RECENT DEVELOPMENTS

AFTER RIO: THE SUSTAINABLE DEVELOPMENT CONCEPT
FOLLOWING THE UNITED NATIONS CONFERENCE ON
ENVIRONMENT AND DEVELOPMENT

I. FACTUAL BACKGROUND

In the past year the United Nations and the United States, as well as other
nations and multinational alliances, have started implementing the goals of
the United Nations Conference on Environment and Development (UNCED).\(^1\) The first United Nations post-UNCED initiative was the
creation of the United Nations Commission on Sustainable Development (CSD)\(^2\) in November of 1992, for the purpose of monitoring governments’
fulfillment of the promises made in Rio.\(^3\) The CSD held its first substantive
meeting in June of 1993,\(^4\) making a commitment to regular high level

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\(^1\) The United Nations Conference on Environment and Development (UNCED) convened
in Rio De Janerio, Brazil in June of 1992 with representatives of 170 countries in attendance.
The United Nations General Assembly initiated UNCED to “recommend measures to be taken
at the national and international levels to protect and enhance the environment, taking into
account the specific needs of developing countries, through the development of policies for
sustainable and environmentally sound development.” G.A. Res. 228, U.N. GAOR, 44th


\(^3\) Id. The CSD was established following negotiations between industrialized and
developing countries. The CSD has 53 members, 19 of which were chosen by the industrial
nations, 12 of which were chosen by Africa and Asia, and 10 of which were chosen by Latin
America. Id. The first meeting of the CSD, in February 1993, set a provisional agenda work
program and elected officers. The work program created action clusters to “serve as a vehicle
to enable a rational, systematic, and coherent approach to assessing in measurable terms
progress made since the UNCED.” *Representatives from 53 Nations Meet to Organize
Sustainable Development Unit*, INT’L ENVTL. REP. (BNA), No. 5 at 155 (Mar. 10, 1993).
Ambassador Razali Ismail of Malaysia was elected chairman of the CSD. He commented that
the CSD is “arguably the main tangible accomplishment of the Rio Summit—a (piece of)
tergovernmental machinery to monitor implementation of Rio.” Id. (alteration in original).

\(^4\) The CSD discussed financial commitments, technology transfer, the Global Environment
Facility (GEF), progress on meeting recommendations from UNCED and the future work of
the Commission itself. *Report from First CSD Meeting Yields Decisions on Financing, Other*
meetings which it hopes will include member states’ environment ministers. Those meetings are intended to serve as a “political impetus to the implementation of decisions” made in Rio. Although the goal of the CSD is to create sufficient publicity from the meetings to make it politically imprudent for the parties to shirk the responsibilities they accepted in Rio, the CSD has been criticized for having no enforcement mechanisms.

In June of 1993, the same month as the first CSD meeting, United States President Bill Clinton signed Executive Order Number 12,852, establishing the President’s Council on Sustainable Development. The first meeting of
the Council on July 23, 1993, established working groups to consider sustainable communities, biodiversity, wetlands, energy conservation, sustainable agriculture, eco-efficiency, and the relationship of these considerations to sustaining a successful economy.\textsuperscript{10}

In addition to the establishment of the Sustainable Development Council, President Clinton initiated the Pacific Northwest Conference,\textsuperscript{11} representing the first step in implementing the Rio Forest Principles and furthering sustainable development of American timber lands.\textsuperscript{12} The Conference sought to resolve a two-year battle between environmentalists and the timber which reinforce one another. Shannon Henry, \textit{New Council on Sustainable Development Defines Terms}, \textit{CHRISTIAN SCI. MONITOR}, July 8, 1993, at 3.

\textsuperscript{10} \textit{Council Meeting Adds A Page to Bulging ‘Only In D.C.’ File}, \textit{ENV’T. WK.}, Vol. 6, July 22, 1992. Vice-President Al Gore spoke at the first meeting and emphasized that the “false choice between environment and the economy must be laid to rest.” The Vice-President also discussed the market for the growth of U.S. industries in the developing world, jobs and future growth in environmental technologies, and promised that the Council would have a strong influence on U.S. policy. Although the Vice-President boasted of the inclusion of five Cabinet members on the Council, only two of them were in attendance at the first meeting. \textit{Sustainable Development Council Sets Agenda; Gore Says He Will Participate in Activities}, 24 \textit{ENV’T REP.} (BNA) No. 13, at 568 (July 30, 1993).

\textsuperscript{11} President Clinton was trying to fulfill a campaign promise he made to solve the two-year standoff that resulted from federal court rulings which stopped logging in old growth forests. \textit{Conference Allows Clinton to Hear Loggers’ Concerns}, \textit{ST. PETERSBURG TIMES}, Apr. 3, 1993, at 4A. The one-day Conference took place in Portland, Oregon with President Clinton, Vice-President Gore, and five Cabinet members hearing pleas from loggers and environmentalists. Michael Kranish, \textit{Clinton treads into forest dispute; President seeks compromise in the Northwest}, \textit{BOSTON GLOBE}, Apr. 3, 1993, at 3. The Conference was an attempt to address the closing of a timber pipeline as a result of a successful lawsuit by environmentalists. Seattle Audub. Soc. v. Robertson, 914 F.2d 1311 (9th Cir. 1990), rev’d, 112 S. Ct. 1407 (1991). Their suit alleged that the endangering of the Northern Spotted Owl is a violation of the Endangered Species Act. \textit{Id.} The court imposed an injunction which closed the timber pipeline pending a solution by federal officials that would protect both owls and the forests. \textit{Id.} At the time of the Conference on April 2, 1993, the timber industry claimed to have lost 13,000 jobs as a result of the injunction. \textit{Environmental Conference to Convene in Portland} (NPR radio broadcast, Mar. 31, 1993).

industry over the fate of the ancient forests of the United States.\textsuperscript{13} The plan produced by the Clinton Administration following the Conference attempted but failed to pacify the loggers, environmentalists, and the politicians.\textsuperscript{14} In the period before the plan was to take effect, President Clinton reached a compromise with environmental groups.\textsuperscript{15}

In addition to the United Nations' and the United States' efforts at implementing sustainable development, other national and multinational alliances have been working for the implementation of sustainable development programs. For example, Canada's International Development Research Centre (IDRC) has been in the forefront of these development programs.\textsuperscript{16}

\textsuperscript{13} At the Conference, President Clinton enumerated five goals: (1) recognition of the human and economic dimensions of the problem; (2) preservation of the wildlife and waterways in the long run; (3) development of a scientifically sound program; (4) predictable and sustainable level of timber sales; and (5) government cooperation. Remarks at the Conclusion of the Forest Conference Portland, OR, 29 WEEKLY COMP. PRES. DOC. 529 (Apr. 2, 1993). President Clinton gave his Cabinet sixty days to come up with a long term policy. Hugh Dellios, \textit{Northwest Eager to End Logjam; Frustrated Both Sides Look to President for Solution}, CHI. TRIB., Apr. 4, 1993, at C7.

\textsuperscript{14} The resulting plan is an attempt at sustainable development through the limitation of logging to 1.2 billion board feet a year. Gwen Ifill, \textit{Clinton Backs a $1 Billion Plan to Spare Trees and Aid Loggers}, N.Y. TIMES, July 1, 1993, at A1. Previously, at least 3 billion feet has been logged in national forests each year. \textit{Id.} One prediction was that this plan will eliminate 9,000 jobs. \textit{Id.} In an attempt to mitigate the loss of jobs, the plan also includes 1.2 billion dollars to be spent over the next five years on development grants, small business zones, job training money and funds to allow loggers to repair damage done to rivers by logging; however, the plan does not satisfy environmentalists or the timber industry. \textit{Id.} "This has been put forward as take it or leave it. And both the environmental groups, and the labor and industry groups have said they'd rather leave it." \textit{Id.} (quoting U.S. Representative Peter A. DeFazio (D-OR)). Fran Hunt of the National Wildlife Federation complained that the plan leaves wide gaps for the timber industry to continue cutting timber that should be restricted under the plan. She was reported as saying, "companies [would be able] to remove timber from protected areas if the trees are no longer growing or overgrowth must be thinned." \textit{Id.}

\textsuperscript{15} \textit{Id.} The agreement was reached with the National Audobon Society and 11 other groups on October 7, 1993, and will need to be approved by the federal judge who issued the injunction against clear cutting. The plan will endorse logging in some forests and will force the Clinton Administration to oppose Congressional efforts to grant exemptions to environmental laws. \textit{Id.}

\textsuperscript{16} The International Development Research Centre (IDRC) is a public corporation that was created by the Canadian Parliament in 1970 to provide assistance to developing countries in finding solutions to development problems through research. \textit{Earth Summit Anniversary - The Challenge Ahead}, Canada Newswire, June 10, 1993, \textit{available in LEXIS, Nexis Library},
At the Rio Conference, the Prime Minister of Canada announced that the work of the IDRC will now include fulfilling the goals of sustainable development.17

Additionally, in the past year, the European Community has focused on decreasing carbon dioxide emissions, one of the UNCED recommendations. On October 1, 1993, the Committee on Environment, Public Health and Consumer Protection adopted a proposal for a Community Directive on carbon dioxide emissions.18 The goal of the proposal is stabilization of carbon dioxide emissions by the year 2000.19

Finally, Ireland is making efforts to implement the Rio goals by integrating environmental and energy policies in several areas.20 Ireland’s Minister for the Environment stressed that environmental policies would be slowly adopted in order to meet the requirements of the UNCED.21

The United Nations Conference on Environment and Development is the latest in a series of United Nations efforts at establishing a world definition of and commitment to sustainable development. The initiatives of the United Nations, the United States, Canada, the European Community, and Ireland represent efforts to further the goals of UNCED. With these national and multinational efforts, the sustainable development movement is growing stronger in the wake of the Rio Conference.

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Current File.

17 Id. The President of the Centre, Dr. Keith Bezanson, said, “[S]ince its creation, 23 years ago, IDRC has learned a great deal. We realize the importance of this knowledge but with world population on the verge of reaching six billion our experience seems like a drop in the ocean.” Id. He also said that the Centre would devote half of its funding to research that will help developing countries reach environmental and developmental sustainability. Id. The IDRC has over 1500 projects in developing countries including agricultural projects, forestry resources, aquatic resources, decertification, and health. Id.


19 The Report emphasized that a tax on carbon dioxide is essential to the achievement of the Rio goals. Id.


21 Id.
II. LEGAL BACKGROUND

A. United Nations Agreements on Sustainable Development

The Rio Declaration can be seen as the latest chapter in the history of sustainable development which began with the Stockholm Declaration in 1972, and has developed through United Nations international agreements as well as through regional agreements. Although the Stockholm Declaration does not use the term "sustainable development," it was the first agreement based on the concept. The goal of the Declaration is the development of a protected and improved human environment. The Declaration discusses the safeguarding of natural resources, the control of pollution, as well as the stabilization of prices and markets.

The Stockholm Declaration establishes the right of states to exploit their own natural resources but limits that right to activities which do not reach...
beyond their jurisdiction and do not cause damage to the environments of others.\textsuperscript{28} In addition to regulating natural resources and damage to the environment, the Stockholm Declaration emphasizes education\textsuperscript{29} and cooperation.\textsuperscript{30}

In 1982, the United Nations issued a progress report on the goals of the Stockholm Declaration\textsuperscript{31} which indicated limited progress.\textsuperscript{32} Although progress was made in other arenas contemplated at Stockholm,\textsuperscript{33} the first principle of the Stockholm Declaration has not been honored. The parties at the Stockholm Conference declared that a quality environment is a right, but instead of transforming the world environment into a quality one, the signatories had continued to destroy their environment.\textsuperscript{34} In 1982, despite the commitments made at Stockholm, the developing nations were in a worse

\begin{itemize}
\item \textsuperscript{28} \textit{Id.} at 1420. Some have argued that this principle contradicts Principle 1 in that states cannot simultaneously have the right to exploit while still requiring maintenance of the fundamental human rights of individuals. Experts Group on Environmental Law of WCED, \textit{ENVIRONMENTAL PROTECTION AND SUSTAINABLE DEVELOPMENT}, at 40 (1986).
\item \textsuperscript{29} Stockholm Declaration, \textit{supra} note 23, at 1420.
\item \textsuperscript{30} \textit{Id.}
\item \textsuperscript{31} \textit{THE ENVIRONMENT IN 1982 - RETROSPECT AND PROSPECT} (1982), \textit{reprinted in BASIC DOCUMENTS OF INTERNATIONAL ENVIRONMENTAL LAW}, vol. 1, at 99 (Dr. jur. Harald Hohmann ed., Graham & Troutman 1992) [hereinafter \textit{ENVIRONMENT IN 1982}]. The Report was issued following a meeting in Nairobi, Kenya honoring the tenth anniversary of the Stockholm Declaration.
\item \textsuperscript{32} The Chairman of the United Nations Environment Programme (UNEP) expressed his disappointment to the Governing Council of UNEP:
\begin{quote}
The concepts for ecologically sound management have been imperfectly or too slowly applied. In some cases they have been ignored entirely. The inevitable result is that the fundamental objective of Stockholm, to protect and enhance the environment for future generations, has not been fulfilled. On virtually every front there has been marked deterioration in the quality of our shared environment.
\end{quote}
\item \textsuperscript{33} The Report notes increased awareness of environmental issues by governments which in some cases led to new constitutional provisions for the maintenance of environments. Progress was also made in educating citizens about the environment. \textit{ENVIRONMENT IN 1982, supra} note 32, at 101.
\item \textsuperscript{34} Stockholm Declaration, \textit{supra} note 23, at 1417, 1418. Man had failed to fulfill his “responsibility to protect and improve the environment for present and future generations.” \textit{Id.}
position than they had been ten years earlier.\textsuperscript{35} The Nairobi Declaration, which accompanied the 1982 Report, reaffirms for the future the principles of Stockholm.\textsuperscript{36}

In the 1980s, sustainable development became an accepted strategy for the international community, largely as a result of the work of the United Nations World Commission on Environment and Development (WCED).\textsuperscript{37} WCED's Report "Our Common Future" contains the first official definition of sustainable development, which is development aimed at "meeting the needs of the present without compromising the ability of future generations to meet their own needs."\textsuperscript{38} The Commission decided that this concept of sustaining in order to provide for the future should guide not only the United Nations, but also private institutions, non-government organizations, and governments in designing environmental and development programs.\textsuperscript{39} Further, the Commission stressed the need for diversity of species,\textsuperscript{40} new growth to help eliminate poverty,\textsuperscript{41} and government intervention in

\textsuperscript{35} Although the Report states that the progress is "fair-to-good," the fact remains that the parties to the Declaration had not even begun to implement some of the major goals established at Stockholm. There was "[a] worsening of environmental problems in developing countries arising from the present international economic order which has slowed down their development and protection of their environment." \textit{Id.} at 99.

\textsuperscript{36} \textit{Nairobi Declaration, reprinted in Basic Documents of International Environmental Law}, vol. 1, at 96 (Dr. jur. Harald Hohmann ed., Graham & Troutman 1992). Two objectives of the Declaration were that "states should promote the progressive development of environmental law . . . [and] expand co-operation in scientific research and environmental management. . . ." \textit{Id.} at 97.

\textsuperscript{37} The Commission was chaired by Gro Brundtland, now Prime Minister of Norway, who urged that the Commission publish a report which would show world leaders that economics and environmental issues can no longer be viewed in isolation. \textit{The Road from Rio: An interview with Norway Prime Minister Gro Harlem Brundtland}, TECH. REV., Apr. 1993, at 60.


\textsuperscript{39} \textit{Id.} The goal was for all these institutions to cooperate to achieve the goals set out at Stockholm, reinforced at Nairobi and expanded in this report. The Report noted the "growing need for effective international cooperation to manage ecological and economic interdependence." \textit{Id.} at ES-8.

\textsuperscript{40} \textit{Id.} at ES-12. "[D]iversity of species is necessary for the normal functioning of ecosystems and the biosphere as a whole." \textit{Id.}

\textsuperscript{41} \textit{Id.} at 1-13.
agriculture.\textsuperscript{42}

\textbf{B. The United States and Sustainable Development}

The first attempt at maintaining a viable human environment by the United States predates the Stockholm Declaration. The National Environmental Policy Act (NEPA)\textsuperscript{43} was enacted by the United States Congress in 1969,

\begin{quote}
To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality (CEQ).
\end{quote}

\textsuperscript{42} Id. at 5-12. \textit{See also} \textit{ENVIRONMENTAL PROTECTION AND SUSTAINABLE DEVELOPMENT, supra} note 29, at 40. The Expert's Group on Environmental Law of WCED was created in 1985 to prepare a report on legal principles for environmental protection and sustainable development, and proposals for accelerating the development of relevant international law for consideration by WCED. \textit{Id.} at 1. The Experts Group's report begins with a declaration of the fundamental right of human beings to "an environment adequate for their health and well-being." \textit{Id.} at 25. The second article mandates that states shall conserve and use the environment and natural resources for the benefit of present and future generations. These two articles mirror the first two principles at Stockholm and the later portions of the document are similar to the Stockholm Declaration. There is a discussion of sustaining natural resources and the Report charges States with the task of maintaining "ecosystems and related ecological processes essential for the functioning of the biosphere in all its diversity, in particular those important for food production, health and other aspects of human survival and sustainable development." \textit{Id.} This portion of the Report suggests one definition of sustainable development: the maintenance of those things which are required for humans and other species to survive.


\textsuperscript{44} 42 U.S.C. § 4321 (1988 & Supp. III 1991). The purpose of the CEQ is to "review and evaluate the programs and activities of the federal government to determine how they are contributing to the attainment of the national environment policy." 40 C.F.R. § 1515.2 (1992). Further, the Council is designed to assist the President, including providing him with advice on achieving international cooperation in solving environmental problems. \textit{Id.}
Part of the mandate of NEPA is to “fulfill the responsibilities of each generation as trustee of the environment for succeeding generations.”

In 1973, the year after the Stockholm Conference, the United States enacted the Endangered Species Act, which serves as a reminder that the United States has “pledged itself as a sovereign state in the international community to conserve to the extent practicable the various species of fish or wildlife and plants facing extinction...” The drafters of the Endangered Species Act tried to establish a balance between the preservation of endangered species and human development. Like the Stockholm Declaration, the Endangered Species Act does not use the term “sustainable development.” However, the Act seeks the same balance that is encompassed by the sustainable development concept.

C. Regional Agreements on Sustainable Development

While the concept of sustainable development has evolved through the efforts of the United Nations and the United States, it is also common to find sustainable development provided for in regional agreements. Two European Community agreements which stress the goals of sustainable development are the African, Caribbean and Pacific States (ACP) agreement with the EEC at Lomé, and the agreement establishing the European Bank for Recon-
struction and Development.  

In addition to the European Community, the Association of Southeast Asian Nations (ASEAN) expressly included sustainable development among its goals at its summit in 1987.  

Another document which is designed to encourage sustainable development is the agreement on an action plan for the management of the Zambezi River System.

**D. United Nations Conference on Environment and Development**

The United Nations Conference on Environment and Development, convened ten years after the World Conference on Environment and Development issued its report, drafted the Rio Declaration on Environ-

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50 **European Bank for Reconstruction and Development: Agreement Establishing, reprinted in 29 I.L.M. 1083 (1990).** The European Bank for Reconstruction and Development is designed to "fulfil [sic] on a long-term basis its purpose of fostering the transition of Central and Eastern European countries toward open market oriented economies . . . ." Id. at 1084. One of the major functions of the bank is "to promote in the full range of its activities environmentally sound and sustainable development." Id. This is one example of a document which views sustainable development as the most effective form of development. The document has been signed by 40 countries of the European Economic Community and by the European Investment Bank. I.L.M. Background/Content Summary, 29 I.L.M. 1077 (1990).

51 **Association of Southeast Asian Nations: Agreements and Statements From the Third Summit, reprinted in 27 I.L.M. 596 (1988).** The members of ASEAN are Brunei, Indonesia, Malaysia, Philippines, Singapore and Thailand. Id. One of the documents that was signed at the Summit, The Manila Declaration of 1987, states that "[i]n the area of environment, ASEAN shall cooperate in promoting the principle of sustainable development and systematically integrating it into all aspects of development and shall focus on the need for policy guidelines to protect ASEAN's common resources and environment." THE MANILA DECLARATION OF 1987, reprinted in 27 I.L.M. 603, 604 (1988).


53 The General Assembly held UNCED, inter alia, to "promote the further development of international environmental law, taking into account the Declaration of the U.N. Conference on Human Environment [Stockholm Declaration], as well as the special needs and concerns of developing countries, and to examine in this context the feasibility of elaborating general rights and obligations of state, as appropriate in the field of environment, and taking into account relevant existing international legal instruments." G.A. Res. 228, U.N. GAOR,
The underlying goal of the Rio Declaration is that economic development must be accompanied by careful preservation of the environment. The Declaration includes a statement which is almost identical to Principle 21 of the Stockholm Declaration. The Declaration declares a right to development and states that eradication of poverty is essential for the achievement of sustainable development. Among the strategies recommended by the Declaration to reach these goals are: elimination of unsustainable patterns of production and consumption; recognition of the special situation of developing countries; recognition of the differentiated responsibilities of developing countries.

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54 Edith Brown Weiss, supra note 54, at 814.

55 The first principle reads: “Human beings are at the centre of the concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.” Rio Declaration, supra note 54, at 876.

56 Id. Principle 21 reads: “States have . . . the sovereign right to exploit their own resources . . . and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States . . . .” Stockholm Declaration, supra note 22, at 1420.

57 Principle 5 states: “All states and all people shall cooperate in the essential task of eradicating poverty as an indispensable requirement for sustainable development . . . .” Id. at 877.

58 Id.

59 Id.
developing and developed countries;\textsuperscript{60} and encouragement of citizen participation.\textsuperscript{61} Moreover, the Declaration expresses the importance of international consensus.\textsuperscript{62} Finally, the Declaration states that peace, development and the environment are all interdependent.\textsuperscript{63}

III. ANALYSIS

The countries at the United Nations Conference on Environment and Development had trouble reaching a consensus on two essential matters. First, geographical debates erupted amid the recurring tensions between North and South, and developed and developing countries, over how to balance environmental protection with economic development. Second, definitional debates also erupted over the interpretation of the terms of the Declaration. This trouble is reflected in the Rio Declaration.

A. Geographical Debates

The geographical debate centers around Principles Six, Seven, and Eight, which attempt to differentiate between the needs and responsibilities of developed and developing countries in maintaining their environments.\textsuperscript{64} One disagreement which erupts along North/South lines concerns the Principle Six recognition of the "special situation and needs of developing countries."\textsuperscript{65} How these special situations and needs will be recognized and

\textsuperscript{60} Rio Declaration, supra note 54, at 877.
\textsuperscript{61} Id. at 878. Principle 10 provides: "Environmental issues are best handled with the participation of all concerned citizens at the relevant level."
\textsuperscript{62} Id. Principle 12 states: "Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on international consensus."
\textsuperscript{63} Id. at 880. Principle 25 reads: "Peace, development, and environmental protection are interdependent and indivisible."
\textsuperscript{64} Rio Declaration, supra note 54, at 877. These principles provide:

Principle Six: "The special situation and needs of developing countries . . . shall be given special priority."

Principle Seven: "In view of the differentiated contributions to global environmental degradation, States have common but differentiated responsibilities."

Principle Eight: "States should reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies."

\textsuperscript{65} Id.
addressed by those who signed the Rio Declaration is unclear.66 This conflict has already proven to be a problem in the 1992 session of the General Assembly. The industrial countries argued for the establishment of a Sustainable Development Commission modeled on the Geneva Human Rights Commission,67 while Southern countries opposed this proposal because they have traditionally born the brunt of criticism from the Human Rights Commission.68 The Southern nations allege that the industrialized nations have already destroyed their forests and resources and thus would not be targeted by a Commission.69 This disagreement is probative of the complexity involved with establishing agreements between developed and developing countries.70

Another example of the inability of developed and developing countries to reach agreement is Principle Seven, which contains language objectionable to both sides.71 The Principle acknowledges differentiated responsibilities in maintaining, restoring and preserving the earth, but does not assign blame for the current state of the environment.72 The drafting of this Principle instigated arguments between North and South over who should receive the

66 One commentator predicts: "[I]ntellectual debate will be held in order to specify differences between developed and developing countries. ... Because of differing interpretations and perspectives on this issue, the evolution of the concept of sustainable development will occur in a fragmented manner." Mukul Sanwal, Sustainable Development, The Rio Declaration and Multilateral Cooperation, 4 COLO. J. INT'L ENVTL. L. & POL'Y 45, 58 (1993).
68 Id.
69 Id.
70 One example of a problem that may result from these divergent views is that some nations may feel justified in working toward preserving rain forests at the expense of Brazilian development. A Brazilian may view sustainable development in terms of her right to use the resources within the boundaries of her country as is provided for in Principle 21 of the Stockholm Declaration and Principle 2 of the Rio Declaration. One Brazilian who has expressed this view is General Sotero Vaz who, when referring to the proposal of multilateral intervention to protect the rain forests, said, "I will tell you and tell you clearly: if those babacas [foolish people] try to come here, we will hit them like guerrillas." North/South Conflict Will Hamper Environmental Cooperation, Lawyer says. ENV'T REP. (BNA) No. 23 at 2730 (February 19, 1993).
72 Id.
blame and responsibility for existing environmental problems.\textsuperscript{73}

Similar disagreements ensued over Principle Eight.\textsuperscript{74} The developing countries wanted some criticism of the production patterns of the industrialized nations,\textsuperscript{75} while the developed countries insisted on some mention of population growth problems. The result was unsatisfactory to both sides since it avoided confronting and resolving these conflicts.\textsuperscript{76}

Principles Six, Seven, and Eight are representative of the underlying geographical concerns which likely will re-emerge each time the parties to the Rio Conference attempt to work together to achieve sustainable development in developing countries. As long as the participating countries cannot agree on what their needs and responsibilities are, these problems will persist.

A more effective version of these principles must acknowledge the conflicts that exist between the different regions and admit that further negotiations and concessions are required to make implementation a reality. Had this type of acknowledgment occurred, further meetings between states may have been held, bringing them closer to consensus before implementation of these goals.

B. Definitional Problems

The signatories to the Rio Declaration left the Conference not only with an unclear picture of the consensus between developing and developed nations, but also faced with differences over how the terms of the Declaration will be defined in practice. As a result of the definitional ambiguities,

\begin{footnotes}
\item[\textsuperscript{73}] The developing countries objected to the absence of language which attributed blame to the developed countries. The developing countries also tried to insist that some obligations about the transfer of technology to developing countries be included. The developed countries refused to accept greater responsibility than the developing countries. Kovar, supra note 72, at 128-29. The United States explained its objections in an interpretive statement: "The U.S. does not accept any interpretation of Principle Seven that would imply a recognition or acceptance by the United States of any international obligations or liabilities, or any diminution in the responsibilities of developing countries." Report of the United Nations Conference on Environment and Development, U.N. Doc. A/CONF. 151/26 (vol II) at 18 (1992) [hereinafter UNCED Report].

\item[\textsuperscript{74}] Rio Declaration, supra note 54, at 877; see supra note 65.

\item[\textsuperscript{75}] Kovar, supra note 72, at 130.

\item[\textsuperscript{76}] Id. The result of these demands is language that does not make any clear requests of either side, and does not clearly state that developing countries shall try to curb population growth. Rio Declaration, supra note 54, at 877.
\end{footnotes}
different countries may implement the Rio Declaration in different manners.

One major definitional problem is the distinction between development as a "right" versus development as a "goal." This issue arose during the discussion of Principle Three which describes development as a right,77 a description troubling to the United States which has always opposed that characterization. The United States accepts development as a common goal and made a formal comment expressing acceptance of the central implication of Principle Three, but that development is to be pursued with the "goal" of the environmental protection for present and future generations in mind.78 The U.S. comment does not reflect the thrust of Principle Three, however, since it does not recognize the substantial differences between a right of development and a goal of development.

A right implies an entitlement; it indicates that others have a duty to protect that right and provide aid in attaining it. A right cannot exist in isolation. Usually a right belongs to an individual or group despite the existence of other people and their rights.79 In contrast, a goal can be pursued in conjunction with or in exclusion of others.80 A goal does not imply that all the world has a duty to protect that goal or to aid in pursuit of it. A goal is not an inherently mutual principle. The United States, then, may have agreed to something other than what was intended by the original language of the document.

This definitional conflict has implications for the way in which the rest of the document is interpreted. For example, Principle Five is in the form of an ultimatum by and to the parties to the agreement.81 However, if eradication of poverty is being pursued because it is "an indispensable

77 Rio Declaration, supra note 54, at 877.
78 UNCED Report, supra note 74, at 17. "The United States does not, by joining consensus on the Rio Declaration, change its long-standing opposition to the so-called 'right to development.' Development is not a right. On the contrary, development is a goal we all hold . . . ." Id.
79 Property Rights are one example of this. X's property rights consist of his ability to exclude all the world. Property is "that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe." William Draper Lewis, COMMENTARIES ON THE LAWS OF ENGLAND IN FOUR BOOKS BY SIR WILLIAM BLACKSTONE, Book 2, Chapt. 1, at 471 (Rees Welsh and Co. 1897).
80 Goals are pursued for personal and/or group progress but they are not necessarily pursued at the expense of others' goals.
81 See supra note 58.
requirement for sustainable development," it is not something which the United States would say that all states shall do. This fact will prove problematic in attempts to implement this principle. If eradication of poverty is part of a goal to be pursued, the United States will likely argue that slow progress is acceptable. However, those nations which view eradication of poverty as an element of a right will want to accomplish it more quickly.

The failure to articulate a definition of sustainable development is another problem with the Rio Declaration. Whether states view it as a right or as a goal, a viable definition is needed to allow work to progress toward accomplishing sustainable development. Unfortunately, the Rio Conference does not provide that definition. The World Conference on Environment and Development defined sustainable development as "meeting the needs of the present without compromising the needs of the future." Notably, future generations are mentioned only once in the Rio Declaration. Ignoring the needs of future generations is not consistent with the goals of sustainable development.

Some economists have argued that sustainable development is not a realistic concept no matter how it is defined since economic development must precede a clean environment. The luxury of keeping an environment

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82 If sustainable development is simply a goal which we are working toward, then language like "shall," which implies a command, is not appropriate. This type of language does not apply to a goal-oriented document. However, if development is a right, then "shall" would be the proper language because rights are imperatives.

83 "UNCED has contributed to the extensive use of the phrase sustainable development without clarifying what it is." Guido De Bruin, Environment: Bitter Legacy of UNCED’s Broken Promises, INTER PRESS SERVICE, Jan. 4, 1993 (quoting William Adams).

84 Our Common Future, supra note 39, at ES-7.

85 Rio Declaration, supra note 54, at 877.

86 "[F]uture generations' interests have not been identified and adequately represented in negotiations, the implementing measures, or in the compliance mechanisms of international environmental agreements." Edith Brown Weiss, International Environmental Law: Contemporary Issues and the Emergence of a New World Order, 81 GEO. L.J. 675, 707 (1993). Ironically, Boutros Boutros-Ghali, the Secretary General of the United Nations, invoked future generations in his opening statement at the Conference: "What we do here then, we do for our grandchildren and beyond, for future generations." UNCED Report, supra note 74, at 35.

clean and safe comes only with large scale development. Therefore, to propose that developing countries put resources into creating a clean environment while still trying to build a stable economy is unrealistic.

C. Other Fundamental Definitional Problems

The failure of two other principles of the Rio Declaration to recognize certain fundamentals is also troubling. Principle 12 mandates an international consensus for the solution of transboundary or global environmental problems. Because the participating countries had difficulty reaching consensus on the general principles of Rio, when faced with specific problems such as this, international consensus will likely be more, not less, elusive.

Finally, the Declaration states that "[p]eace, development and environmental protection are interdependent and indivisible." Absent from this principle is the recognition that UNCED was necessary because despite numerous commitments, these countries continually failed to act upon the interdependence between environment and development.

88 Id.
89 The Horn of Africa provides an example of a failed attempt to achieve sustainable development. "Billions of dollars in international food aid and other emergency relief have poured in [to the Horn of Africa], but sustainable development has proved an elusive dream. This has been particularly evident in Ethiopia which, because its natural abundance of rivers, lakes and groundwater have not been developed, has become a world metaphor for drought." Jennifer Parmelee, An Oasis of Plenty in the Horn of Africa; Farm Project Seeks to Break Famine Cycle, WASH. POST, Oct. 28, 1992, at A21. Some environmentalists criticized the Rio Conference for not introducing new solutions. Anil Agarwal of the Indian Center for Science and Environment suggested that environmental research centers in developing countries would be more helpful than large sums of money. De Bruin, supra note 84, at 2.

90 See supra note 63.
91 "T]he 1992 Earth Summit missed the opportunity to negotiate more than very weak agreements, and the acrimony surrounding that summit shows how difficult it will be to move farther." John H. Barton and Barry E. Carter, Symposium: International Law for a New World Order, 81 GEO. L.J. 535, 555 (1993).
92 Rio Declaration, supra note 54, at 880.
93 Principle 25 of the Rio Declaration begs the question: Are development and environmental protection only interdependent at the point at which they are recognized as such? If past generations have developed and exploited natural resources with little concern for the future, can development be said to have been connected to conceptions of environmental protection? Sustainable development falls short of answering these questions. It only affirms a recognition of the connection between environment and development.
IV. CONCLUSION

The concept of sustainable development is only two decades old, yet it has already been deemed a failure in some arenas and a success in others. It may be that a longer, more intensive look is needed before deciding whether sustainable development has been and will be a useful tool for improving and preserving the world environment.

Unfortunately, the Rio Conference has not advanced the concept of sustainable development significantly. The Conference does represent progress in encouraging the United Nations and individual nations to take new initiatives. The CSD, despite its tumultuous beginnings, exemplifies progress by showing a commitment on the part of the Rio signatories to the goals of the Rio Declaration.

The United States' establishment of the Council on Sustainable Development is a hopeful sign, although what specific accomplishments will emerge from that Council is still unclear. The attempts made at the Forest Conference represent one view of how to accomplish sustainable development. Focusing on individual nations' internal regulation of resources, thus, may be appropriate. President Clinton's Forest Conference attempted to take responsibility for resource regulation to the national level but seems to have failed in that goal. The contributions of the IDRC and the EEC to accomplishing the UNCED objectives remain untested. They do show, however, that the parties to the Rio Declaration have established sustainable development as a priority. Perhaps Fernando Collor, former President of UNCED, noted one of the more impressive and obvious accomplishments of the Conference in his opening statement: "[t]he first fundamental achievement of this Conference, is that it is taking place at all . . . ."

Convening the Conference, however, is not enough. The gap between developed and developing countries stifles progress on environmental and developmental issues. The concept of sustainable development has remained ambiguous. The question of what will be done with the documents in the next few crucial years remains to be answered. As Maurice Strong, former Secretary-General of UNCED stated, "[T]he real measure of our success will be in what happens when we leave here in our own countries, in our own organizations, in our own lives. Will this summit merely be a high point in our expressions of good intentions and enthusiasm and excitement, or will

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94 Statement by Fernando Collor, President of Brazil and President of UNCED, UNCED Report, supra note 74, at 41.
Rebecca A. Hoelting