promoting Sustainable Development through trade liberalization.
2. Making trade and environment mutually supportive.
3. Providing adequate financial resources to developing countries and dealing with international debt.
4. Encouraging macro-economic policies conducive to environment and development.

The United Nations Conference on Environment and Development (UNCED), which took place in Rio de Janeiro from 3 to 14 June 1992, led to the establishment of the Commission on Sustainable Development. At the Conference three major agreements were adopted: Agenda 21 a global plan of action to promote sustainable development; the Rio Declaration on Environment and Development, a series of principles defining the rights and responsibilities of States and the Statement of Forest Principles, a set of principles to underpin the sustainable management of forests worldwide. In addition, two legally binding instruments were opened for signature: the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity. The Earth Summit called for several major initiatives in other key areas of sustainable development, such as, a global conference on Small Island Developing States; negotiations began for a Convention to Combat Desertification and for an agreement on highly migratory and straddling fish stocks.

It is suggested that UNCED's endorsement of Sustainable Development could undermine 'the autonomy of environmental law as a body of rules and standards designed to restrain and prevent the environmentally destructive effects of certain kinds of economic activity', and reseed to fear that Rio Conference constituted 'the beginning of the decline of international environmental law as an autonomous branch of International law'.⁴⁴

The Rio Declaration represents a series of compromises between the developing and developed states and balance between objectives of environmental protection and economic development. Apart from the different principles⁴⁵ of Polluter Pays, Precautionary Principle⁴⁶, Intergenerational and Intragenerational Equity, Common but Differentiated Responsibility, it comprises of 27 Principles.⁴⁷ Other matters addressed by the Rio Declaration include: the Relationship between environmental protection and free trade obligations; development of national and International law regarding liability and compensation for victims of Pollution and other environmental damage; need to eradicate

⁴¹See Generally, J Barrett, 'The Negotiation and Drafting of the Climate Change Convention' in R Churchill and D Freestone (eds), *International Law and Global Climate Change* (1991) 183-200. The work contains the text of many relevant documents, presented in chronological order under sub-headings, at 211-436. The growing involvement of the UN and its specialised agencies, and the complementary effect on the UN of decisions and measures of other international bodies, are thus easily discerned.

⁴² Don C. Smith "The European Union's Commitment to Sustainable Development: Is the Commitment Symbolic or Substantive in the Context of Transport Policy" (2002) 13 *Colo. J. Int'l Envtl. L. & Pol'y* 241 at 244 ("[T]he EU has established a world leadership position with respect to sustainable development").

⁴³Singh Gurdip *Environmental Law in India*; Macmillan India Ltd 2005 at 36.

⁴⁴D. Wirth, 'The Rio Declaration on Environment and Development: Two Step Forward and One Step Back, or Vice Versa', 29 *Georgia Law Review* 599(1995).

⁴⁵David Kriebel et al., "The Precautionary Principle in Environmental Science" (2001) 109 *Environmental Health Perspectives* 871 at 875.

⁴⁶Paul Harremoës et al., eds., *The Precautionary Principle in the 20th Century: Late Lessons from Early Warnings* (London: Earthscan Publications, 2002).

⁴⁷ Lynda M. Collins, "Strange Bedfellows? The Precautionary Principle and Toxic Tort: A Tort Paradigm for the Twenty-First Century" (2005) 35 *Environmental Law Reporter* 10361.

poverty and decrease disparities in standards of living; and the reduction and elimination of 'sustainable patterns of production and consumption.' It supports participation of youth, women and indigenous people. Rio, as a package, includes provisions which are more specific as compared to those in Stockholm Declaration.⁴⁸

Agenda 21 is a non-binding blue print and action plan for a global partnership for Sustainable development.⁴⁹ It reflects a global consensus and political commitment at the highest level.

To mark the tenth anniversary on UNCED, The World Summit on Sustainable Development (WSSD) was held in Johannesburg in September 2002. The summit was well attended with 100 Heads of States and Government as well as around 22,000 participants.⁵⁰ Shri Yashwant Singha, the External Affairs Minister, led the Indian Delegation to the Summit.

The purpose of the summit was to evaluate the obstacles to progress and the results achieved since the 1992 United Nations Conference on Environment and Development (UNCED) held at Rio de Janeiro. The summit was expected to present "an opportunity to build on the knowledge gained over the past decade and provide a new impetus for commitments of resources and specific action towards global sustainability". Its main purpose was to take stock of the implementation of Agenda 21, adopted at the Rio Conference in 1992.

The Johannesburg Declaration on Sustainable Development:

The declaration contains some broad statements. It reaffirms the commitment to sustainable development.⁵¹ The declaration assumed collective responsibility to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development – economic development, social development and environmental protection – at the local, national, regional and global levels.⁵²

The declaration identified certain challenges. It recognized poverty eradication, changing consumption and production patterns, protecting and managing the natural resources base for economic and social development, as overarching objectives of the essential requirements for sustainable development.⁵³ The ever-increasing gap between the developed and developing worlds pose a major threat to global prosperity, security and stability.⁵⁴ The global environment continues to suffer. Globalization has added a new dimension to those challenges. The benefits and costs of globalization are unevenly distributed with developing countries facing special difficulties in meeting the challenges.

The declaration contains a section entitled 'our commitment to sustainable development'.

The eight Millennium Development Goals (MDGs) are as follows:

- 1) Eradicate extreme hunger and poverty.
- 2) Achieve universal primary education.
- 3) Promote gender equality and empower women.
- 4) Reduce child mortality
- 5) Improve maternal health.
- 6) Combat HIV/AIDS, Malaria and other diseases.
- 7) Ensure environmental sustainability.

⁴⁸ P. Sands, Principles of International Environmental Law, p56.

⁴⁹ UNCED Report, A/CONF.151/26/Rev.1(Vol.I)(1993).

⁵⁰ Around 10,000 delegates i.e. Participants from Member States, inter-governmental organizations, official observers, specialized agencies and related organizations and associated members of regional commissions were accredited by the United Nations in Johannesburg to attend the summit. In addition some 800 representatives of major group organization. The major groups are women, children and youth, Indigenous people NGOs Local Authorities, Workers and Trade Unions, Business and Industry, Scientific and Technological Communities and Farmers. 4000 media were accredited to summit. A large number of additional people were also in Johannesburg at the same time to attend parallel events associated with the summit.

Visited Web site, on 7/3/2013 < <http://www.Johannesburg.org/html/basic-info/fags.html=joburg>>.

⁵¹ For an explanation and critical analysis of sustainable development, see generally Graham Mayeda, "Where Should Johannesburg Take Us? Ethical and Legal Approaches to Sustainable Development in the Context of International Environmental Law" (2004) 15 Colo. J. Int'l Env'tl. L. & Pol'y 29 [Mayeda];

Christopher D. Stone, "Deciphering 'Sustainable Development'" (1994) 69 Chi.-Kent L. Rev. 977.

See also Lynda M. Collins, "Revisiting the Doctrine of Intergenerational Equity in Global Environmental Governance" (2007) 30 Dal. L.J.

Bosire Maragia, "The Indigenous Sustainability Paradox and the Quest for Sustainability in Post-Colonial Societies: Is Indigenous Knowledge All That Is Needed?" (2006) 18 Geo. Int'l Env'tl. L. Rev. 197.

⁵² The Environment Perspective to the Year 2000 and Beyond' (1988) 18 Environmental Policy and Law 37

⁵³ See Generally Report of the IMO to the Commission on Sustainable Development in fulfilment of GA Res 191, 47

UN GAOR (70th plenmtg), UN Doc A/Res/191 (1992), IMO DOC, MEPC 37/Inf. (1995) and Follow-Up Action to UNCED, MEPC 37/10/1, 23 March 1995.

⁵⁴ United Nations Conference on Environment and Development: Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forests; (1992) 31 ILM 881.

8) Develop global partnership for development.

The world committed to eight MDGs⁵⁵ at a special UN conference in 2000. Though many termed MDGs as mild and framed without any consultation, the goals did influence development priorities of countries. As per an assessment of MDGs in July, the world has met three targets on poverty, slum population and access to water, while the rest five have to be realized. But with less than 3 years to go, there is a general belief that these five targets would not be met. In 2010, the member countries asked the UN secretary general to take up annual monitoring of progress of MDGs to enable an informed decision on the targets after 2015⁵⁶

The last two years have seen the idea of a “green economy” float out of its specialist moorings in environmental economics and into the mainstream of policy discourse. It is found increasingly in the words of heads of state and finance ministers, in the text of G20 communiqués, and discussed in the context of sustainable development and poverty eradication.⁵⁷

At the Los Cabos G-20 Summit leaders agreed to promote prosperity through inclusive green growth. For them growth was the bottom line and all things green were to help stimulate economics and jobs for the future.

The first big push for the Concept of green economy came when the global financial meltdown forced governments to fall upon the Keynesian idea to spend huge amounts of public money got spent on all those things which would improve the environmental sustainability of countries, it would go a long way in building the foundation for the new- age world. Soon it was understood that governments sent little on ‘greening economies’.

However the idea was too attractive to let it go. It was discussed in every conceivable global forum till it gathered sufficient momentum to reach the negotiations. On December 24, 2009, the United Nations General Assembly adopted Resolution⁵⁸ to organize the United Nations Conference on Sustainable Development (UNCSD) in Rio de Janeiro, Brazil. The General Assembly identified two themes of focus for the conference: First, “a green economy within the context of sustainable development and poverty eradication”; and second, “an institutional framework for sustainable development.”⁵⁹

UNEP’s work started with the economics of ecosystems and biodiversity (TEEB), an international research project. The principle was simple-learn to value nature and its goods and services and use this valuation in policy decisions and investments. The example often cited is forests or water where improper pricing leads to discounting of the real role of the resources in national income accounting. Nature is destroyed. “Currently, legitimise overexploitation of nature because we attach zero value to in it national policies and systems of national accounts. That needs to change,” explains Achim Steiner, head of UNEP.

UNEP advocates targeted investment in key economic sectors, from energy to agriculture, to move the world towards this transition. It defines green economy as one that results in “improved human well-being and social equity, while significantly reducing environmental risks and ecological scarcity.” It also suggests that a transition to green economy can contribute to eradicating poverty as a number of sectors with green economic potential are important for the poor.

OECD is a firm believer in opening of markets, also has a strong view on the idea of a green economy. It has played a key role in advising G-20 governments on their position and then took the matter to Rio+20. Its 2011 reports, *Towards Green Growth: Monitoring Progress*, proposes 25 indicators to define green economy- from biodiversity to measures on the objective and subjective dimensions of environmental quality. These measures provide evidence if economic growth is becoming greener; if greening of economy is opening new sources of growth. Ministers of the organization countries asked it then to develop “headline” indicators for green growth. These include the following:

- CO₂ productivity: demand and production based;
- Non-energy material productivity by material group;
- Measure of natural resources stocks.

The basic contention is that green growth is a win-win option, which has little financial costs. This is what developing countries find objectionable. UNEP, for instance, has argued that the transitional will only require some two per cent of the global GDP. Developing countries also worry about the fact that the policies and measures, suggested as enabling tools to drive green growth, would become perspective and so jeopardise national options for developmental strategies. But more importantly, they remain concerned as the use of these policies, measures and

⁵⁵ MDG Monitor: Tracking the Millennium Development Goals. (n.d.). MDG MONITOR :: Tracking the Millennium Development Goals. Retrieved September 29, 2012, from http://www.mdgmonitor.org/browse_goal.cfm

⁵⁶ Down to Earth September 1-15, 2012, p 18.

⁵⁷ The “Rio+20” agenda has adopted “green economy” as a key theme in the context of sustainable development and poverty eradication.

⁵⁸ UN General Assembly Resolution A/RES/64/236

⁵⁹ UN General Assembly Resolution A/RES/64/236, adopted 24 December 2009.

indicators becoming conditionalities that will become a playground for unilateral trade measures. The European Union's aviation tax is their fear-refrain.

Green Economy un-negotiated:

At Rio+20, the idea of green economy was not contested. What was fought over was a global prescription for what constitutes green economy and the enabling measures and tools that would take the world to a greener tomorrow. The idea also got linked to the agenda of preparing sustainable development goals which were seen as ways to measure progress on this matter.

Negotiations were contested. At one stages, G-77 and China withdrew from negotiations saying that not enough progress was being made on their demands. The EU text was seen as too prescriptive. Switzerland then suggested compromise language for the transition towards sustainable development. G 77 and China wanted more emphasis on social inclusion and for linkage between sustainable consumption and production with green economy goals. The US did not want references to the financial and technology burden on green economy goals on developing countries. The industrialised country delegates also "expressed difficulty" with the mention of lifestyle change. The EU, the US and Japan insisted on a qualifying references to conditionalities on aid by inserting the word "unwarranted". In other words, warranted conditions on aid and finance can be applied in the context of green economies.

The final agreement was to recognise that there are different approaches, visions, models and tools available to each country to achieve sustainable development. Green economy was accepted as one such tool. The outcome read, "We consider green economy in the context of sustainable development and poverty eradication as one of the important tool available for achieving sustainable development and that it should provide options for policy making should not be a rigid set of rules".

Governments agreed to tie themselves up in knots of words. Green economy is now a question for the future; when and how remain unanswered.

UNEP⁶⁰ defines a green economy as one that results in *improved human well-being and social equity, while significantly reducing environmental risks and ecological scarcities*. In its simplest expression, a green economy can be thought of as one which is low carbon, resource efficient and socially inclusive.

In a green economy, growth in income and employment are driven by public and private investments that reduce carbon emissions and pollution, enhance energy and resource efficiency, and prevent the loss of biodiversity and ecosystem services.

The concept of a "green economy" does not *replace* sustainable development, but there is now a growing recognition that achieving sustainability rests almost entirely on getting the economy right. In a green economy, growth in income and employment should be driven by public and private investments that reduce carbon emissions and pollution, enhance energy and resource efficiency, and prevent the loss of biodiversity and ecosystem services. These investments need to be catalysed and supported by targeted public expenditure, policy reforms and regulation changes. The development path should maintain, enhance and, where necessary, rebuild natural capital as a critical economic asset and as a source of public benefits, especially for poor people whose livelihoods and security depend on nature. The concept of a "green economy" does not *replace* sustainable development, but there is now a growing recognition that achieving sustainability rests almost entirely on getting the economy right. Decades of creating new wealth through a "brown economy" model have not substantially addressed social marginalization and resource depletion, and we are still far from delivering to the Millennium Development Goals. Sustainability is still a vital long-term goal, but we must work on greening the economy to get us there.

The policies for green economy in the context of sustainable development and poverty eradication should be guided by and in accordance with all the Rio Principles, Agenda 21 and the Johannesburg Plan of Implementation and contribute towards achieving relevant internationally agreed development goals, including the Millennium Development Goals. The green economy policies in the context of sustainable development and poverty eradication should:⁶¹

- (a) Be consistent with international law;
- (b) Respect each country's national sovereignty over their natural resources taking into account its national circumstances, objectives, responsibilities, priorities and policy space with regard to the three dimensions of sustainable development;
- (c) Be supported by an enabling environment and well-functioning institutions at all levels with a leading role for governments and with the participation of all relevant stakeholders, including civil society;

⁶⁰United Nations Environmental Programme.

⁶¹14 UNCSD REPORT final revs p 10 para 57.

- (d) Promote sustained and inclusive economic growth, foster innovation and provide opportunities, benefits and empowerment for all and respect of all human rights;
- (e) Take into account the needs of developing countries, particularly those in special situations;
- (f) Strengthen international cooperation, including the provision of financial resources, capacity-building and technology transfer to developing countries;
- (g) Effectively avoid unwarranted conditionalities on official development assistance (ODA) and finance;
- (h) Not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade, avoid unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country, and ensure that environmental measures addressing trans boundary or global environmental problems, as far as possible, are based on an international consensus;
- (i) Contribute to closing technology gaps between developed and developing countries and reduce the technological dependence of developing countries using all appropriate measures;
- (j) Enhance the welfare of indigenous peoples and their communities, other local and traditional communities and ethnic minorities, recognizing and supporting their identity, culture and interests, and avoid endangering their cultural heritage, practices and traditional knowledge, preserving and respecting non-market approaches that contribute to the eradication of poverty;
- (k) Enhance the welfare of women, children, youth, persons with disabilities, smallholder and subsistence farmers, fisher folk and those working in small and medium-sized enterprises, and improve the livelihoods and empowerment of the poor and vulnerable groups in particular in developing countries;
- (l) Mobilize the full potential and ensure the equal contribution of both women and men;
- (m) Promote productive activities in developing countries that contribute to the eradication of poverty;
- (n) Address the concern about inequalities and promote social inclusion, including social protection floors;
- (o) Promote sustainable consumption and production patterns;
- (p) Continue efforts to strive for inclusive, equitable development approaches to overcome poverty and inequality.

What is the position and status of India with respect to Rio + 20? It does not have the liberty to industrialise and pollute first and then try to clean up later as it needs to cater to the needs of its huge population for a healthy environment. India has to build its indigenous economy protecting the natural resources. India needs to achieve its Right to Development with the Right Development.

The International community too has come to decisive period to put its efforts towards achieving Sustainable Development, else this precious earth!!!