

SHARING RIGHTS AND RESPONSIBILITIES  
FOR THE ENVIRONMENT:

ASSESSING POTENTIAL ROLES  
FOR NON-GOVERNMENTAL ORGANIZATIONS  
IN INTERNATIONAL DECISIONMAKING

by  
Kristin Dawkins

Submitted to the  
Department of Urban Studies and Planning  
in Partial Fulfillment of  
the Requirements for the Degree of

MASTER OF CITY PLANNING

at the

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

May 1991

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ABSTRACT

The United Nations Conference on Environment and Development (UNCED) that will take place in 1992 in Brazil has aroused tremendous interest worldwide in the concept of sustainable development. The United Nations have given non-governmental organizations (NGOs) unprecedented access to the preparatory negotiations and stimulated dramatic increases in the number of NGOs planning to attend. The challenge is to involve NGOs in a process of international participatory democracy, not only at UNCED but in the decades to follow, without jeopardizing the potential for reaching the agreements needed to halt currently unsustainable environmental and developmental practices.

I first describe the evolution of NGO involvement in international decisionmaking, related legal and philosophical issues, and the NGOs' present role in UNCED. I then analyze three major problems blocking their ability to more effectively contribute to resolving critical issues -- such as the impasse between the developed nations of the North and the developing nations of the South -- that face decisionmakers.

The first problem is that NGOs lack a functional organizational structure

representative of their global diversity that retains their individual independence; the lack of a structure interferes with their ability to develop and communicate coherent policy initiatives. The second problem is that NGOs and governments lack procedures for interacting, both officially and informally; as a result, NGOs have had a limited influence on policy and governments have failed to take full advantage of the NGOs' collective expertise. The third problem is that few proposals and little leadership appear on the horizon for planning the procedures and structures needed to involve NGOs more systematically and more constructively in international policy.

The lack of methods for better organizing a cooperative relationship among NGOs and between NGOs and governments weakens treaty-making opportunities to build a global consensus on policies enabling sustainable development. I prescribe 12 steps which can be taken at UNCED; in addition to affecting the outcome of this and related treaties, these recommendations can help build relationships that lead to more democratic international structures. The better allocation of rights and responsibilities for global citizens will significantly improve prospects for the sustainable development of the earth and its living communities.

### THE AUTHOR

Kristin Dawkins received a Bachelor's Degree from Antioch College/Philadelphia in 1976. Prior to coming to MIT, she worked in Philadelphia for 16 years as a community organizer and public policy analyst. Most of those years, she worked for the Institute for the Study of Civic Values as a specialist in energy policy. While at MIT, she worked with the MIT-Harvard Public Disputes Program of the Harvard Law School Program on Negotiation and at ENDISPUTE, Inc., a private mediation firm. After receiving her Master of City Planning degree, she will begin work with the Institute for Agriculture and Trade Policy, a Minnesota-based organization that helps representatives of public interest organizations improve their skills in global policymaking. She is deeply grateful to the many individuals who assisted her with her research for this thesis.

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## SHARING RIGHTS AND RESPONSIBILITIES FOR THE ENVIRONMENT:

### ASSESSING POTENTIAL ROLES FOR NON-GOVERNMENTAL ORGANIZATIONS IN INTERNATIONAL ENVIRONMENTAL DECISIONMAKING

#### I. NGOs, Sustainable Development and International Democracy

I believe that stronger roles for non-governmental organizations in international policy will democratize the treaty-making process and improve the likelihood of achieving sustainable development.<sup>1</sup> The United Nations Conference on Environment and Development (UNCED) to be held in June 1992 in Brazil has given non-governmental organizations (NGOs) unprecedented access to the preparatory negotiations and stimulated dramatic increases in the numbers of NGOs participating in official meetings as well as in regional and national planning coalitions.<sup>2</sup> The problem is how to channel this explosion of non-governmental activism<sup>3</sup> in productive directions, avoiding the possibilities of delay and debacle.

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<sup>1</sup> Defined by the World Commission on Environment and Development in 1987, "[s]ustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs" (WCED 1987). Peter Thacher of the World Resources Institute characterizes the concept as "living off your income, not your capital" (Thacher 1991).

<sup>2</sup> In 1990, membership in the African-based Environment Liaison Centre International rose by some 50% -- from 330 to about 500 NGOs from 90 nations (ELCI 1990). The Brazilian NGO Forum grew from 39 NGOs at its June 1990 founding to 450 by February 1991 and, one month later, to 500 (CEDI 1990, CEDI 1991a, and CEDI1991b). In October 1990, 166 NGOs founded the US Citizens Network on UNCED; since then, "hundreds if not thousands" of NGOs have joined (Porter 1991). In April 1991, for example, the "New England UNCED Coalition" signed up; from the Boston area alone, this coalition added 51 groups to the US Citizens Network (Coolidge Center 1991).

<sup>3</sup> Planners expect 20,000-30,000 will attend UNCED and its related activities in Rio de Janeiro (Thacher 1991).

Common sense suggests that the outcome will depend upon how well NGOs manage the logistical challenge and whether their influence helps build the consensus needed to reach agreement on effective treaty instruments. Proposals for strengthening the role of non-governmental organizations in international decisionmaking must meet the perceived interests of a majority of nations and, especially, of those with a veto<sup>4</sup> in the United Nations system.

The linkage of environmental and development problems adds complexity to an already confrontational dynamic hinging on the economic disparity between the developed nations of the North and the developing nations of the South. As Ambassador Awoonor Kofi of Ghana, Chairman of the Group of 77, told NGO representatives at the second UNCED Preparatory Committee meeting in Geneva, "Global warming, ozone depletion, and acid rain are looming catastrophes for the North. But deepening poverty is a looming catastrophe far more immediate and certain for the South... If the North doesn't compensate,<sup>5</sup> there will be no environmental protection of resources" (Kofi 1991).

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<sup>4</sup> Of the three veto powers, the United States and China have declared economic interests in conflict with the global environmental objectives of many other nations. The US, citing a lack of scientific consensus and potential economic harm, refused to establish goals for reducing its emissions of greenhouse gases at the Second World Climate Conference in Geneva, November 1990 (Boston Globe 1990 and Reid 1990). And China's circumstances exemplify the quandary facing developing countries. China is the world's largest consumer of coal, which supplies most of its energy needs. Whereas China's energy use per unit of output has been decreasing steadily, it is one of the least energy efficient nations in the world (Polenske 1989). With a growing population, China's energy consumption is expected to grow from 23 quads -- 8% of the world total -- to 105 quads -- 15% of the world total -- in 2025 (Lawrence Berkeley Laboratory 1989).

<sup>5</sup> A "guiding principle" of the 24 nations in the Organization for Economic Co-operation and Development (OECD) requires that the "polluter-pays" the expenses of carrying out environmental protection measures when the cost is not reflected in the price system (US Department of State 1972).

The concept of sustainable development could, however, hold the key to resolving the North/South impasse. The two regions perceive their respective needs differently<sup>6</sup> but each possesses the resources required to meet the other's need. Protection of the South's environmental resources would help offset climate change, for example, while the North's financial and technological resources would help alleviate poverty (Holmberg, Bass and Timberlake 1991). A "consensual" approach<sup>7</sup> to identifying "all-gain" options can often overcome seemingly intransigent disputes (Susskind and Cruikshank 1987).

Unhampered by the multiple issues of foreign policy that complicate relationships among nations<sup>8</sup> (Hoffmann 1970), NGOs can be instrumental in inventing and articulating creative consensus-building options. Debt-for-nature swaps, first conceived by the World Wildlife Fund's then-Vice President Thomas Lovejoy, are an illustration of such creative linkage. The purchase of greatly discounted debt by international NGOs enables the northern banks to eliminate high risk debt from

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<sup>6</sup> What the South calls sustainable development, the North calls protectionism (Bown 1990). Deteriorating terms of trade, in which the value of natural resource exports relative to the price of finished goods imports, force developing countries to intensify resource depletion in order to afford imports as well as to meet domestic needs and service the growing debt -- an inherently unsustainable economic downspin (Dawkins 1991a).

<sup>7</sup> "Southern self-interest is in many ways a mirror image of that of the North... The path towards security from severe environmental and developmental damage ... can be followed only if North and South walk in step... A tightening of the vicious cycles of population growth, natural resource degradation and poverty in many nations in the South would mean ... more strife between nations as they fought for diminishing natural resources of increasing importance ... increasing numbers of illegal immigrants ... commercial relations would gradually dry up... The threat of global warming and other international environmental hazards create a common agenda for the North and the South" (Holmberg, Bass and Timberlake 1991).

<sup>8</sup> "The competition between states takes place on several chessboards in addition to the traditional military and diplomatic ones; for instance, the chessboards of world trade, of world finance, of aid and technical assistance, of space research and exploration, of military technology, and ... of what has been called 'informal penetration'" (Hoffmann 1970).

their accounts, the southern nations to invest the discounted value of the debt domestically, and southern NGOs to develop their domestic environmental programs (Dawkins 1990).

Traditionally, NGOs have been effective "consultants" to the United Nations.<sup>9</sup> Now, it may be time to more fully integrate NGOs in decisionmaking, and in the pre-negotiation and post-negotiation phases as well. Their focus and enthusiasm can inspire innovative solutions to complex problems. Their scientific and technical knowledge can be channeled toward the development of realistic conventions and protocols that maximize environmental protection while enabling economic development. Their familiarity with local ecological systems and human communities can be used to translate policy to action through the design and implementation of programs tailored to local and regional conditions. Their educational programs and techniques of popular participation can interest those who must ultimately cooperate with a treaty. Their public relations expertise can help build international support for the terms of treaties which dare to address the concerns of both North and South. And the combination of these NGO skills can be harnessed to more systematically monitor and induce post-treaty global compliance.

The prospect of stronger NGO involvement in international environmental treaties raises issues of national sovereignty and democracy. Often, nations invoke sovereignty to express their reluctance to cooperate with international policy. For this reason, NGOs may choose to focus their organizational efforts on their respective national governments (Coolidge Center 1991). Yet transboundary environmental and economic effects have already altered the traditional geopolitical interests of

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<sup>9</sup> The United Nations has from its inception recognized the vast wealth of the NGOs' knowledge and experience as well as their links to constituencies across the globe; NGOs were active in its founding and succeeded in establishing a permanent consulting relationship with the passage of Article 71 of the United Nations Charter (Robins 1971 and Thepchatree 1985).



sovereign nations and in many cases inspired the voluntary subjugation of sovereignty to regional cooperation (Strong 1973 and Jackson 1983). In the future, environmental problems may inspire a similar voluntary subjugation of sovereignty favoring a "stewardship ethic" and the recognition of rights and responsibilities of individual citizens toward the earth and its resources in international law (Brady 1990 and Stone 1972). The greater involvement of NGOs in environmental treaty-making might also "soften" sovereignty (Salzburg Initiative 1990) and ease the transition to transnational cooperation.

But with the softening of sovereignty, the gap between individual citizens and their national representatives in international policy grows. Through membership in non-governmental organizations, many citizens may enjoy a sense of enhanced democracy in treaty-making that they lack in the pyramidal or "vertical" structures of national governments -- which so often view foreign policy as predominantly a matter of military security and secrecy (Kaiser 1971). From a pragmatic perspective, public processes of decision-making play an educational role and encourage compliance; after all, it is the "people, not governments, [who] 'do' development." The 1987 World Commission on Environment and Development added the phrase "citizen participation" to later drafts of its discussion of democracy in defining the conditions necessary for achieving sustainable development (Holmberg, Bass and Timberlake 1991). More broadly, such public participation "is prerequisite" to the "justness" of a community. NGOs can very effectively promote a process of "public deliberation and political action allow[ing] citizens to realize ... their dignity and powers as responsible agents and judges" in international policy (Pitkin and Shumer 1982).

NGOs can help democratize international decision-making by augmenting the vertical structure of national representation with more horizontal access to and interaction with both national and international institutions. But the NGO community itself is not representative of the world polity. As voluntary organizations, NGOs are now accountable only to their members mainly through the mechanism of

subscription -- some from a local community, some based nationally and others organized across many nations. There is also a good deal of overlap among NGO members, with many individuals joining multiple organizations<sup>10</sup>. And how do those individuals for whom non-membership represents an affirmative choice find representation? Especially as NGO members are given a stronger voice<sup>11</sup> in global decisions, should those NGOs unable to attend a particular international meeting be disenfranchised? The concept of "one NGO: one vote" is thus fraught with problems for democracy.

Participants in UNCED face the challenge of efficiently resolving the administrative and philosophical challenges of organizing thousands of NGOs in a process of participatory democracy on a worldwide scale in order to help, not hinder, the chances that the Brazil conference will lead to substantive results. These challenges are far from simple. Three problems are outstanding: the lack of a conceptual structure that more democratically organizes global NGO diversity into coherent policy; the lack of mechanisms for linking NGO policy to that of governments; and the lack of a plan and leadership with which to satisfy these deficiencies.

In the following pages, I first describe in Section II how NGOs established a role for themselves historically in international decisionmaking, some of the related legal and philosophical issues, and how these converge at UNCED. In Section III, I develop a critical analysis considering of the three salient problems and possible procedural or structural solutions in light of global issues of sovereignty and

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<sup>10</sup> I myself have belonged to many groups with international environmental pretensions at any one time.

<sup>11</sup> While NGOs certainly want a stronger voice in international decision making, it is not clear that they want a vote. Many perceive their function as one of uncompromising leadership, pushing the government agenda from a radical forward position. Indeed, their constituent and financial base may depend upon this posture (Siljeholm 1990).

democracy. In Section IV, I recommend a number of steps that global planners can undertake immediately to move toward stronger and more effective involvement for NGOs in the treatymaking process. Section V is a final summary statement.

It is my thesis that the mode of NGO-participation in UNCED could lead to more broadly democratic decisionmaking -- not only at UNCED but beyond. I hope to contribute to plans for better organizing and integrating the wealth and diversity of NGOs in international policy and practice. Just as the conference in Brazil is only the beginning of treatymaking for sustainable development, so too are these proposals only a beginning discussion of NGOs and international democracy that will evolve in the decades to come. I believe that democratic participation in global policy will contribute to the recognition and acceptance of rights and responsibilities for global citizens whose actions, supported by governments, will determine the prospects of a sustainable future for the earth and its living communities.

## II. NGOs and International Decisionmaking

In this section, I describe how non-governmental organizations have developed their relationship to international decisionmaking. First, I provide an overview of the roles non-governmental organizations have played in contemporary treatymaking and discuss the theoretical and practical issues raised by this growing influence. Next I trace the historical evolution of NGOs with an emphasis on their involvement in the founding of the United Nations. I then briefly review trends in international law and the distinction between states' rights and the rights of individuals. I follow with a discussion of the implications of sovereignty and democracy on recent and current policy. Last I describe in detail the status of NGO participation in the preparatory negotiations of the UNCED conference that will take place in Brazil in 1992.

### A. Public Protest, Quiet Cooperation, and a Thorny Debate

Frustrated by the compromises of governments balancing the complexities of domestic and international politics and economics, non-governmental organizations often convene "parallel conventions"<sup>12</sup> alongside those of nations and are planning to do so alongside UNCED in Brazil 1992 (Born 1991). The "synergistic effect" of actions both governmental and non-governmental, coverage by the world press, and so many people at parallel conferences creates "a springboard for future action" (Harris 1990).

At the 1972 Stockholm Declaration on the Human Environment -- for which UNCED is considered a "twentieth anniversary" -- some 2000 citizens from all parts of

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<sup>12</sup> The first such parallel event was intended to "expand and enhance" the United Nations Population Tribune in Bucharest, Romania in 1974 by the Conference of NGOs in Consultative Status to the UN's Economic and Social Commission (Harris 1990).

the world (McDonald 1989) convened their own "Environmental Forum." In addition to interacting with governmental delegates, the NGOs prepared a statement of principles addressing environmental, economic and social justice issues as well as denouncing the Viet Nam war. Their use of the media "made possible a degree of communication, shared purpose, and a visible presence that had never previously characterized high-level international conferences" (Caldwell 1984).

About 15,000 activists participated in the parallel activities to the United Nations End Decade Conference on Women held in Nairobi in 1985 (Harris 1991). One of the significant effects of this parallel conference resulted from the Ford Foundation's sponsorship of 40 delegates representing poor urban and rural, Native American, African-American and Asian-American women. "This delegation presence in Nairobi and their stories helped to dismiss the stereotype ... that all American women are rich" (McCoy 1990.)

In July 1990, more than 150 NGOs convened a parallel "EnviroSummit" in Houston as leaders of the "Group of Seven" industrialized nations held their 1990 economic summit. In the parallel meeting -- dubbed "TOES, "The Other Economic Summit" -- environmentalists prepared a six-point plan of actions the seven governments "must take if they are true to their environmental promises of [1989] in Paris" (Ayers 1990). One speaker criticized "the planetary economy [which] equates mobility with progress," citing Thomas Jefferson's view of the relationship between local self-reliance and democracy and arguing for a "biologically based future" in which transportation costs are radically decreased (Morris 1990). Parallel conventions, backed by increasingly sophisticated publicity campaigns, have become a very effective means of influencing government behavior (Siljeholm 1990).

Other non-governmental groups have quietly worked alongside governments to define and evaluate the scientific evidence confirming the urgency of environmental and developmental problems worldwide (IPCC 1990 and O'Sullivan 1990). Most recently, the

Intergovernmental Negotiating Committee for a Framework Convention on Climate Change -- attended by 77 NGOs -- agreed that "in order for the committee to benefit from the important contribution that non-governmental organizations had to make ... two observers representing different groups of non-governmental organizations should be invited to speak at the end of the general debate" (UNGA 1991d). The new Alliance Of Small Island Nations (AOSIN) effectively reminded negotiators at the Second World Climate Conference of the urgency and, occupying the "moral high ground," succeeded in influencing the appointment of officers to the working groups (Dubash 1991).

During the 1990 negotiations in London to revise the Montreal Protocol on Substances that Deplete the Ozone Layer, various groups within the NGO community combined "a theatrical 'happening'" and "sophistication ... match[ing] the customary public relations output of industry" with "analytical ... presentations and briefing material on the chlorine-loading models" and lobbied intensively using "a rather subtle approach [that] combined the most liberal positions espoused during the negotiations by any government ... into one optimal, and quite defensible, package of controls" (Benedick 1991).

Over a period of thirteen years, non-governmental specialists "led governments to recognize and follow new interests in environmental protection" of the Mediterranean Sea. The United Nations Environment Programme employed a public relations staff to work with the media while developing "close contacts with national non-governmental organizations" and invited scientists to participate in technical meetings of the Mediterranean Action Plan in their non-governmental capacities. These "new actors" formed an "ecological epistemic community" whose "deft diplomacy" helped government leaders "accustomed to dealing only with problems confronting them within their own sovereign territory" address the longer term uncertainty of complex scientific and technological policy (Haas 1990).

There are many other recent treaty negotiations in which NGOs participated to varying degrees. They initiated and became financial partners in about a dozen debt-for-

nature swaps (Dawkins 1990a). They were represented formally on the delegations of several nations in meetings during the past several years of the Antarctic Treaty System (Laws 1990). With observer status, they participated fully in all meetings of the 1989 Convention on International Trade in Endangered Species (Arend 1990) and in the plenaries although not the working group sessions of the 1989 Basel Convention on Transboundary Movement of Hazardous Wastes (Hilz and Radka 1990). And they have played a crucial role in influencing public opinion, and consequent governmental action, in the International Whaling Commission's negotiations during the past decade for a global moratorium on whaling (Stedman 1990) as well as in the negotiations leading to the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer (Granda 1990).

In preparatory conferences for UNCED, non-governmental organizations have been granted roles as working partners with governments. The Ministers attending the May 1990 Bergen Regional Conference of the 34-member Economic Commission for Europe considered the NGOs' collaboration as co-chairs of the working groups to have been so effective, they "strongly encouraged" subsequent Preparatory Committees to take advantage of the "full involvement" of NGOs (UNGA 1990a). Ministers at the subsequent UNCED Preparatory Conference in Nairobi in August did not accept this recommendation enthusiastically but, after considerable debate, did include in their final recommendations that the UNCED Chairman "propose a procedure" for the greater involvement of NGOs in further preparations (UNGA 1990b).

Devising an appropriate procedure for stronger roles for NGOs in international treaty-making generates many questions.

First, for what reasons would sovereign nations choose to share decisionmaking authority with NGOs and how can the reluctance of some to do so be overcome? What mechanisms can be designed to facilitate the full involvement of NGOs without jeopardizing the potential for reaching agreement among the 160 United Nations? Overall, how can NGO participation help to enhance rather than hinder efficiency and

build a consensus solution to the linked problems of the environment and development?

Secondly, the problem is not only political but also administrative and philosophical. How many non-governmental organizations exist worldwide? On what basis shall some but not others be selected to participate in governmental decision-making? By whom? What accountability shall those that do participate have toward those that do not, and toward the polity in their countries? In the international environmental context, what if any interest-based eligibility criterion ought be defined? How can the tremendous variety of environmental, development, scientific, industry-oriented, human rights, youth, women's and labor organizations be channeled constructively into decision making forums and their opinions melded effectively with the opinions of the sovereign nations?

There are good reasons for and against the participation of NGOs in international environmental decisionmaking. Considerations of democracy create theoretical arguments in favor, but these may be countered by the challenges of democratic implementation. More pragmatic arguments in favor encourage a stronger role for non-governmental scientific and technical experts, in order to avoid "advocacy science," and more effective use of the expertise with which NGOs can influence public opinion and potentially block international agreements (Salzburg Initiative 1990).

Arguments against NGO participation derive in no small measure from the boggling administrative problems of managing NGO input worldwide in an already controversial process. Linking the two issues of environment and development set the stage for major North/South disputes regarding aid and debt policies, trade policy, and technology transfer. Generally, the underdeveloped countries want affordable access to new technologies that enable "environmentally benign" development -- such as solar cells or smokestack scrubbers -- while the industrialized nations defend the private property rights of the corporations supplying these technologies (Lewis 1990).

Reaching agreement among nations already takes too long. The Law of the Sea,



for example, took 15 years (Wertenbaker 1983) and, eight years later, has still not entered into force. The first intergovernmental meeting to discuss the regulation of chloroflourocarbons (CFCs) took place in 1977; the Montreal Protocol was signed ten years later (Benedick 1991). And both of these treaties will likely require many more years before they substantially change national behaviors (Mathews 1989). Climate change, in particular, requires a more urgent response. Despite scientific uncertainty, "actions may be required well before many of the specific issues that are and will be raised can be analyzed more thoroughly by further research," noted the Chairman of the Intergovernmental Panel on Climate Change (O'Sullivan 1990). It is important, therefore, that mechanisms for NGO involvement be evaluated on their potential for enhancing the process of consensus-building and yielding decisions.

Numerous official statements<sup>13</sup> cite the need for broadening and increasing scientific and technical cooperation in deliberating international environmental policy. A committee of the Intergovernmental Panel on Climate Change, charged with evaluating the scientific and technical evidence of global warming, has urged "[g]overnments and other organizations" to "continue and increase their efforts in organizing seminars" for information exchange between industrialized and developing countries (IPCC 1990).

NGO scientists at Bergen, in their independent statement, described a "triangular" relationship between scientists, governments and the public and warned against "negotiated" scientific advice and consensus... So far as is possible... assessments should be developed independently of national governments," the text reads. "While in some cases, scientists present options directly to policymakers, from which they reach a decision, an important path in open societies is through the public, which serve as the medium for translating scientific research results into political pressures upon decision-

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<sup>13</sup> The text of the Noordwijk Declaration on Atmospheric Pollution and Climatic Change (1989) lists eleven other international conferences in the prior two years devoted to the highly technical issue of climate change.

makers. This means that increased attention must be given to finding ways to translate scientific knowledge to the public effectively" (Bergen Science Conference 1990).

Some anticipate that a new environmental definition of "national security" will generate the mutuality of interest<sup>14</sup> needed to overcome traditional disjunctions of sovereign interests, such as the North/South conflict. Increasingly, the threat of environmental degradation is viewed as a global security risk. In addition to potentially catastrophic impacts -- such as the inundation of islands and shoreline nations, the failure of species and agriculture to adapt to changed climatic zones, and massive desertification (Scientific American 1989) -- a general decline in environmental conditions has already affected many nations' ability to perform economically. The resulting hardships create threats to national and regional political stability. Numerous nations, for example, currently bear the burden of neighboring states' environmental refugees (Mathews 1989). As these security aspects become better understood, some nations may re-evaluate their policy options from a longer-term perspective.

The impact of NGO participation on the dynamics of major political debates such as the North/South confrontation or technology transfer will undoubtedly affect the willingness of nations to further experiment with shared decisionmaking. If so, fundamental questions of national sovereignty, democracy and the structure of transnational institutions emerge. The procedures devised in UNCED may determine how these questions are addressed and alter the nature of international policymaking in ways that are fundamental to involving global citizens in creating a sustainable future.

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<sup>14</sup> "Mutuality of interest" encourages "conditional cooperation" -- or incentives for reciprocity that create stability (Axelrod and Keohane 1986). Parties with a mutuality of interest develop a strategy and language of persuasion instead of confrontation (Stein 1988).

## B. A Short History of Citizenship, NGOs, and the United Nations

There are many early precedents for non-governmental participation in international policy and practice. Indeed, states have not always enjoyed national sovereignty. For many centuries much of the world was represented by a "Christian commonwealth" in which various Popes and Holy Roman Emperors administered "international law as a set of norms above, rather than between, states." The 1648 Peace of Westphalia settled the Thirty Years' War of religion, re-drawing the map of Europe but more significantly establishing a system of rules governing relations between states which recognized no higher authority (Mansbach, Ferguson and Lampert 1976).

Legal philosophers and scholars of the period began to separate doctrines of international law from religion and ethics. Gradually, a new set of political and legal principles emerged based on the "balance of power" among "sovereigns" and an international system in which nations are "bound together by their relations and various interests into a single body ... modern Europe". Later, the broader notion of "popular sovereignty," by which the state's authority derived from its citizens conceived as a national group, led to the concept of the nation-state -- an attitude spread widely after the French Revolution (Mansbach, Ferguson and Lampert 1976).

There is an inadequate record of the history of non-governmental organizations. The first may have been the Rosicrucian Order -- founded in Egypt about 1500 B.C. Collectively, however, the impact of NGOs on international policy becomes noteworthy in the nineteenth century. The development of non-governmental organizations as an international institution appears to begin in the last century and roughly follows the history of the great wars (Skjelsbaek 1970).

One of the earlier international NGOs, the Anti-Slavery Society founded in 1823, was instrumental in eliminating slavery. In 1840, the Society sponsored an international convention which persuaded Austria, France, Great Britain, Prussia and Russia to sign the 1841 Treaty of London. By this act, these nations abridged their sovereignty, agreeing

to submit to mutual powers of arrest on the high seas in order to stop ships engaged in the slave trade. The Anti-Slavery Society organized numerous subsequent conferences developing a sequence of international instruments which first prohibited and then enforced the prohibition of slavery (Thepchatree 1985).

Data after 1850 indicate a steadily increasing trend<sup>15</sup> in the number of international NGOs, but with declines during periods of rising conflict -- particularly 1911-1920 and 1931-1940 -- and steep increases immediately afterwards (Skjelsbaek 1970). This suggests that a security-related desire for transnational cooperation is a primary motivation driving citizens to organize.<sup>16</sup> Other early cases of NGO involvement with governments in security-related international conferences include the Congress of Vienna and the 1878 Congress of Berlin. In the two Hague Peace Conferences of 1899 and 1907, governmental delegates established a special committee to deal with the NGOs' petitions and report to the Congress as a whole. And the 1919-1920 Peace Conference's Supreme Council, which led to the formation of the League of Nations, formally invited certain NGOs to orally address certain commissioners (Thepchatree 1985).

The League of Nations did not in its founding Covenant provide for any relationship with NGOs. However, the League's decisionmaking Council chose briefly, from 1921-1923, to interpret Article 24 of the Covenant broadly and extended to non-

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<sup>15</sup> From 1850-1895, the number of known international NGOs increased from 5 to about 50. Researchers counted 330 international NGOs operating in 1914 and 730 in 1939. By 1954, there were more than 1000 and by 1980, some 4,500 NGOs could be counted of which 750 were participating actively in the United Nations Economic and Social Council (Thepchatree 1985 and Skjelsbaek 1970).

<sup>16</sup> Many of the early NGOs remain prominent today. The International Committee of the Red Cross, for example, was founded to provide battlefield treatment of the wounded and protection for prisoners of war. The Women's International League for Peace of Freedom, too, was founded during World War I. (Thepchatree 1985). The World Jewish Congress formed in 1936 with delegates from 32 countries to promote not only collective Jewish security but civil liberties for all individuals, noting that "Jewish rights could not long survive the denial of human rights" (Perlzweig 1957).

governmental organizations the rights of intergovernmental agencies.<sup>17</sup> Despite the Council's decision to revoke these extended privileges, NGO representatives continued to participate as active non-voting "assessors" on League committees. In 1936, the role of NGO "assessor" was changed to "correspondent" permitting participation in League committees upon invitation only. In addition, the President of the League's Assembly received NGO representatives to discuss specific matters and there were multiple informal links. For example, League officials and NGOs attended each other's conferences on a regular basis and many official delegates to the League Assembly, members of its Secretariat, and experts serving on special committees were prominent in various non-governmental organizations (Thepchatree 1985).

The League of Nations did not survive. One analysis suggests the League's demise was due to a lack of clearly defined obligations, a lack of procedures for formulating policy, and a lack of compliance or enforcement mechanisms. Other factors include that it was not universal and that the decisionmaking criterion of unanimity led to inaction at critical moments (Evan 1982).

The failure of this experiment may have contributed to the warmth with which the US Department of State welcomed NGO involvement in the war-time formative period of the United Nations. As early as 1939, the State Department began to make extensive use of non-governmental experts and advisory committees -- in large part due to war-time demands on departmental staff -- for purposes of long-range post-war planning. These committees of NGO representatives developed what became known as the "Dumbarton Oaks Proposals" -- named for the mansion where the representatives of the United States, United Kingdom, Union of Soviet Socialist Republics and, later, the Republic of China were joined by NGO representatives to discuss text in preparation for the San Francisco

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<sup>17</sup> The actual language in Article 24 recognized "international bureaux already established by general treaties." For two years, the League's Council chose to extend "to all international bureaux" those privileges (Thepchatree 1985).

founding of the UN. These drafts became the basic documents creating the United Nations<sup>18</sup> (Robins 1971).

There was not an initial consensus among Americans favoring a new international institution. The failure of the League, coupled with war-time fears about weakening sovereignty -- especially given the possibility of an ineffective peace treaty -- and partisan tensions in an election period stimulated intense debate. To mobilize national support for the United Nations, the US Department of State launched a massive<sup>19</sup> public education campaign<sup>20</sup> through a network of NGOs. A new "coordinating agency" merged

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<sup>18</sup> Secretary of State Cordell Hull, who followed Secretary Stettinius, wrote in his Memoirs, "No one would be disposed...to question...that the chief foundations of the world organization, including its basic principles and machinery, grew out of the five years' study and preparation that culminated in the meeting at Dumbarton Oaks, the results of which, in turn, became the chief foundation for the San Francisco Conference" (Robins 1971).

<sup>19</sup> The Dumbarton Oaks text was distributed by the Woodrow Wilson Foundation. It sent 62,291 copies to churches and synagogues; 34,750 to individuals; about 81,000 to libraries; more than 4,000 overseas; some 2,400 to affiliates of the American Federation of Labor; and 133,532 to numerous NGOs "too small and too numerous to tabulate." After this list was compiled, the Foundation received another 25,000 orders (Robins 1971).

<sup>20</sup> A State Department memorandum reads, "... in the interest of building up a fully informed public as a prerequisite to the successful conducting of a democratic foreign policy... [t]he purpose and objectives of this [public education] program must be explained to the top officials of these [non-governmental] groups and agreements worked out on a cooperative basis for the use of all media applicable... This included (a) Adapting State Department publicity for use by these organizations in their publications. These publications include bulletins of all kinds to their members and to their local officers, regular news sheets of various kinds, and regular magazines sent to their individual members... (b) Developing programs and program material for the use of the local units of the organizations... These programs and this material will take many forms, ranging from purely informative programs about some country which the public should be interested in, to specific programs on matters of broad foreign policy; (c) Assisting in the development of plans to help the local units in carrying out the information and ideas which will be transmitted to them; (d) Arranging special meetings and conferences of these organizations to discuss Department affairs... (e) Arranging for the participation of officers of the Department to make speeches, lead group discussions at the National, State and District Conferences of these organizations; (f) Developing materials for speeches by organization officers, creating special methods and projects..." (US Department of State 1944).

six political action organizations collaborating with 18 other NGOs. This coalition<sup>21</sup> met several times in New York with yet another ad hoc group of NGOs, after which they mutually agreed not to function as a formal organization because "each organization would and did produce the study and program materials best suited to its needs..."<sup>22</sup> (Robins 1971).

In 1945, then-Secretary of State Edward R. Stettinius appointed 42 NGO "Consultants" to the United States delegation to the San Francisco founding conference of the United Nations held in June. According to one of the founding NGO representatives, NGO representatives from Canada and several Latin American nations also attended but "African participation was nil and Asia was too far away; my dear, there was a war going on" (Schaefer 1991). In San Francisco, the role of the NGO "Consultants" on the US delegation was ambiguous and some official delegates regarded their participation with "amused toleration." The Consultants' work, however, won much recognition -- particularly ensuring that economic and social issues, especially human rights, were included in the UN mandate (Robins 1971 and Thepchatree 1985).

One NGO Consultant had played a key role in the earlier creation of the International Labor Organization, in which labor and industry NGOs serve in a tri-partite relationship with government. Dr. James Shotwell argued that the UN Charter should include a similar role for citizens organizations. He organized regular breakfast meetings dubbed "economic discussions" among Consultants representing business, labor and

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<sup>21</sup> Called the Americans United for World Organization, this coordinating body was founded in June 1944 as the "only national, militant, non-partisan group of men and women formed to urge political action upon members of Congress in behalf of world organization." Later, prompted by the development of the atomic bomb, this group changed its view and, rather than promoting the United Nations, it supported a world government. In 1946, it merged with the United World Federalists (Robins 1971).

<sup>22</sup> Robins adds that the "jealousy of their own organizational sovereignty forestalled closer cooperation" as well (Robins 1971).

agricultural NGOs. This breakfast group drafted four major proposals -- one of which would institutionalize NGO participation in UN deliberations.<sup>23</sup> It was supported by both the American Federation of Labor and the Congress of Industrial Organizations, which were at that time fighting for leadership, as well as by industry, particularly the National Association of Manufacturers. The New York Times wrote that this "unity ... was regarded as one of the most significant developments of the conference..." (Robins 1971).

Eventually, the NGO Consultants' proposal for a permanent role as consultants was accepted, creating Article 71 of the United Nations Charter which authorizes the Economic and Social Council (ECOSOC) to "make suitable arrangements for consultation with non-governmental organizations and, where appropriate, with national organizations after consultations with the Member of the United Nations concerned"<sup>24</sup> (UN Charter 1945).

Similarly, the "economic discussions" breakfast group was asked to help an international Joint Committee of Jewish NGOs to elaborate proposals for four human rights amendments. They devised a letter and gathered the signatures of 20 NGO Consultants urging the creation of a UN Commission on Human Rights. As a result of their short but earnest campaign, human rights provisions were written into the Preamble and 7 articles of the Charter. Secretary Stettinius later reported to President Roosevelt that "[i]n no part of the deliberations of the Conference was greater interest displayed than by the group of American consultants representing forty-two leading American

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<sup>23</sup> The breakfast group's other proposals recommended coordinating the work of "the monetary fund and bank, [and] the international food and agriculture agencies...to promote the adoption of consistent policies;" including education, "the greatest of all social undertakings," as a mandate of the UN's Economic and Social Council (ECOSOC); and the creation of "an interim secretariat ... to study international economic problems" (Thepchatree 1985).

<sup>24</sup> It is under this authorization that the Conference of NGOs in Consultative Status (CONGO) with ECOSOC -- which is now actively participating in the UNCED process -- has conducted its work on various United Nations matters since the founding period.



organizations... A direct outgrowth of discussions between the United States delegations and the Consultants was the proposal of the United States delegation in which it was joined by other sponsoring powers that the Charter ... be amended..." (US Department of State 1945 and Thepchatree 1985).

Over the years, the consulting relationship of NGOs with the United Nations has grown ever stronger. The Conference of NGOs in Consultative Status with the UN's Economic and Social Council (CONGO) was established in the late 1940s to facilitate their cooperative efforts. It has extended its relationship to other UN bodies, including the General Assembly and established committees on matters of substance which consult mutually, convene special conferences including parallel conventions to the UN's official sessions, and prepare statements to be submitted to the UN on behalf of their NGO signatories (Harris 1990).

The role of consultant is a powerful one. But especially in international policy, in which the gap between decisionmaker and local implementation is so vast and in which there is little if any means of institutional enforcement, NGOs need a stronger role. The evolution of NGO involvement with the United Nations International Children's Emergency Fund (UNICEF) provides an historical example of direct NGO implementation of United Nations projects.

The United Nations General Assembly resolution establishing UNICEF authorized it to receive funds not only from governments but also from "voluntary agencies" and other private sources<sup>25</sup> (UNGA 1946.) By 1949, NGOs in consultative status with ECOSOC succeeded in creating an official NGO Advisory Committee for UNICEF which immediately recommended expanding their role from one of fundraising and promotion to include program evaluation. After several years of negotiations with the Executive

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<sup>25</sup> The children of Carson Grade School in Washington sent UNICEF its first private contribution, a check for \$2.19 (Zizzamia 1987).

Board of UNICEF, the term "Advisory" was dropped from the Committee's title "in order to prevent misunderstanding as to its functions" (Zizzamia 1987).

The NGO Committee on UNICEF has always emphasized the importance of the non-governmental organizations' work at the national and local levels. By the 1960s, the Committee was frequently issuing statements which "reminded the Executive Board of ... the fact that many of [the NGOs] had been long engaged in programmes similar to or paralleling those of UNICEF." UNICEF's long range planning of that period proposed "short term plans where joint action is required" and developed structures for NGO involvement in national planning and "field level cooperation." First in Nigeria, and later in Peru, Uganda, and Argentina, UNICEF organized pilot "Councils of Voluntary Agencies" supported by governmental liaison staff (Zizzamia 1987).

This country-specific type of organizational work led to proposals in the early 1970s calling for "partnership" and "working together" between UNICEF, national governments and the NGOs. The 1973 "Workshop on Companions in Country Programming" -- co-sponsored by UNICEF, the NGO Committee on UNICEF, and the United Nations Development Program -- prompted UNDP to issue guidelines to its field offices for "strengthening collaboration with non-governmental organizations." A 1982 UNICEF Working Group on Field Relations identified program planning, implementation, evaluation and consultation in policy development; shared technical assistance; cooperative relations with host governments; and national planning as appropriate areas for NGO involvement" (Zizzamia 1987).

In practice, this "field level cooperation" has enabled UNICEF -- one of the smaller of the UN organizations with fewer than 500 staff working in 120 developing countries -- to reach deeply into the world community. For example, the Sarvodaya Movement and other NGOs in Sri Lanka have carried UNICEF's Child Survival programs to 6,000 villages. A UNICEF discretionary fund called the Interregional Fund for Programme Preparation pools funds from which field officers can draw resources to

assist NGO projects directly, in addition to UNICEF's allocations to governments. This fund has supported training, organizational development, and direct projects such as the promotion of breastfeeding, development of "proto-types in appropriate technologies ... and advocacy/education work on 'harmful traditional practices' affecting women" (Zizzamia 1987).

NGOs have also played a major role in implementing the programs financed by debt-for-nature swaps, in addition to their role as purchasers of the discounted debt. Conservation International, the World Wildlife Fund and The Nature Conservancy have spearheaded this concept, in which the international NGO works directly with the participating government to design bond issues or endowment funds that finance the work of national and local NGOs in the field. After the debt agreement has been signed and the financial instruments are negotiated, an entire series of "post-debt swap" negotiations occurs. This is actually the more arduous phase of the negotiations (Dawkins 1990).

In the implementation phase of debt-for-nature negotiations, a national conservation group usually works with representatives of the forestry or parks ministries of their government and the international NGO to select specific projects and devise detailed implementation plans. The responsibility for implementation of debt-for-nature swap programs lies with the local conservation groups. In most cases, the national NGO becomes a "prime contractor" to receive regular allocations from the interest accruing on the swap proceeds. The national NGO then subcontracts with local NGOs for services including conservation projects within existing parks and reserves, environmental education, and scientific research (Dawkins 1990).

These accounts demonstrate the extent of direct collaboration between NGOs and international as well as national governmental agencies in both the planning and implementation phases of policy. NGOs can and do work with local communities virtually everywhere; governments need their cooperation to achieve sustainable development.

### C. States' Rights, Human Rights and International Law

Events now occurring may transform the international community. Innovations negotiated and implemented internationally set certain precedents which, as they are repeatedly practiced<sup>26</sup> or cited in official documents, become the foundation of new political and legal doctrine. International law derives from treaties, general principles<sup>27</sup> of law, and "custom based on state practice evidencing a sense of legal obligation" (Birnie undated). International policies become "obligations binding in customary international law" if "sufficiently well recognized in international agreements, and in the practice of governments" (Hudec 1987).

Traditionally, international law views international society as a community of territorially defined states. These sovereign states have a right to protect their own property, persons, and the property of their persons, as well as an obligation<sup>28</sup> not to cause damage to other states and their property and persons (Brownlie 1979). In defining international law as the law of sovereign states, individual citizens have no standing in international courts except where provided by treaty.

Nor in the sovereignty tradition has there been legal recognition of any larger

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<sup>26</sup> Justice Oliver Wendall Holmes wrote "The life of the law is not logic but experience" (Holmes 1896).

<sup>27</sup> In negotiating a draft UN Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space in 1963, the US and USSR were joined by the UK and Canada in considering that the principles "reflected international law" and their governments would abide by them (UNGA 1963).

<sup>28</sup> Applicable principles of relevance to the environment have been established in other international contexts. The International Court of Justice's 1949 decision in the Corfu Channel case stated that Albania had recognized in principle (while denying actual prior knowledge of minefields in the Channel which damaged British shipping vessels in 1946) its "obligation not to allow knowingly its territory to be used for acts contrary to the rights of other States" due to "elementary considerations of humanity, even more exacting in peace than in war" (Barros and Johnston 1974).

common interest, such as the global environment, that transcends sovereign states<sup>29</sup> (Sands 1989 and Stone 1972). International environmental law originated with resource-use law regulating the pursuit by nations of natural resources; transboundary pollution<sup>30</sup> became an issue which later crossed several subdivisions of traditional international law (Timoshenko 1989). Legal recognition of the rights of individuals -- or more remotely, the rights of other creatures and the ecosystem itself (Stone 1972) -- may be emerging (Caldwell 1984).

Non-governmental organizations and scientists at the 1972 Stockholm Conference on the Human Environment pressed for "the institutionalization of supranational loyalties to the planet" implying a positive international law enforceable directly upon individuals and international business enterprise. While the governments resisted this invasion on their sovereign rights as states, the resulting Stockholm Declaration did direct its resolutions to "peoples" and international agencies as well as to governments collectively (Caldwell 1984).

In 1987, the World Commission on Environment and Development reinforced the conceptual expansion of international environmental law, suggesting in its final report that non-governmental organizations have a "right to be consulted and to participate in decision making on activities likely to have a significant impact on their environment"

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<sup>29</sup> Arguably, there is a precedent for doing so. John Locke, one of the original theoreticians of property law, wrote that an individual may claim ownership of elements taken from common property, such as deer or fish, only while those elements are plentiful for all (Wertenbaker 1983).

<sup>30</sup> The 1941 Trail Smelter case between the United States and Canada remains the only case in which one state brought suit against another for transboundary pollution. Trail Smelter (3 R. Int'l. Arb. Awards 1907) introduced the concept of strict or absolute liability into international law and became the basis for the liability rules in the United Nations 1972 Stockholm Declaration on the Human Environment which nevertheless take "due account...of the sovereignty and interests of all states" (Sands 1989 and Barros and Johnston 1974).

(WCED 1987). The 1989 Declaration of the Hague recognizes the supranational issue as well as potential roles for non-state actors. The Hague Declaration calls for "new principles of international law including new and more effective decision-making and enforcement mechanisms" while recognizing "the right to live in dignity in a viable global environment" (Sands 1989). The twenty-four original signatories were joined by eleven other nations in the intervening year (Parliamentarians 1990).

There is a precedent in international law recognizing the rights of individuals. Non-governmental organizations were instrumental in drafting terms in the UN's Universal Declaration of Human Rights and related covenants, which establish prohibitions against torture, guarantee political asylum, and protect refugees (Thepchatree 1985). Most national courts have refused to enforce this international law (Tolley 1991) but in the past decade or two, it has become politically salient. NGOs have pursued a bilateral strategy in the United States, for example, achieving human rights provisions in US foreign assistance legislation and other domestic laws such as the Jackson-Vanik amendment (Livezey 1988).

Non-governmental organizations at the UNCED Preparatory Committee in Geneva developed many documents including floor interventions and drafts of an "Earth Charter" -- one of the Secretariat's proposed products -- emphasizing individual as well as environmental rights (Lyons 1991 and Experts Meeting 1990). It remains to be seen whether these rights will be reflected in the legal and compliance-inducing mechanisms to be finalized in Brazil.

#### D. Sovereignty and Democracy

The supranational nature<sup>31</sup> of transboundary and global environmental impacts

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<sup>31</sup> "Put bluntly, our accepted definition of the limits of national sovereignty as coinciding with national borders is obsolete... The majority of environmental problems demand regional solutions...because the phenomena themselves are defined by the limits of watershed, ecosystem, or atmospheric transport, not by national borders. Indeed, the costs and benefits

has begun to modify the legal concepts of national sovereignty. The 1972 Stockholm Declaration on the Human Environment carefully asserted that sovereign nations have absolute control over their natural resources. On this basis, those nations interested in developing the Amazon abstained from voting on the 1982 United Nations World Charter for Nature, rejecting language stipulating that the Charter's principles "shall be reflected in the law and practice of each state" (Caldwell 1984). But the Stockholm Declaration also addressed its recommendations not only to nation-states but to "'peoples,' international agencies, and to governments collectively."<sup>32</sup> And many developing countries did sign the World Charter for Nature despite its including principles to which they had strongly objected ten years earlier during the Stockholm negotiations (Caldwell 1984).

Sovereignty is a complex political problem.<sup>33</sup> There is a conflict between the practice of democracy at home and multilateral diplomacy abroad that responsible international decisionmakers must strive to reconcile.<sup>34</sup> The conflict becomes more difficult for contemporary decisionmakers struggling to plan for the needs of future generations (WCED 1987 and Brown 1989) because the structure of contemporary

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of alternative policies cannot often be accurately judged without considering the region rather than the nation" (Mathews 1989).

<sup>32</sup> UNCED Secretary General Maurice Strong, who served in the same position for the Stockholm conference, commented after that conference that it is "only when nations find themselves incapable of exercising their sovereignty effectively or advantageously on a unilateral basis that they will agree -- reluctantly -- to exercise it collectively by agreement with other nations" (Strong 1973).

<sup>33</sup> "If it were true that sovereignty and freedom are the same, then indeed no man could be free, because sovereignty, the ideal of uncompromising self-sufficiency and mastership, is contradictory to the very condition of plurality. No man can be sovereign because not one man, but men, inhabit the earth (Arendt 1958).

<sup>34</sup> A nation's foreign policy is generally "guided and constrained by an array of social expectations" domestically; although not decisive, domestic factors can alter government behavior "by ruling out certain international ends which would jeopardize those social purposes" (Andrews 1975).

democracy appeals only to the "needs of voters alive today... Issues such as aid and debt are rarely electoral issues in Northern democracies -- yet they deeply affect the sustainability prospects of the Southern nations and thus global sustainability" (Holmerg, Bass and Timberlake 1991).

Within the context of UNCED, the linkage of environmental and development issues establishes several other trade-offs. For example, in response to a 1989 World Bank report blaming the Brazilian government for vast deforestation, then-President Jose Sarney accused the industrial nations of impeding Third World development and interfering with Brazil's sovereignty. Amazonian Indians, on the other hand, countered Sarney's claim, calling it "not truly nationalistic, but rather, a cover for surrendering Amazonian resources to foreign corporations" (Dawkins 1990a).

Indigenous peoples assert their own national sovereignty. The Canadian government's granting in 1969 of "equal rights" to aboriginal peoples, for example, was viewed by the First Nations as restricting their treaty rights; the Canadian constitution was later amended "to enshrine aboriginal and treaty rights" although there are many jurisdictional overlaps<sup>35</sup> (Indian Commission of Ontario 1987). The official relationship of Indians with the US government has always been based on treaties between sovereign nations -- but not until June 1990 did the Cherokee Nation of Oklahoma successfully negotiate direct control of its \$6.1 million budget with the US Bureau of Indian Affairs and terms that acknowledge the Cherokees' sovereign status (Ketcher 1990). Within the United Nations system, the Four Directions Council -- a network of indigenous North American peoples -- has consultative status with the Economic and Social Council (ECOSOC). But the Four Directions Council calls itself "more 'intergovernmental' than non-governmental, since ... [e]ach constituent tribe or people remains autonomous and

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<sup>35</sup> In 1978, the Indian Commission of Ontario established a model "Tripartite Process" in which a representative of any Chief, of the Province, and of Canada's federal government "meet on an equal footing" to negotiate solutions to jurisdictional problems (Indian Commission of Ontario 1987).



chooses its own representatives for international meetings" (FDC 1990).

Negotiations regarding the Antarctic characterize the contemporary conundrum between sovereign territorial rights and global environmental obligations. The Antarctic Treaty of 1959 gave rights to nations able to establish peaceful and scientific missions in the region (Biay et al, 1989) but stipulated that the Antarctic enjoys unique status as land which is not "a parcel of national territory" and for which claimant states "receive only limited recognition." In the 1988 Convention on the Regulation of Antarctic Mineral Resource Activities, NGOs played an active role on some of the national delegations, as observers, and as lobbyists. With this treaty, signatory nations relinquished another portion of their sovereignty, agreeing to the strongest environmental liability standards<sup>36</sup> on mine operators than in any other international liability convention -- stronger, even, than that negotiated in the Law of the Sea (Burmester 1989).

As a practical matter, international relations are so intricately balanced on multiple issues of policy that it is doubtful whether individual states are willing to enforce existing environmental rules against other states. After the Chernobyl nuclear accident, which killed 34 people immediately and contaminated millions of people and the environment of at least 20 nations, not one government made an international liability claim against the Soviet Union<sup>37</sup> despite its own implied acceptance of negligence<sup>38</sup>

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<sup>36</sup> Several states including Australia and France, which claim territory in Antarctica, advocate a ban on minerals development. The Antarctic Minerals Convention has not yet been ratified, however (Laws 1990).

<sup>37</sup> Many states paid compensation to their own nationals and governments did intervene individually and collectively in trade policy of agricultural products after the Chernobyl accident (Sands 1989).

<sup>38</sup> Under Article 220 of the Ukrainian Criminal Code, the former director, chief engineer, and deputy chief engineer of the Chernobyl plant were convicted and sentenced to 10 years in a labor camp for gross violations of safety regulations leading to the accident (Sands 1989).

and, at least arguably, existing legal grounds.<sup>39</sup> Even if a nation had successfully pressed an international liability suit against the Soviet Union, compensation would have been limited to damages of persons and property. Sovereign nations do not presently recognize the environment as "property" and thus there is no current standard for compensation of environmental damage (Sands 1989).

Like environmental effects, transboundary movements<sup>40</sup> of capital and labor erode sovereign jurisdiction, too.<sup>41</sup> As foreign investment increases<sup>42</sup> its share of national economic activity, the traditional responsibilities of independent sovereign states towards issues of fiscal and monetary policy, taxation, product standards and environmental regulation are influenced de facto by their trading and neighboring partners (Jackson 1983). The behavior of transnational corporations, based on capital accumulation<sup>43</sup>, is not motivated by the "non-economic" considerations that nations struggle to reconcile -- such as social welfare and national security as well as maximizing income (Cavanaugh and Clairmonte 1982 and Cohen 1990).

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<sup>39</sup> See, for example, the Paris Convention on Third Party Liability in the Field of Nuclear Energy, July 29, 1960; the 1963 OECD Brussels Supplementary Convention, January 31, 1963; the Vienna Convention on Civil Liability for Nuclear Damage, May 21, 1963.

<sup>40</sup> Regional trading pacts are defined as "opening borders" and blur national jurisdictions. The director of the Red River Trade Corridor Project along the US/Canadian border, coined the phrase "voluntary geography" in reference to communities desiring de-regulation of their local international boundary line (Ferguson 1991).

<sup>41</sup> Trade expert John E. Jackson calls sovereignty a "fiction... What is the equality of nations when one has an economy measured in trillions of dollars while another has a total economic product less than that of many private corporations operating from a base in another country?" (Jackson 1983).

<sup>42</sup> By 1987, the annual worldwide flow of foreign direct investment reached \$108-\$144 billion, up from only \$21-\$28 billion a decade earlier; the range indicates difficulties of data collection and discrepancies in definition across countries (Froot 1989).

<sup>43</sup> In diversifying from commodities to manufacture and services, R.J. Reynolds based its growth strategy "on the theory that it made sense, when appropriate, to apply cash to any well-established business" (R.J. Reynolds 1975).

This confusion of national and international economic interests creates some ambivalence among government leaders. Former British Prime Minister Margaret Thatcher's actions invoked sovereignty<sup>44</sup> in resisting European pressure to exchange the pound for a single European currency -- arguing in terms of national economic security despite Britain's participation in the European Community and its movement toward open borders (Goodman and Palmer 1989). But she also called for binding protocols to control greenhouse gas emissions from the European Community as whole (Skolnikoff 1990).

Non-governmental organizations have recently become more active in international economic as well as environmental negotiations. The Fair Trade Campaign, for example, is a two-year old international coalition that succeeded in obtaining a resolution from delegates to the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) that any final agreement "must include consideration of the environmental consequences." A Washington DC-based "Ad Hoc Working Group on Trade and Environmentally Sustainable Development" formed in March 1990 (FTC 1991) and the National Wildlife Federation dedicated its Spring 1991 newsletter to the free trade/environmental link, noting that "[t]he environmental movement has a new tinge of green -- the eyeshades of the international accountant... The rules of trade will profoundly influence whether those resources -- the waters, metals and fuels, the crop and forest lands -- will be degraded or protected" and (NWF 1991).

These groups are especially concerned about the "lowest common denominator"

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<sup>44</sup> The Economist magazine wrote that "[m]ore than any other great issue the European Community has faced, economic and monetary union raises questions of national sovereignty -- real and imagined... [It] calls for a transfer of national power to the Community that goes beyond anything the EEC has known" (The Economist 1989). Faced with some 100,000 different national regulations, participating governments are moving toward international harmonization of nearly 300 economic policies (Goodman and Palmer 1989 and Cooper 1989).

effect inherent to much negotiated international policy (Shrybman 1989 and Salzburg Initiative 1990). Rules under consideration by the GATT, for example, would oblige nations to "review" local, state or provincial regulations in order to bring them into compliance with "international standards" -- regardless of whether those standards were stronger or weaker than national regulations (Caldwell 1984 and Shrybman 1989). Current GATT proposals call for Codex Alimentarius, a Rome-based agency of the UN's Food and Agriculture Organization, to set the international standards. In the case of the United States, the Codex Alimentarius standards would require higher allowable limits of pesticide residues on foods (Ritchie 1990 and WWF undated) and eliminate soil and water conservation legislation as well as federal assistance for developing more sustainable methods of farming (Ritchie 1989).

The World Commission on Environment and Development noted that sustainable development requires greater equity and that "such equity would be guided by political systems that secure effective citizen participation ... and greater democracy in international decisionmaking" (WCED 1987). Government leaders who are reluctant to surrender their authority to transnational political institutions often do so willingly to attract transnational economic interests. The benefits of development, however, tend to accrue primarily to a transnational elite, especially in countries where much of the population is marginal to the global economy. Domestic politics in many countries reflect an inequitable class structure and popular demand for more democratic decisionmaking (Nye and Keohane 1973).

Even in the so-called democratic countries, representative government is not strictly-speaking democratic. This distinction is expressed in The Federalist Papers: "[I]n a democracy, the people meet and exercise government in person; in a republic, they assemble and administer it by their representatives and agents" (Madison 1787). By definition, minority interests are under-represented even after fair, democratic elections. As the sphere of government extends more and more widely -- from the local community to the state to the nation to regional economic zones and, potentially, to global

institutions -- how can pluralism be sustained? Indigenous people, residing within the boundaries of nation-states, often claim and sometimes are recognized as sovereign nations themselves, and yet have no role in most international forums<sup>45</sup> (COICA 1989, Bellecourt 1990). On a world scale, how can the distinction between legitimate minority interests and "special interests" (Stone 1990) -- defined perhaps as those who gain a voice through privilege -- be drawn? And finally, would not a system of voting weighted by population<sup>46</sup> be more purely democratic?

With the erosion of sovereignty, the gap between individual citizens and the decisionmaking process that is at present vested in national governments grows greater. International decisionmaking is structurally undemocratic, not only because of the large distance between citizen and decisionmaker. Foreign policy -- traditionally viewed as an executive function due to the predominance of military factors in international affairs -- is conducted in multilateral negotiations that are essentially "horizontal" between executive branch officials. Democratic processes, on the other hand, presuppose "vertical" interaction between citizens and governments. Obviously, when the transnational actor -- such as a large bank or corporation -- bypasses governmental institutions, citizens are entirely removed from decisionmaking (Kaiser 1971).

Already, there are disputes regarding the right of citizens to determine domestic policy when multilateral policy would also be affected. For example, non-governmental

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<sup>45</sup> At the Geneva Preparatory Committee for UNCED, "on behalf of the indigenous nations and peoples," Chief Oren R. Lyons addressed conference delegations. He stated that "Brazil 1992 will also be the 500th anniversary of the landfall of Christopher Columbus in 1492. We now have 500 years of experience and history with which to judge the effects his philosophy had upon our people and our lands. Indigenous people are preparing to meet at the same time in Brazil... We are in one canoe for better or worse... We respectfully request a more direct participation in the UNCED conference in Brazil" (Lyons 1991).

<sup>46</sup> What incentive does this democratic principle establish regarding limits on population growth, a policy deemed urgent -- although controversial -- for meeting development and environmental objectives?

organizations in California developed a popular legislative initiative called "Big Green" which had numerous environmental provisions contrary to the federal government's negotiating position in the GATT. US Trade Representative Carla Hills countered with an "unprecedented" presidential trade commission investigation of the legislation. According to Hills, the democratically developed state pesticide rules could set off an international trade war (Feist 1990). The Big Green initiative ultimately failed.

NGOs have developed relationships with many international institutions in attempts to bridge the gap between the individual citizen and international decisionmakers. The NGO-World Bank Committee, for example, was established in 1981 in order "to increase the dialogue between the two parties on development issues and to explore areas of possible cooperation." In 1987, the Committee agreed to ensure "systematic consultations at the national and regional levels in the South." Last year, the NGOs threatened to withdraw from the Committee when the Bank's 1990 Report failed to reflect their input; this action prompted negotiations which gave the NGOs "more flexibility ... the right to initiate independent reports with supplementary non-Bank funding" (Martin 1991). When the World Bank asked NGOs to review some of its new policies including recent initiatives on environmental impact assessment and forests, the NGOs agreed to do so but "reserved the right to come back and criticize" publicly those policies they had helped develop (Pratt 1991).

International decisionmaking is reliant upon a "one nation: one vote" principle. But at the time of the founding of the United Nations, there was considerable debate about the undemocratic nature of this formula, especially in combination with the exceptional veto authority granted the "Four Powers."<sup>47</sup> Experience with the League of Nations,

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<sup>47</sup> In arguing for global federalism, former US Chief Justice William Douglas wrote, "My generation ... did not see behind the facade of all the isms of the world and sense the powerful tides of nationalism and race that shape the events... Their thinking has been warped and conditioned by one evil man (Stalin), by another who was ignorant of the world and its problems (Truman), and by a third (Churchill) who was a romanticist but a true

however, had proven that a veto was a prerequisite for powerful nations which would otherwise simply not join an international organization (Luard 1982). Using similar reasoning, advocates of the United Nations and its voting rules argued against more democratic forms of world government on grounds that "[i]nternational society ... is in the making. To burden it today with the greatest transformation of living habits and traditions history has ever known may destroy it. The present times are too serious for errors in timing and strategy" (UN World 1947).

"World federalism" -- government by a worldwide institution with authority to enforce its will on individuals -- was a serious proposition during World War II, as activists strove to devise international structures which might ensure peace.<sup>48</sup> With the discovery of the atomic bomb, world federalists led by Albert Einstein<sup>49</sup> favored a plan creating a World Atomic Development Authority which would control atomic energy at the source with responsibility for all mines and processing facilities (Free World 1946). Like its successor, the Seabed Mining Authority proposed in the negotiations for the UN

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apostle of the Rule of Force and white supremacy. These three men gave us the inheritance of the Cold War that has helped fill the world with suspicion and hate and made cooperative solutions of common problems extremely difficult" (Douglas 1968).

<sup>48</sup> In one 1946 radio debate, for example, world federalist and author Emergy Reves argued that "[s]imultaneous existence of independent sovereignties is actually the condition of war... The United Nations does not and cannot give security, consequently the nations behave as they have to behave. They are afraid of each other. They mistrust each other, and have to try to be stronger than each other." Defending the UN, columnist and radio commentator Max Lerner asked, "How in the name of everything that is holy are you going to get Russia to work with us in an immediate world state? ...You say that the solution is to do away with national sovereignty. I say that is a re-statement of the question, because the question is exactly how can you do away with national sovereignty?" (Free World 1946).

<sup>49</sup> "The great debate has been reopened by a polite but sharp exchange of ideas between Dr. Albert Einstein on the one side and Sergei Vavilov, President of the Academy of Sciences of the Soviet Union and leading Russian scientists on the other... Dr. Einstein's powerful appeal to the General Assembly ... [was] criticized ... as presenting a danger to the independence of the Soviets ... behind a high-sounding trademark, 'world domination by capitalist monopolies'" (UN World 1948).

Law of the Sea, this plan was rejected by sovereign nations preferring to retain control over their private enterprises and natural resources.

Currently, the World Federalist Association is active in UNCED. Its "Environmental Policy" recommends a "permanent Environmental Council of 20 to 30 states, representing all regions of the world ... established with the United Nations<sup>50</sup>... It should take decisions by a weighted voting system which does not involve a single state's veto... The International Court of Justice ... would have jurisdiction to hear and adjudicate all environmental matters brought before them by the Environmental Council, national governments, non-governmental organizations, corporations, labor unions or individuals" (World Federalists Association 1989).

#### E. UNCED -- From Bergen to Brazil

The challenge to international planners striving to affect the outputs of UNCED<sup>51</sup> is how to translate the knowledge, opinions, and distinct interests of more than one hundred governments, on the one hand, and perhaps tens of thousands of NGOs, on the other, into consensus. In Bergen, non-governmental organizations co-chaired negotiations in full partnership with governmental delegates. After days of debate

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<sup>50</sup> World Federalists cite Articles 22 and 29 of the UN Charter to support their proposal (Leonard 1990).

<sup>51</sup> The UNCED Secretariat anticipates six types of "outputs": a) three conventions -- on climate change, biodiversity, and possibly forests; b) an Earth Charter of "principles to govern the relationships of people and nations with each other and with the Earth...;" c) Agenda 21 -- a "programme of action for the implementation of the principles enunciated in the Earth Charter;" d) "Financial resources ... measures for financing the actions provided for in Agenda 21;" e) "Technology transfer ... measures to ensure that all countries, and particularly the developing countries, have access to environmentally sound technologies on an equitable and affordable basis;" and f) "Institutions ... measures for strengthening existing institutions, notably UNEP; the environmental capacities of development agencies and organizations; the processes of collaboration and coordination amongst them; and the machinery to enable environment and development issues to be examined at the policy level in their relationship to other important security, economic, humanitarian and related issues" (UNGA 1991a).



in Nairobi, governments decided NGOs should not participate in negotiations although they were assured a voice in plenary.

It is an open question what role they may play in the final conference to take place in June 1992 in Brazil. Chairman Tommy Koh told NGO representatives in Geneva, "We have to break down the barriers one at a time. As you know, at Nairobi we had a big fight... The next challenge is for representatives of government to ensure not just token representation of NGOs but to take them seriously. You can help break down this gap by making sure that when you speak ... you bring some added value to the table. I will make sure I consider your contribution in whatever draft I prepare" (Koh briefing 1991). NGO actions in the interim period may determine the degree to which their influence is felt, not only in Brazil but beyond.

After the organizing session of the first Preparatory Committee meeting, held in March 1990 in New York, non-governmental organizations began organizing among themselves in earnest. Within three days, groups responded to Secretary General Maurice Strong's suggestion that NGOs sustain their access to the preparatory process through electronic communications (Strong 1990a and Pollard 1990). On Earth Day, April 22, the Secretary General announced that the UNCED Global Electronic Network was operative (Strong 1990b). Subsequently, the United Nations Development Programme (UNDP) added its support to this system, especially to promote "the utilization of environmental computer networks in Latin American" (Pulliatti and Pollard 1990).

Meanwhile, NGOs convened major international conferences on the Danube River; in Nyon, Switzerland; and in Vancouver, Canada -- as well as numerous regional, national, and constituency-based meetings. In August 1990, the Centre for Our Common Future, a Geneva-based NGO, initiated its newsletter called Network '92 (Network '92 1990).

In the Nyon conference in June, 86 non-governmental organizations from 33

countries decided to create a new body to coordinate NGO activities for UNCED, stipulating that it "would serve a facilitating function rather than one of representation for the global NGO community." It would be structured according to constituencies or "independent sectors"<sup>52</sup> -- a term that was carefully pluralized after lengthy debate -- and "consist of at least half women and an equitable geographical balance." The Nyon conference nominated seven NGO representatives to begin serving immediately and reserved seats for nine other sectors (Network '92 1990 and May 1990).

A major debate among NGOs was whether or not business interests would be considered one of the "independent sectors" of non-governmental organizations. Corporations and "private sector NGOS" have enjoyed a "built-in bias ... over greenies and tree-huggers" in the climate negotiations which parallel the UNCED process (Thacher 1991). Yet one environmental activist believes that industry may have "the most progressive, or at least, they're defining clearer positions than most governments [in terms of] changing" policy toward a program of sustainable development (Siljeholm 1991).

The corporate sector is well organized for UNCED. Last summer, Secretary General Strong invited Swiss industrialist Stephan Schmidheiny to serve as "Principal Adviser for Business and Industry" to the Secretariat. As of April 1991, 40 business leaders from 23 countries on six continents -- including "chairpeople and CEOs of well-known transnationals such as Shell, DuPont, Volkswagen, Nissan [and] others of more regional reputation" -- were members. The mandate of the Business Council for Sustainable Development (BCSD) is "to focus the thinking of business leaders on one

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<sup>52</sup> The original seven groups were the Asian NGO Coalition, the Nairobi-based Environmental Liaison Centre International, New Delhi's Development Alternatives, the Centro Ecumenico de Documentacao e Informacao of Sao Paulo, the International Indigenous Commission, the International Council for Scientific Unions, and the International Chamber of Commerce. The nine constituencies for which seats were reserved are youth, students, women, trade unions, religious/interfaith, the media, grassroots farmers/peasants, human rights/peace, and the Conference of NGOs in Consultative Status with the UN Economic and Social Council (Network '92 1990 and May 1990).

crucial issue: How can economic growth be carried out in an environmentally friendly and sustainable fashion" (Faulkner 1991).

At the Second World Industry Conference on Environmental Management, dubbed "WICEM 2," in Rotterdam in April 1991, businesses endorsed a "Final Declaration"<sup>53</sup> - which included "modifications" of many of the principles established by NGOs at Bergen. The Declaration expanded upon a "World Industry Charter" which the International Chamber of Commerce had adopted in November 1991 (Siljeholm 1991). The industrial sector's plans for Brazil will conclude "the week before UNCED, so we're not competing for hotel rooms" reported the International Chamber of Commerce's representative in Geneva (Fry 1991).

After a great deal of argument in Nyon, the Environmental Liaison Centre International finally decided to define NGOs as "non-profit, non-party political organizations ... agreeing to debate with [business] interests but ... based on separate organizational structures" (ELCI 1990). The IFC, on the other hand, decided to allocate one seat on its governing body to the International Chamber of Commerce (Network '92 1990). Other NGOs, particularly from the Nordic nations, decided they "favoured a continuing dialogue with industry and trade unions, but in a form 'that does not limit our freedom of action'" (ELCI 1990).

Other suggestions of the early period included the creation of 30 seats for NGOs

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<sup>53</sup> The "Final Declaration" lists 15 principles to guide corporate behavior that will "contribute to the common effort ... [to] enhance environmental awareness and protection." Listed principles are: "framework of the market economy" "performance based standards," "common environmental goals," "time frame locally appropriate," "voluntary commitments," "total life cycle approach," "ISO standards on environmental performance," "regional environmental roundtables," "industry initiative on environmental education," "industry action plan (SWEEP)," "global climate change response," "clearinghouse for technology access," and "International Greenhouse Gas Clearinhouse" (Siljeholm 1991.)

at meetings of the Preparatory Committees, the extension of "observer status"<sup>54</sup> to newcomer NGOs in Brazil, and placing NGO representatives on all national delegations as "full and equal partners" (Network '92 1990).

Non-governmental organizations did participate as fully co-equal parties<sup>55</sup> in negotiations of the May 1990 UNCED Regional Preparatory Conference of the Economic Commission for Europe in Bergen, Norway. At the invitation of the Norwegian government, whose current Prime Minister Dr. Gro Harlem Brundtland had chaired the 1987 World Commission on Environment and Development, 350 representatives of more than 300 NGOs participated "both in the preparations for and in the conference itself" (UNGA 1990a).

In preparation for the Bergen conference, NGOs sponsored their own which they called "Bridging the Gap." Three hundred NGO representatives from 40 countries floated down the Danube River from Austria to Hungary -- as a symbol of East/West unity -- and wrote an "Agenda for Action," a proposal for implementing sustainable development. Aboard ship, they also designed the Bergen structure which has become the model for subsequent discussions of NGO involvement with UNCED (Siljeholm 1991b).

Segmented into five groups -- representing science, industry, labor, voluntary organizations, and youth -- the NGOs prepared a set of independent formal recommendations for each sector, served as Vice Presidents to the Working Session, co-

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<sup>54</sup> There are presently some 1500 non-governmental organizations with an official relationship to the United Nations, either granted "consultative status" with the Department of Economic and Social Affairs or "association" through the Department of Public Information (Swedish Peace Council 1990).

<sup>55</sup> NGOs also participated as fully equal partners with governments and United Nations agencies in the deliberations of the 1990 International Conference on Popular Participation in the Recovery and Development Process in Africa -- including shared roles as co-chairs (UN ECA 1990 and McCoy 1991).

chaired with governmental officials the workshops on the four substantive issues -- awareness raising and public participation, sustainable energy use, sustainable industrial activity and the economics of sustainable development, and shared the floor with the government representatives during open session (UNGA 1990a).

Although NGOs were excluded from the Ministerial Session which followed the Working Session, one third of the 34 governments present at Bergen included NGO representatives in their official delegations. And in their final report, the Ministers strongly recommended "that the experience gained in the preparation and conduct of the Bergen Conference with respect to the full involvement of non-governmental organizations be used by other Regional Commissions of the United Nations and by the Preparatory Committee of the 1992 Conference on Environment and Development" (UNGA 1990a).

This recommendation stirred great debate at the first UNCED Preparatory Committee meeting of the full United Nations, held in August 1990 in Nairobi. Secretary General Maurice Strong opened the session noting that "the Bergen formula" for NGO participation would not be "realistic or applicable" given that the number of both the governments and the non-governmental organizations would be much greater in Brazil than in Bergen. He did recommend, however, that the Bergen "principles" be applied and suggested that NGOs could have "their principal impact" at the national level (UNGA 1990).

Led by Tunisia and Mauritania, several nations objected strenuously to NGO participation<sup>56</sup> but those supporting NGO participation prevailed.<sup>57</sup> Brazil's Secretary

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<sup>56</sup> Many African nations regulate NGOs quite rigidly; granting them status within the United Nations which they are not granted domestically threatens the governments' sovereign jurisdiction (Susskind 1990).

General of Foreign Policy favored welcoming NGOs with an "open arms policy" noting that "in many ways, this is their conference." Bolivia's delegation, on behalf of the Group of 77 developing countries<sup>58</sup>, spoke in favor of NGO participation but nevertheless argued that the General Assembly had not empowered the Preparatory Committee to allow any but those NGOs already given Consultative Status to actually participate (May 1990). After several days of intense negotiation, the Committee acknowledged "that the effective contributions of non-governmental organizations in the preparatory process were in its interest" but approved a far narrower role than that encouraged by the Bergen Ministers (UNGA 1990b).

The Nairobi final report stipulates that "[n]on-governmental organizations shall not have any negotiating role in the work of the Preparatory Committee;" that "at their own expense," NGOs may "make written presentations in the preparatory process through the Secretariat" which "will not be issued as official documents except in accordance with United Nations rules of procedure;" and that NGOs not in consultative status with the United Nations Economic and Social Council "may ask to speak briefly in ... meetings. If the number of such requests is too large, the Preparatory Committee shall request the non-governmental organizations to form themselves into constituencies and each constituency to speak through one spokesman" (UNGA 1990b).

At the closing session of the Nairobi Preparatory Committee, the NGOs did present a joint address to the governments reflecting their good will, the breadth of NGO participation through the electronic communications system<sup>59</sup>, and the need for support

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<sup>57</sup> While a nation's foreign policy may be guided by domestic politics, in the international arena it is likely to respond more directly to the actions of other nations (Lipschutz 1989).

<sup>58</sup> Although the Group of 77 now numbers more than 100, it has retained the name coined during the 1970s (Hossain 1980).

<sup>59</sup> Daily news, full text versions of official documents, and individual consultations were reaching 9000 organizations in more than 70 countries (Goree 1990).

enabling NGOs from developing countries to attend future sessions (Pollard 1990).

Despite moderating the Bergen precedent, the Nairobi Committee recognized an official role for NGOs -- noting "with appreciation" the Secretary General's efforts to generate additional funds to support their participation -- and recommended the Chairman "propose a procedure for determining non-governmental organizations' competence and relevance to the work of the Preparatory Committee" (UNGA 1990b).

In January 1991, Secretary General Strong issued a "Progress Report on Institutions" again recommending "a meaningful and effective set of relationships" with "Non-Governmental Actors... Their influence extends from their roles as sources of scientific, professional and technical knowledge and advice as well as operational capacity, to develop public awareness and political will and their advocacy role in respect of policy formulation. All these will continue to grow. This makes it more and more important... The Preparatory Committee may wish to consider the ways in which these relationships can be fostered and utilized..." (PrepCom 1991a).

Groups began arriving arrive in Geneva in mid-March for the three or possibly four weeks of of the Second Preparatory Committee meeting for UNCED but were unable to intervene in the working groups<sup>60</sup> the first days due to a lack of procedure for awarding credentials to NGO representatives. After approving a 24-hour interim procedure, the official plenary eventually recognized all NGOs in attendance in separate votes on March 19 and March 25. Eventually, with minimal debate, the Plenary duly

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<sup>60</sup> UNCED has defined three working groups within which most of the negotiating occurs. Working Group I addresses issues of the atmosphere, land resources, biodiversity and biotechnology. Working Group II addresses issues regarding oceans, fresh water resources, wastes and toxics. Working Group III addresses legal and institutional issues. There are also a cluster of "cross cutting issues" -- primarily economic policy, information and decisionmaking, and "quality of life" issues which are not being considered by any of the working groups but which will be interpolated by the plenary and through the mechanism of Agenda 21 (US Department of State 1991).

accredited a total of 179 NGOs from at least 30 countries<sup>61</sup> (UNGA 1991b, UNGA 1991c, Spivy-Weber 1991 and IFC 1991).

Many of the NGOs' ideas and pertinent events of Geneva were documented in Crosscurrents, an "independent newspaper" produced by the Conference of NGOs in Consultative Status with ECOSOC (CONGO). Appearing four times during the three week period, Crosscurrents provided much of the flavor, some able reporting, and a range of editorial opinion and voice for NGOs. However, the volume of formal -- and informal -- activity at the Geneva Preparatory Committee was impossible to cover in full. I identified eight major categories of NGO activity related to policymaking for UNCED (Dawkins 1991).

### 1. NGOs on Government Delegations

The government of Canada pioneered the appointment of NGO representatives to its official delegation in Nairobi<sup>62</sup> -- an action which an official of the World Bank called "absolutely creative and revolutionary" that "forced other governments to follow suit" (Pratt 1991). By the Geneva session, at least eight nations had appointed NGO representatives to serve on their official delegations -- all but one of them northern<sup>63</sup> (NGO Delegates 1991).

However, the degree to which the NGO members were integrated with the government officials varied considerably from delegation to delegation. The Canadian

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<sup>61</sup> Although 13 of the 30 countries represented by NGOs at Geneva were of the south (and two from Eastern Europe), only 23 of the 174 NGOs in attendance as of March 27 were from developing countries (IFC 1991 and Koh 1991).

<sup>62</sup> Canada set another precedent in Nairobi -- allowing one of its NGO delegates to speak in Plenary (Goree 1991).

<sup>63</sup> Countries including NGOs on their official delegation include Australia, Canada, Norway, The Netherlands, United Kingdom, the United States, the Union of Soviet Socialist Republics, and India.



delegation, for example, utilized its NGO members' expertise to develop official interventions regarding soil loss, indigenous issues, and the link between consumption and environmental degradation (Bernstein 1991c). The French delegation, on the other hand, instructed its NGO member not to participate in meetings of NGOs of the European Community and, generally, to offer "no comments" (NGO Delegates 1991).

The respective governments also provided varying instructions to their NGO delegates. The British delivered three inches of official briefing documents to their NGO delegates. The official instructions of the Dutch were only 14 pages plus an addendum, with a special request that their NGO delegate write her own report. The United States' three NGO delegates were given no instructions at all, other than an informal telephone conversation; one of the three was asked to ensure that NGOs were duly accredited. Australia instructed its NGO delegate to clear any press statements and provided "quite extensive" official briefing documents. Most of the NGO delegates had been given more specific instruction from their constituency organizations than from their respective governments (NGO Delegates 1991).

## 2. Facilitation and Coordination

At a special meeting for NGOs attending the Geneva Preparatory Committee, UNCED Chairman Tommy Koh exhorted them to "seek to organize yourselves and speak through one common spokesperson." A representative of Greenpeace International -- noting that only a small number of NGOs had requested time from the conference to speak from the floor<sup>64</sup> -- responded that "the strength of NGOs is in their diversity;

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<sup>64</sup> During the first seven days of meetings, NGOs had intervened on the floor 5 times, using a total of 55 minutes, according to a count by NGO strategists at their March 27 meeting. By the end of the session, floor statements had been made by at least the following NGOs: the Environmental Liaison Centre International; Greenpeace International; the World Uranium Hearing; the Brahma Kumaris World Spiritual Union; the World Union of Catholic Women's Organizations on behalf of 21 other coalitions on "Women in Environment and Development;" a collaboration of nine international coalitions regarding the terms of reference for Working Group III; and an international coalition of youth. In

there's a limit to which we can conform." Later in the session, Koh asked, "Can you emulate the process at Bergen where NGOs formed themselves into constituencies and, more remarkably, negotiated among themselves to develop an integrated [proposal]? That is a challenge to the International Facilitating Committee" (Koh briefing 1991).

There was disagreement in Geneva regarding the actual mandate of the IFC, especially relative to planning for the June 1992 session in Brazil. The Brazilian NGO Forum, an umbrella for more than 500 NGOs from across Brazil, intends to serve as the "principal coordinator of the parallel conference" in Rio de Janeiro (Born 1991). Recognized by the Brazilian government as its "counterpart ... hosting the parallel conference," the Forum has seats on the federal coordinating group for UNCED and on an advisory group overseeing the government's National Report, as well as on the Rio de Janeiro government's UNCED planning committee (Brazilian NGO Forum 1991). The IFC convened an all-day meeting for NGOs in Geneva to reassess its mandate, which resulted in conflicting recommendations from various small discussion groups (IFC Meeting 1991).

In addition to this meeting, the IFC arranged a number of topical presentations and briefings with governmental delegations throughout the three week period, provided daily schedules, compiled and updated a directory of NGOs attending the Geneva Preparatory Committee meeting, provided office space with equipment and a staff of four who responded to all requests, and helped organize several gatherings for NGOs and governmental delegates to meet socially. Preoccupied with these logistical responsibilities, however, the IFC did not orient arriving NGOs or facilitate their participation in the

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addition, three indigenous groups, which "do not consider themselves NGOs but 'governments'" made formal interventions from the floor. They are the Inuit Circumpolar Conference, the Six Nations Confederacy (Iroquois), and the Grand Council of Crees of Quebec (NGO delegates 1991, Goree 1991c and Pollard 1991c).

political activities of UNCED in Geneva<sup>65</sup> (Dawkins 1991).

Actual coordination among non-governmental organizations in Geneva was ad hoc in nature. A representative of the Canadian Participatory Committee for UNCED, Johannah Bernstein, initiated daily 8:30 a.m. NGO strategy sessions. Open to all, about eight to 50 NGOs attended any given day; about 150 participated over the course of the three week Preparatory Committee (Goree 1991c). As most countries' official delegations also met at 8:30 am, however, rarely was any of the 14 NGO representatives serving on their national delegations -- who were assigned pink badges by the UNCED Secretariat while all others were assigned white badges -- able to attend what became known as the morning "NGO Strategy Group." The "pink badge" group began to meet among themselves, again facilitated by Bernstein who thus became an ad hoc "conduit" between these two groups. She also "wrestled" descriptive and policy documents from NGOs to create "NGO briefing books" housed in the IFC office for the use of other NGOs, governments, and the press (Bernstein 1991a).

A third group coalesced at a separate location, the John Knox Centre, where many representatives of NGOs from developing countries were housed. The United Nations Development Programme (UNDP) had committed funds<sup>66</sup> enabling 20 representatives of NGOs from developing countries to travel to Geneva (McCoy 1991a). This support was invaluable; of 153 NGOs in Geneva on March 27, only 23 were from developing countries (Koh 1991). For orientation purposes, UNDP convened a two and one-half day seminar at the Centre on "Poverty, Environment and Development." Unfortunately, by convening this seminar in a separate location, interaction between this group and the

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<sup>65</sup> I spent three days trying to identify a source of strategic information or planning (Dawkins 1991).

<sup>66</sup> Secretary General Maurice Strong called the need to raise funds to ensure better representation of NGOs from developing countries "the biggest single challenge facing us" (Strong 1991).

majority of the NGOs in Geneva was minimal during several key days.

The timing was significant. Because attending all three or possibly four weeks of the Preparatory Committee meeting was an expensive and time-consuming proposition, the second week became a period in which virtually all were present in Geneva -- precisely the days in which UNDP sequestered the southern NGOs away from the UN. As a result, this group developed its own informal strategic relationship. During the third week, nevertheless, the "John Knox group" joined the other NGOs that were able to remain and any rift that may have resulted from UNDP's inadvertent scheduling was bridged (Pollard 1991d).

By the conclusion of the second Preparatory Committee, the morning "NGO Strategy Group" had created a "proposed workplan" that includes the facilitation of eight Task Groups "to promote dialogue among NGOs<sup>67</sup> in relation to the key UNCED agenda areas"<sup>68</sup> to prepare for next August's third Preparatory Session to be held again in Geneva. The Strategy Group also proposed convening a pre-Preparatory Committee strategy session for NGOs; daily strategy sessions, briefings with delegations, substantive workshops, and "other meetings<sup>69</sup> where necessary;" the "facilitation of the preparation of PrepCom documents and interventions;" and, at the conclusion of the third Preparatory

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<sup>67</sup> Much of the work of the Task Forces, composed of NGO representatives from throughout the world, will take place "within the relevant computer conferences" (Bernstein and Oudejans 1991).

<sup>68</sup> The NGO Strategy Group's eight Task Forces address the Earth Charter; Agenda 21; Financial Mechanisms; Technology Transfer; Institutions; Forests Convention; Climate Change Convention; and Biodiversity Convention (Bernstein and Oudejans 1991).

<sup>69</sup> A subsequent document proposes panel discussions, strategy and lobbying skills exchange sessions, intervention drafting workshops, meetings with key delegations, delegation-led and NGO-led briefings on national positions, meetings with the UNCED Chairman and representatives of the "authorities," logistics briefings, workshops on Agenda 21 -- the Secretariat's proposed Action Plan, "opportunities for collective visioning," and social gatherings (Bernstein 1991b).

Committee, convening a final NGO de-briefing session and producing a final report. In its proposal, the Strategy Group "affirmed its willingness to coordinate activities with those of the International Facilitating Committee, other coordinating bodies as well as other NGOs" (Bernstein and Oudejans 1991).

### 3. North/South Collaboration

The North/South conflict pervaded the dialogue and statements of NGOs of both hemispheres. The IFC/Brazilian Forum dispute over the lead coordinating role for the Rio de Janeiro conference is one reflection of this conflict.<sup>70</sup> North/South mistrust can also be seen in how a Zimbabwean NGO representative's repeatedly emphasized, while discussing a possible joint funding proposal with a US-based organization, that "we must control the process; we already have our program" (Moyo 1991).

The UNDP seminar on "Poverty, Environment and Development" at the John Knox Centre initially exacerbated the North/South tensions of which non-governmental organizations are well aware. For one thing, it geographically separated most of the developing country NGOs from the others. Second, it was perceived by some southern representatives as the "quid pro quo" for their plane fare to Geneva. Third, even those northerners wishing to bridge the gap were excluded by the "by invitation only" attendance policy. Fourth, UNDP based the seminar on a paper<sup>71</sup> written by the London-based International Institute for Environment and Development (IIED). Regardless of the value of the document itself, the presentation of southern issues to southern NGOs by a northern source created an "image juxtaposition problem" (Sotto

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<sup>70</sup> Despite the IFC's international structure, northern influence is strong. Ten of the developing countries' NGOs boycotted the IFC's mandate review meeting "because of its domination by northern groups... [T]hat the IFC should start unilateral plans for communications at the Rio alternative conference smacks of NGO neo-colonialism" (Goree 1991).

<sup>71</sup> "Poverty, Environment and Development: A Discussion Paper Prepared for the UNDP/NGO Working Group Meeting in Geneva" (Holmberg and Thomson 1991).

1991) and stimulated a good deal of antagonistic comment.<sup>72</sup>

Yet there was a remarkable degree of shared commitment among NGOs of both the South and the North to getting the so-called cross-cutting issues -- key to achieving sustainable development (Kofi 1991 and Agarwal and Narain 1991) -- onto the agenda of the working groups (Kenya, et al 1991; Holmberg, et al 1991; Bahai International Community et al 1991.)

Similarly, Norwegian and Swedish representatives worked with several southern groups in drafting language promoting the reciprocal transfer of technology for government consideration (Album 1991). And a US representative helped translate a Chilean NGO's critique of the North's growth model of development -- which argues that successful sustainable technologies developed in "the most difficult and extreme ecosystems of the planet" ought to be preserved through the protection of biological and cultural diversity." This document characterizes biodiversity, one of three issues on which the Secretariat hopes to sign conventions<sup>73</sup> in Brazil, as "a struggle for survival ... of the diverse cultures of the planet... In these forms of acquired knowledge are found valuable registers of sustainable adaptive strategies" (CODEFF 1991).

Adjunct to UNCED's formal activities, various organizations have initiated "North/South dialogues" in order to build trust and devise mutual policy objectives. The Canadian Council for International Cooperation, for example, is facilitating collaboration between NGOs "with the necessary electronic conferencing capability" in Africa, Asia, and Latin America and some developed countries to develop joint research and issue papers for UNCED (Padbury 1991). The World Resources Institute has helped convene a "New World Dialogue" among NGOs of 12 nations to consider a north/south "bargain" based

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<sup>72</sup> I heard numerous complaints expressed informally afterwards (Dawkins 1991).

<sup>73</sup> Among the anticipated outputs of UNCED are three conventions: one on biodiversity, one on forests, and one on climate change (UNGA 1991a).

on sustainable development, equity and civic participation (Speth 1991).

Numerous collaborations between northern and southern NGOs dissipated the initial North/South tension. By the conclusion of the Preparatory Committee meeting, it was evident that NGOs had reached consensus on the need for increased attention to the "development side"<sup>74</sup> of the UN Conference on Environment and Development (Dawkins 1991).

#### 4. Joint Statements and "Single Text"<sup>75</sup> Documents

A team of NGO representatives from Kenya, Zimbabwe, Canada and the United States led an intensive effort over several days to continuously redraft a statement on forests, eventually gaining the signatures of at least 12 southern and four northern NGOs. This statement emphasized the "unbalanced nature of economic and trade relationships between countries" and urged the governments' ad hoc committee on forests of Working Group I to address "[n]ational fiscal and economic policies resulting in forest loss"<sup>76</sup>... Further, the mandate of Working Group III should therefore be broadened to cover the above cross-cutting causal factors" (Kenya, et al 1991).

A team of NGO representatives from Brazil, Great Britain and the U.S. crafted

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<sup>74</sup> "The emphasis has been to introduce the environmental challenge into the development debate... I think the challenge must be to introduce development to the environmental debate" (Corea 1991).

<sup>75</sup> A "single text" circulated among interested parties for criticism and multiple re-drafting can simplify negotiations and promote consensus-building. It avoids the difficulty of reconciling numerous distinct positions and, at early stages, it can prevent parties from becoming committed to their own. In large negotiations, a single text can also preclude bargaining on concessions and instead help identify mutually beneficial solutions. The US successfully used a single text mechanism to negotiate the Camp David peace accords between Israel and Egypt (Fisher and Ury 1981).

<sup>76</sup> "Third World nations have to safeguard the forests and earn revenue... That means exporting value added products rather than raw materials" (Raghavan 1990).

another single text similarly urging a "broad" interpretation of Working Group III's mandate. This statement<sup>77</sup> specifies financial flows, equity issues, the relationship between UNCED and the world's financial institutions, trade, local community empowerment, technology transfer and "a fundamental change in values" as issues "much too complex to be debated by the Preparatory Committee only in Plenary ... they need to be addressed in depth by Working Group III (Holmberg, et al 1991).

NGOs also circulated other statements such as one signed by 18 international groups regarding the failure of UNCED to address the "interrelationship between development, environment and population as well as the essential role of women in these processes" (Bahai International Community et al 1991), another on "Military Activity and the Environment" signed by twelve NGOs (WILPF, et al 1991) and many more.

Similarly, NGOs prepared preliminary drafts of language -- yet to be formulated as "single text" instruments -- for negotiation alongside governmental drafts of an Earth Charter, envisioned by the Secretariat as UNCED's "declaration of principles of people and nations with each other and with the Earth to ensure our common future" (UNGA 1991a).

##### 5. Informal Direct Cooperation

Non-governmental organizations have also developed informal mechanisms to influence policy development for the Preparatory Committees of UNCED. "Just by providing good information" to Secretariat staff assigned to each of the nine "working parties"<sup>78</sup>, some NGO representatives have been invited to participate regularly in these

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<sup>77</sup> NGOs developed this statement in advance of Working Group's III's formation scheduled for the final week in order to gain the endorsements of those NGOs unable to stay.

<sup>78</sup> Separate from the governments' three working groups are the Secretariat's working parties on climate change; land and agriculture; forests; biodiversity; biotechnology; oceans; toxic chemicals and hazardous wastes; and environmental education -- which develop draft



drafting sessions (Nic 1991).

NGOs "with expertise and connections" have also worked successfully at the Ministerial and Secretariat levels, as well as in related international and intergovernmental forums such as the recent Second World Climate Conference (Hajost 1991). In his report to the Preparatory Committee, Secretary-General Strong noted that NGOs "on a personal basis in secretariat working parties and consultative groups...are engaged in preparing the substantive documentation requested by the Preparatory Committee" (PrepCom 1991b).

#### 6. National Reports

In addition to international relationships, national forums are fundamental to political and, potentially, legal innovation in international policy. A focus of national activities related to UNCED is NGO involvement in the reporting processes being developed in response to the U.N. General Assembly's invitation to nation states "to prepare national reports ... [through] broad-based national preparatory processes involving the scientific community, industry, trade unions and concerned non-governmental organizations" (UNGA 1990d). In many under-funded, less democratic, or otherwise recalcitrant nations, NGOS have undertaken "alternative" or "parallel" national reports.

Guidelines issued by the Secretary-General regarding the preparation of the national reports are extensive and detailed (UNGA 1990e). Intended to "take fully into account the progress made...since the 1972 Conference, the reports' data will be analyzed by computer to help structure the elements of Agenda 21, to analyze response strategies, and to establish a data base of "indicators for measuring sustainable development" (Hyttinen 1991 and Pasztor 1991).

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materials for the consideration of the official delegates (PrepCom 1991b).

The Canadian government, in addition to spearheading the inclusion of NGOs both within official delegations and in the UNCED process as a whole, has developed an approach to the national report that is "a model" of cooperation with NGOs and the public at large<sup>79</sup> (IENN 1991). Initially, the all-party Standing Committee on Environment of the Canadian House of Commons created a broad-based task force with representatives of business, agriculture, labor and the Canadian Participatory Committee for UNCED, a coalition of about 30 NGOs and First Nations (Coutu 1991 and Enforcement Canada 1991). Adding representation from each province, Canada's National Secretariat then formed a National Report Steering Committee of these parties which is gathering input through a series of public hearings and "roundtables" throughout the country. Different sectors of the Steering Committee are responsible for writing different sections of the official report which will ultimately be authorized by the Canadian Department of the Environment (Bernstein 1991c).

As of March, 100 countries were actively engaged in the national report process (Nelson 1991). Scheduled to conclude by July, only two countries -- the United Kingdom and Iceland -- had by February submitted reports to the Secretariat (Network '92 1991). The UK's created controversy: the government submitted an existing environmental "white paper" entitled "Our Common Inheritance." Some NGOs charged that it "was not the result of a participatory process" despite acknowledging that it "presents "a comprehensive view of virtually every global and local environmental issue of concern to the UK ... as well as 350 action proposals."<sup>80</sup> The British government is now encouraging NGOs to produce "addendums" to be submitted to UNCED (Thomson 1991).

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<sup>79</sup> An official of the World Bank argues that the government/NGO relationship is not sufficient to meet the objectives of public participation. Major NGOs "represent the power structure within their countries" and often serve as "consultants" or, "even worse, as tools of political parties" (Pratt 1991).

<sup>80</sup> Production of the UK's white paper created "a permanent machinery" including "Green Ministers" in each department and a permanent Cabinet Committee on the environment (Thomsen 1991).

Many countries cannot afford the cost of the elaborate report process. To help, the United Nations Development Programme has allocated up to \$10,000 to assist "one or more NGOs" in each of 15 to 25 developing countries<sup>81</sup> "to support their national contributions...to UNCED." The Sudano-Sahelian office of the United Nations Statistical Office is helping 22 African nations develop regional consultations to prepare for UNCED and invited three NGOs<sup>82</sup> to participate; UNSO is also working with UNDP to create national committees in the region to be comprised of representatives of ministerial departments, the scientific community and NGOs. And the British-based International Institute for Environment and Development (IIED) is assisting NGOs of five<sup>83</sup> developing countries to take part in developing either the official or "parallel" national reports in their respective countries (Moyo 1991 and Network '92 1991).

In much of the world, non-governmental organizations are involved in on-going national report processes. ZERO Regional Network of Energy Experts, an NGO based in Zimbabwe, is coordinating a regional approach among NGOs of ten southern African nations to help develop national reports (Moyo 1991). In Pakistan, the regional office of the International Union of for the Conservation of Nature, funded by the British IIED, is leading the development of the national report under governmental "supervision." Similarly, a team of scientists and other NGO experts funded by the IIED is assisting the government of Nigeria (Network '92 1991). An NGO chaired a national planning session for Working Group III in Malaysia, the results of which will "become part of" their

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<sup>81</sup> As of February 1991, the UNDP was working NGOs in Ghana, Kenya, Senegal, Egypt, Poland, Tunisia, India, Papua New Guinea, Philippines, Thailand, Bolivia, Brazil, Ecuador, Jamaica, Mexico, and Peru (Network '92 1991).

<sup>82</sup> Invited NGOs included the Africa Women's Development and Communications Network of Kenya, Environment and Development of the Third World based in Senegal, and the Association of African Women for Research and Development (Network '92 1991).

<sup>83</sup> The IIED is working with NGOs in Argentina, Indonesia, Nigeria, Pakistan and Zimbabwe (Network '92 1991).

national report (Ting 1991). The Philippines government is progressing with an official national report while NGOs are aggressively campaigning for up to 20 Senatorial seats (Kalaw 1991).

Latin American and Caribbean nations vary in their response. The Chilean report, for example, is developing smoothly with direct NGO input (Tovarias 1991). But Argentina's "working group" on UNCED, while including NGOs, had not as of late March begun work on the national report; in collaboration with other Argentine NGOs, the IIED-Latin America is planning a series of seminars to gather data on Argentina's environmental and developmental condition which it "would be willing to put at the government's disposal" (IIED-Latin America 1991). At a September 1990 CARICOM Ministerial Conference, Caribbean governments decided that "resource persons would be deployed throughout the region" to initiate their respective national reports (Network '92 1991).

Among Europeans, French NGOs are drafting their own national report while the French government consults them regarding specific technical elements for the official report (Vernet 1991). Germany, on the other hand, had not started work on a national report nor had it, by late March, accepted NGO participation (Edelman 1991). In Norway, NGOs are writing "at least three chapters" of the official national report and "commenting" on the rest. And a committee including representatives of political parties, trade unions, research organizations "and NGOs" is writing Sweden's national report (Nework '92 1991).

The Soviet Union is planning to submit an already-drafted inter-governmental document that includes an entire chapter devoted to non-governmental organizations. Soviet NGOs called it "a quantum leap in the way the Soviet government views the environment" but are, nevertheless, preparing an alternative report as well (Network '92 1991.)

In the United States, the President's Council on Environmental Quality is managing the national report process. Its principal goal, according to the CEQ, is to "serve as a vehicle ... and an exchange of ideas within and between the Government and the non-governmental communities on the issues identified by the General Assembly" (Network '92 1991). The CEQ will host five regional roundtables in cooperation with the U.S. Citizens Network on UNCED, a broad-based coalition of "hundreds if not thousands of NGOs ... the list is growing every week" (Porter 1991).

### 7. International Conferences

There have been dozens of international conferences -- and many more are scheduled<sup>84</sup> -- to develop worldwide input for UNCED. For example, in cooperation with the UNCED Secretariat, the Centre for Our Common Future has planned at least five regional forums for NGOs taking place in Mexico City, Cairo, Buenos Aires, and Amsterdam, and New York City. An international collaboration of organizations is hosting a major "World Women's Congress for a Healthy Planet" to be held in Miami in November (Abzug 1991). And the Environmental Liaison Centre International anticipates about 850 NGOs will attend its "Independent Sectors Summit" to be hosted by the French government in December 1991 (Vernat 1991).

Some of these conferences are issue-oriented; others are regionally-defined or constituency-based. The role of NGOs varies considerably in each, as will NGO satisfaction with the outcomes. It is beyond the scope of this paper to document these conferences, apart from noting their significant enhancement of public education generally and non-governmental collaboration in international environmental decisionmaking.

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<sup>84</sup> See "Other Conferences" listed in the Canadian government's National Secretariat UNCED '92 Newsletter (Enforcement Canada 1991).

## 8. Global Telecommunications Networks

The proliferation of governmental, intergovernmental and NGO initiatives directed at UNCED presents staggering problems of synthesis, documentation and communication. Despite the obvious constraint that most NGOs -- even in the developed countries -- lack access to computerized telecommunications systems, electronic networking is facilitating the work of UNCED parties in widely dispersed regions of the world<sup>85</sup>.

NGOs are actively working to find the necessary resources to extend the networks, especially in developing countries (Bissio 1990, Carrier 1990, Neves 1990, Mann 1991, and Pollard 1991d). In order to reach NGOs that are not connected to these communications network electronically, host operators envision a mechanism whereby recipient operators at regional "nodes" would download text for local reproduction and dissemination using print and broadcast media (Phillips 1990).

The UNCED Secretariat is implementing an "UNCED information system" (UIS) that tracks related activities within "the United Nations system" -- including U.N. agencies as well as "relevant inter- and non-governmental organizations -- and supports a global electronic network (UNGA 1991a). Presently, the UIS's network of "host" operators facilitates separate "conferences" within the system, organized by type of information.<sup>86</sup>

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<sup>85</sup> Electronic hosts capable of carrying on-line conferencing on a completely automatic basis include Pegasus of Australia, Nicarao of Nicaragua, Fredsnaetet of Sweden, PeaceNet and EcoNet of the United States, Web of Canada, Alternex of Brazil, GreenNet of the United Kingdom, LMDP/Camelsnoze Project of Holland, Msx-Acc of Spain, Toppsi of Ireland, DIX of Estonia, ELCI of Kenya, Mango of Zimbabwe, Huracan of Costa Rica, and BolNet of Bolivia. In addition, manual capability is available through Geo2/Mcrl of the United Kingdom, Chasque of Uruguay, WorkNet of South Africa, Geo4 and TCN of the United States, and Agora of Rome (Phillips 1990).

<sup>86</sup> The UNCED "family of conferences" on EcoNet, for example, includes "DOCUMENTS," "SCHEDULE," "GENERAL," "NEWS," and "TOPICS" in addition to conferencing for the U.S. Citizens' Network on UNCED (Pollard 1991b).

The UNCED Secretariat uploads official documents from Geneva; users<sup>87</sup> upload documents they deem pertinent. Individuals read and respond to these documents and to each other.<sup>88</sup> "Single text" drafting processes, brainstorming, and information-sharing are predominant activities. Access to documents and newsletters of the Secretariat and NGOs worldwide is instantaneous -- far swifter than the print medium and international postal service can accommodate (Pollard 1991a).

From Geneva, the World Wildlife Fund International funded regular postings of daily activities for worldwide dissemination using the electronic networks (Goree 1991c). With support from the Secretariat, two NGO representatives provided training in the use of telecommunications to the Canadian-Sponsored North-South Dialogue group and, less formally, to other NGOs from the IFC office. The NGO Strategy Group decided to make extensive use of computer communications for its intersessional work, and NGO representatives are planning with the Secretariat to introduce governmental delegations to the UNCED UIS system of telecommunications as well (Pollard 1991c).

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<sup>87</sup> In February, the EcoNet system registered 1824 users in the United States (EcoNet 1991).

<sup>88</sup> Much of the research for this paper was conducted through EcoNet.

### III. Toward Sharing Rights and Responsibilities

In Section II, I described the roles that non-governmental organizations have played thus far in planning for UNCED, several legal and philosophical issues that relate to the increasing involvement of NGOs in international decisionmaking, and the history of this movement. I have shown that, currently, the transboundary nature of environmental matters and the transboundary nature of economic relations create conditions which erode national sovereignty and, at the same time, raise expectations for greater public participation in international decisionmaking.

In this section, I analyze three major problems which confront international planners -- not only for UNCED but for other negotiations that will follow -- as public involvement in treatymaking grows. In each case, I explain how various procedures and structures could build relationships that would resolve these problems.

The first problem is that NGOs lack a functional organizational structure which is representative of their global diversity yet retains their individual independence; the lack of a structure interferes with their ability to develop coherent policy initiatives. The second problem is that NGOs and governments lack mechanisms for interacting informally as well as officially; as a result, NGOs have had a limited influence on policy and governments have failed to take full advantage of the NGOs' collective expertise. The third problem is that few proposals and little leadership appear on the horizon for planning the procedures and structures needed to involve NGOs more systematically and more constructively in treatymaking.

Based on this analysis, I make a number of recommendations specific to the



treatymaking process in Section IV.

#### A. Organizing NGOs

A former president of the Conference of NGOs in Consultative Status with the Economic and Social Council of the United Nations (CONGO) asserted that "the reason there are 900 NGOs is that there are 900 constituencies, issues and pressures" (Harris 1991). Greenpeace's delegate to the Geneva Preparatory Committee told UNCED Chairman Tommy Koh "the strength of NGOs is in their diversity; there's a limit to which we can conform" (Koh Briefing 1991). An NGO member of the official United States delegation in Geneva said "NGOs are decentralized, independent and the cast of characters changes; it's contradictory that we build a federated structure" (McCoy 1991c). Yet all three are actively working to better organize public participation in international decisionmaking.

As NGOs develop more influence in international decisionmaking, the question of their internal democratic and representative structures becomes important. Although many NGOs are more closely involved with the individual citizen and local community than are most national governments and thus, by James Madison's definition in The Federalist Papers, they are more "democratic" (Madison 1787) -- their relationship to each other and to their collective constituency is lacking in democratic method.

For UNCED, the United Nations have opened the door to any NGO that can describe itself as "relevant" to the broad purposes of the conference (UNGA 1990f) and pay for travel. In Geneva, the overall effect of burgeoning NGO involvement was chaotic, regardless of the amount of collaboration that did occur and significant bridging among NGOs of the North/South gap. As a participant, I felt ineffective. Various governments requested more official interventions by the NGO community. The Conference Chairman and Secretary-General repeatedly urged NGOs "to organize themselves" (Dawkins 1991).

By comparison, the business community and scientific community -- both of which

are non-governmental -- are very well organized and, for the most part, function separately from the loosely-defined community of NGOs which I have been describing. The corporate sector formed a single "Business Council" for purposes of UNCED at the request of Secretary General Maurice Strong. Understanding that its mandate must "be carried out well in advance of the Earth Summit so that the input of the Business Council's members could be taken into consideration during the consultative process that the UNCED Secretary-General is carrying out prior to Rio" (Faulkner 1991), the corporate community convened the Second World Industry Conference on Environmental Management in April 1992 and intends to conclude its 1992 meeting in Brazil the week prior to the beginning of UNCED (Fry 1991). The scientific community has collectively targeted the climate negotiations related to UNCED. The International Council of Scientific Unions co-hosted the Second World Climate Conference in October 1990, along with many governmental entities. It and many other scientific organizations actively participated in the first meeting of the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change held in February 1991 (O'Sullivan 1990).

Matching the degree of organization of the business and scientific communities will be difficult. One reason is that the constituency of the NGO community for UNCED comprises essentially all the NGOs in the world that profess a concern for the future of the earth and its people. They share some characteristics -- in many cases, significant experience in either environmental or development issues -- but they are extraordinarily diverse. The International Facilitating Committee identified at least 11 "independent sectors" -- indigenous peoples, scientific organizations, business interests, youth, students, women, trade unions, religious/interfaith groups, the media, grass-roots farmers and peasants, and human rights/peace organizations -- with relevant but distinct interests (May 1990 and Network '92 1990).

A second reason making the organization of NGOs difficult is that, as their

interests and resources<sup>89</sup> change over time, there is little continuity among participating organizations from conference to conference. Organizers expect many thousands of groups which have never before attended an international conference<sup>90</sup> to go to the culminating session for UNCED in Brazil. And UNCED is only one conference in a panoply of international negotiations for which better organized NGO participation would be useful.

In the following discussion, I first analyze how professional facilitation in conference and between conferences can address some of the logistical obstacles to NGO organization. Then I evaluate five tensions that interfere with their ability to develop cooperative organizational strategies, a conceptual framework to embrace NGO diversity, and procedures to build trust and cooperation. Finally, I explain my reasons for recommending a formal but flexible structure that enables conference-specific decisionmaking among NGOs as a group.

### 1. Professional Facilitation and Telecommunications Networking

Because of the vast diversity among NGOs and their general lack of experience, shared values, and continuity, my first recommendation is that the Secretariat support the United Nations' decision and its own commitment to greater NGO involvement by providing professional facilitation services and augmenting NGO access to its UIS telecommunications system.

More comprehensive facilitation would help identify and resolve many differences between NGOs before tensions develop. Effective orientation and training, the provision

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<sup>89</sup> NGOs are also less well organized than the business or scientific community because they lack the financial resources required for international organization.

<sup>90</sup> NGOs are not the only party to international negotiations with inexperienced representation. About 1500 out of 6000 delegates representing the US Department of State each year are attending their first international conference with no advanced training in diplomatic skills (McDonald 1989).

of technical resources, and the convening of strategic constellations of interaction would help address differences in experience, style, and perspective. Most importantly, effective facilitation would give NGO leaders a better forum for persuasion among themselves and with governments.

For facilitation to be effective, however, it must have a mandate from the parties (Susskind and Cruikshank 1987). Therefore, the Secretariat should initiate a process that involves the major stakeholders before treaty conferences begin. In the case of UNCED, for example, to select a facilitation team for NGOs, the Secretariat, the CONGO, the ELCI, the IFC, the Brazilian NGO Forum, the NGO Strategy Group, and any other "willing and able" NGOs<sup>91</sup> should first negotiate terms of reference addressing the need for and the appropriate components of high-quality facilitation. These entities -- which have heretofore blended the work of facilitation and leadership -- should then open a process of affirming the mandate for facilitation as well as a process for nominating candidates and selecting the facilitation team from among the accredited NGOs. Such a process of redefining the mandate and nominating procedures should be renewed after each conference -- to facilitate intersessional work, a period in which coordination and cooperation are especially difficult to sustain -- and then again before subsequent conferences.

The effect of comprehensive facilitation would be the creation of forums in which parties to the negotiations can affirm that leadership which enables consensus-building among the NGO community as well as better horizontal interaction between NGOs and the governmental sector.

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<sup>91</sup> I would include in the description of "willing and able" NGOs any of the 179 accredited in Geneva which might respond to an invitation to join a working group for this purpose. In the near term, financial and other resources would undoubtedly prevent this group from becoming unwieldy. Should unwieldiness become a problem in the future, structures such as my proposal for a conference policy coordinating body of NGOs would be appropriate for this screening function.

When not in conference, however, the facilitation of ongoing communication among global parties becomes even more difficult. Telecommunications provide the best available means of communication. All parties to UNCED would benefit significantly from more user-friendly systems that provide mutual access to general information, data collection and evaluation, policy analysis, and direct communication. In order to better provide this access, the Secretariat and the facilitation team should expand and coordinate efforts to involve interested non-governmental organizations, governments, intergovernmental organizations, and all other parties in telecommunication networks. Aggressive effort should be directed toward improving access in developing countries to both equipment and training for NGOs and governments. The Secretariat should also make accessible to any interested NGO or governmental delegate its sophisticated models of analysis with user-friendly translations. For example, the models being developed by the International Institute for Applied Systems Analysis for the Secretariat, which incorporate complex ecological data with complex economic data to project the interactive impacts of policy alternatives<sup>92</sup> on climate and human settlements (IIASA 1991) should be available on line. Conference participants should be enabled to follow the evolution of Agenda 21's analytical blend of data and policy, too.

Even as these systems are pursued, it is essential to remember that telecommunications are far from universally accessible and the disparity between northern and southern access to information is sharpened by an increasing reliance upon

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<sup>92</sup> Under contract with the UNCED Secretariat, the International Institute for Applied Systems Analysis is creating three conceptual models "in the form of flow charts ... to show the main linkages between development activities and the environment" and how "instruments designed to address one problem will impact upon many problem areas simultaneously." One model will link "demography, poverty and environmental degradation ... in respect of issues like hunger, deforestation and soil erosion." Another will show linkages between "a material lifestyle, high and growing income levels, large-scale resource use, and a leaky industrial and agricultural metabolism in respect of environmental acidification, toxification and climatic change." A third links "structural economic inequalities, the terms of trade and international debt" to environmental degradation and "rates and patterns of development" (IIASA 1991).

this approach. Broadcast and print media should be fully integrated with a computer-linked system of communications (Phillips 1990). Serious commitment to financing the hardware and training components of computer-based education and public participation in policymaking should be included in the development of financial institutions dedicated to promoting sustainable development.

I believe that better facilitated communication and planning, during and between international meetings, can offset the possibility that NGO interventions will be earnest but ignorant and ultimately impede negotiators at UNCED and in other treaty-making processes.

## 2. Constellations of Interaction

There are some philosophical differences among NGOs that I believe interfere with their collective ability to effectively influence international policy. I identify five issues which caused tension among NGOs in Geneva and affected their ability to organize themselves. Many of these differences are inevitable; more importantly, I believe they are instrumental for carrying forward a comprehensive NGO strategy for institutionalizing sustainable development in the world.

The philosophical roots of these tensions need not conflict. Rather, NGOs should view their differences as strategic complements to each other -- something like the "good cop/bad cop" technique developed by the police<sup>93</sup>. For example, rather than debate whether NGOs should cooperate with governments or whether this cooperation is actually a form of co-optation, I suggest there is an opportunity for teamwork. Those that are willing to negotiate should do so and those that prefer to fight should fight. The key is

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<sup>93</sup> In this model familiar to North American television viewers, a pair of officers interrogate the suspect. Although both have the same objective -- to elicit a confession, the first officer behaves harshly to frighten the suspect. Then, the second officer intervenes and, behaving in a disarmingly friendly fashion, wins the suspect's confidence. This teamwork often succeeds in obtaining confessions.

to acknowledge that both types are needed: fighters to extend the range of negotiable terms and negotiators to close the deals. Their net impact, especially if strategically coordinated, would be to maximize their mutual objective -- influencing governments to support policies and programs leading to sustainable development.

To facilitate this type of strategic cooperation, I recommend convening what I call "constellations of interaction" -- opportunities for diverse NGOs to resolve tension while identifying common interests and building cooperative strategies. For example, one constellation -- meeting over lunch, let's say -- might include a so-called fighter representing rural peasants from Mexico, a fighter representing indigenous fishing people from Canada, a fighter representing Italian opponents of toxic dumping, a negotiator representing a Christian community from the Phillipines, a negotiator representing an African women's community gardening project, and a negotiator representing the Australian youth movement. Certainly the discussion occurring in such a constellation of interaction would be interesting; it might also produce creative strategies relevant to the official agenda and build international trust and organizational networks besides.

The following analysis of the five issues that I found to create tension and dissension among NGOs in Geneva is intended to help create a conceptual base upon which to build a strategic cooperative organization.

#### a. Facilitation versus Leadership

NGOs in Geneva were subjected to enormous numbers of choices regarding the use of their time. In addition to getting to know one another, they had to determine from hour-to-hour which of the multitude of meetings occurring simultaneously -- whether among the governments or among NGOs -- to attend. Furthermore, the UN Palais des Naciones is a huge complex of buildings; meeting rooms were very widely dispersed and

poorly identified.<sup>94</sup> In addition to logistical difficulties, NGOs were confronted with the challenge of interpreting the policy-related intelligence gleaned from the multitude of meetings and coordinating a process for devising joint strategies in order to intervene effectively in each.

The International Facilitating Committee and the NGO Strategy Group responded ably to the respective challenges of logistical and strategic coordination, but were hindered by severely constrained resources. I believe they were also hindered by misunderstandings regarding the role of the facilitator; an unfortunate amount of time and energy has been invested by NGOs disputing leadership in the name of facilitation. In addition to many hours of discussion in Geneva regarding the roles of the IFC and the Brazilian NGO Forum in Brazil, there were earlier disputes regarding the role of CONGO, the Conference of NGOs with official "consultative status" with the UN; between the IFC and the Environmental Liaison Centre International regarding their respective roles which resolved itself shortly before the Geneva Preparatory Committee session; and several days-worth of emotional discussion at the Nairobi Preparatory Committee to establish the IFC (May 1990, Collett 1990, Pratt 1991, Dawkins 1991, Nic 1991 and McCoy 1991a).

The two roles are influential, but distinct. Leadership is a matter of vision and persuasion.<sup>95</sup> The effective facilitator, on the other hand, will limit his or her influence to ensuring that all parties are engaged fully in the negotiation progress and satisfied with their collective progress on the issue at stake (Susskind and Cruikshank 1987). In a well-

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<sup>94</sup> In my first few days in Geneva, I more than once missed significant portions of a meeting of interest while searching for the site (Dawkins 1991).

<sup>95</sup> "Once the aspirations and appetites of the world have been whetted ... one cannot hope to keep the people locked out... Former generations could not conceive of such luxury, but their children now take this vision and demand that it become a reality," argued Martin Luther King (King 1967). Gandhi wrote that "...winning the confidence of the people was an indispensable condition" (Ghandi 1929).



facilitated process, participants have a forum in which leadership can be identified and supported.

By these definitions, NGOs in Geneva lacked adequate facilitation and NGO leaders were at least temporarily disenfranchised while they strove to understand the logistical and political layout. Despite the efforts of the IFC and the NGO Strategy Group, there was no orientation and no on-going facilitation that encompassed the full spectrum of events.

The result was delay and a loss of influence for NGOs among governmental decisionmakers. For example, the NGO representative serving with the Dutch delegation reported that Dutch officials were anxious for NGOs to address the Plenary more frequently (NGO Delegates Meeting 1991). An official with the Australian delegation urged NGOs to "be more active with interventions... In Nairobi, everyone was restrained but Brazil's [Environmental Minister Jose] Lutzenberg. He was impassioned and sensible as well" (Holesgrove 1991). Another official delegate asserted, "The days of parallel activities are over; [NGOs] should come into this forum and interact" (Adams 1991).

#### b. Experience versus Grass-roots Growth

One of the most important effects of UNCED may turn out to have been its stimulation of non-governmental organizing at the "grass-roots" of societies throughout the world. Many new organizations, however, lack the skill with which to affect the dynamics and strategy of coalition politics and international relations.

Meanwhile, some of the more experienced campaigners lack the time or patience required to train or involve novice organizational representatives in their plans.<sup>96</sup>

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<sup>96</sup> For example, in Geneva during a presentation about a new coalition forming among NGOs from OECD countries, one professional advocate twice challenged the speaker to state what "substantive" contribution the new group would offer (US/Canada Meeting 1991).

Through relationships and credibility developed over many years, some well-established NGOs have developed short-cuts to policymaking such as working directly with administrative staff of government agencies, by-passing the political process (Nic 1991). And, because these organizations are often better funded than newer or more local groups, they may employ experts or professional staff who believe their time is better spent negotiating with governments than with other NGOs (Hajost 1991).

As a result, the two types of groups sometimes fail to communicate and may actually conflict.

### c. Cooperation versus Co-Optation

Certain NGOs have very successfully monitored governmental or commercial activity and publicized environmental abuse, thus achieving stronger or better enforced regulations. NGO influence in strengthening regulations of the International Whaling Commission, for example, has been profound. Greenpeace, particularly, has followed whaling ships, documenting and publicizing abuses. Greenpeace and other NGOs attend Commission meetings as non-voting observers, lobby extensively, and carry-out public relations campaigns. Their success is reflected in the degree to which "Save the Whales" has become a slogan for the entire environmental movement (Stedman 1990).

Similarly, many NGOs have sponsored public education campaigns that, despite limited resources, are more effective than governmental programs. A history of effective advocacy can lead to funding and service contracts from governments. The Agricongo Development Project, for example, has elaborated a complex model of partnership between the Congolese government, financial institutions and community groups (Boukambou 1991).

In other situations, NGOs have succeeded in placing environmental or

development advocates within government<sup>97</sup> or industry<sup>98</sup> -- or, alternatively, they have persuaded officials of the merits of their proposals. In these cases, groups may choose to work with the government or company in order to reach certain environmental or developmental objectives.

These may be sound arguments favoring cooperation with government or corporate institutions but there are conflicting arguments that NGO advocates lose their freedom to criticize these institutions while becoming responsible for their actions. "There is the risk of co-opting NGOs," argued Brazilian environmentalist and Congressman Fabio Feldmann. "They should not manage stations. The shift of responsibility without authority is a trap..." (Feldmann 1991.) This conflict is reflected in the attitude of NGOs which reviewed a draft of new policy objectives regarding environmental impact assessment and forests for the World Bank. Although they participated in the review, the NGOs stipulated that they were not representing their constituencies in the process and they reserved the right to criticize the policies later (Pratt 1991).

This conflict -- whether to cooperate or remain independent of governmental or industrial interests -- generates serious debate and some hostility among NGOs.

#### d. Pragmatism versus Principle

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<sup>97</sup> For example, Roque Sevilla was President of Fundacion Natura, Ecuador's leading environmental group, for ten years while also serving in a personal capacity as environmental advisor to Ecuadorean Presidents Febres-Cordero and Borja. In 1989, the Minister of Agriculture appointed Sevilla to head the National Forestry Service and to the government's "Comision Negociadora de la Deuda" which negotiated debt-for-nature swaps (Sevilla 1991).

<sup>98</sup> Jorn Siljeholm's resume, for example, includes serving as Executive Director of the Norwegian Society for Protection of Nature, Norway's largest environmental NGO; as Rapporteur for the NGOs' Danube conference and at the Bergen Regional Preparatory Conference; as Environmental Advisor to EXXON/Europe and advisor to the Secretary General for the Second World Industry Conference on Environmental Management in Rotterdam (Siljeholm 1990).

Based on their perception of political reality, many non-governmental organizations focus on incremental change and are willing to negotiate compromise positions. The US-based Environmental Defense Fund, has recently pursued this approach. "For EDF," reads their 1990 annual report, "advancing new strategies meant accepting a White House invitation to develop a national acid rain platform... Setting up a task force with McDonald's was also an unusual strategy... Worldwide, with the end of the Cold War, a new emphasis on problem-solving over ideology has emerged" (Krupp 1990).

NGOs with professional staff or a broader national or regional scope, may structure their internal decisionmaking based on expertise whereas many grass-roots organizations elect their leadership from among the membership. The US-based National Resources Defense Council, for example, describes itself in a recent brochure as "A Dedicated Team of Professionals. Our teams of lawyers, scientists and resource specialists ... are representing not only our 80,000 members, but we are representing you..." (NRDC undated).

Some groups, not all of them from the grass-roots, find these approaches to be undemocratic and reach different conclusions about the usefulness of incremental change through compromise.<sup>99</sup> Valuing democratic principles highly, they often argue that sustainable development and environmental protection will only derive from fundamental societal change. The Pact for Ecological Action in South America, signed in 1989 by 15 NGOs of nine nations, states that "[n]either the State-dominated economy which has failed nor the 'liberal panacea' which is being offered to our people can ensure development that is ecologically sustainable, socially just and politically viable... Sustainable Development can only be achieved under democratic participatory regimes..."

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<sup>99</sup> "We shouldn't negotiate. It's not about an agreement on forests, it's about the survival of the planet," commented one NGO representative while objecting to a proposal that preambular text be eliminated from the NGOs' joint statement (Waring 1991).

(Las Vertientes 1989).

In either case, most organizations assert that their own approach correctly blends pragmatic with principled tactics and criticize those with a different approach. This tension undermines the potential for strategic cooperation when their interests coincide.

#### e. Economic versus Democratic Sovereignty

Distinct analyses of international political relations invoke the concept of national sovereignty to defend conflicting arguments regarding the appropriate role of state governments in development. Ironically, these include both nationalist proponents<sup>100</sup> and opponents<sup>101</sup> of foreign investment as well as proponents of local models of development.<sup>102</sup> Others refute the conceptual validity of sovereignty in contemporary international affairs altogether. Brazil's Congressman Feldmann argued "[t]here is no sovereignty for underdeveloped countries when you have terrible external debt... If all debt were forgiven in Brazil, in ten years they'd be back in debt unless the terms of trade are exchanged... We must design new conceptions of sovereignty..." (Feldmann 1991).

The end of the Stalinist era in Eastern Europe has generated considerable discussion confusing economic policy with democratic reform (Froot 1990). Conversion of a state-controlled economy to capitalism does not mean that a government will

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<sup>100</sup> Former Brazilian President Jose Sarney defended development in the Amazon on grounds of national sovereignty (Simons 1989).

<sup>101</sup> Baldemar Velazquez, President of the Farm Labor Organizing Committee, in opposing a North American Free Trade Agreement, charged that transnational investors have made farmworkers "not citizens of three countries, but citizens of one corporation" (Velazquez 1991).

<sup>102</sup> "We must fight against these assaults on our sovereignty. But ... they do not deal with the even more important question of power ... [which] derives from the capacity for self-reliance... We are losing our capacity for autonomy and in so doing we are losing our capacity for citizenship... In this new era of unfettered mobility, citizenship itself is redefined... We will no longer vote as citizens but as consumers..." (Morris 1990).

necessarily be more or less democratic. Similarly, the installation of democratic elections does not necessarily require the privatization of public institutions. Individuals have different preferences in making choices as consumers and as citizens which reflect ethical decisions not only about the distribution of goods but about morality and their sense of community and collective will (Sagoff 1988).

The failure to distinguish between economic and democratic models of national or international behavior further clouds discussions regarding the economic and democratic implications of the environmental and development trade-off inherent to the North/South conflict. In a world in which nations have interdependent economies and linked political agendas, the emotionally-charged debate over sovereignty may be a distraction from more analytical planning and strategic organization.

### 3. Conference Policy Coordinating Bodies

Given the problems of vast diversity, changing representation, and variable interest in each international conference, I recommend a general scheme for organizing NGOs that would be re-created for each meeting. In order to help identify common interest and define mutual objectives, some kind of structure is needed -- a structure that promotes discourse, preserves the collective diversity of NGOs and evolves flexibly.<sup>103</sup>

In order to stimulate the creation of this type of NGO organization and, at the same time, to begin a process of gaining official recognition for its participation in formal

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<sup>103</sup> "The substantive common interest is only discovered or created in democratic political struggle, and it remains contested as much as shared. Far from being inimical to democracy, conflict -- handled in democratic ways, with openness and persuasion -- is what makes democracy work, what makes for the mutual revision of opinions and interest... Democratic politics is an encounter among people with differing interests, perspectives and opinions -- an encounter in which they reconsider and mutually revise opinions and interests, both individual and common. It happens always in a context of conflict, imperfect knowledge, and uncertainty, but where community action is necessary. The resolutions achieved are always more or less temporary, subject to reconsideration, and rarely unanimous. What matters is not unanimity but discourse" (Pitkin and Shumer 1982).

negotiations, I also recommend that the Secretariat establish more specific criteria for granting credentials to NGOs. I suggest criteria that emphasize balanced geographic representation while categorizing NGOs by sectors only in the broadest of terms -- for UNCED, simply environmental and development interests. My reasoning is that NGOs should reserve the right to determine their own sectoral representation.

I propose that the NGOs with credentials at each international meeting create what I call a "conference policy coordinating body" (CPCB) of representatives elected by region of the world and by sectors of major interest. The CPCB would be responsible for organizing a coherent policy approach<sup>104</sup> to the governmental decisionmakers. The two structural bases for each conference-specific organization of NGOs would be regional and sectoral. Each of the seven continental groupings<sup>105</sup> would establish a regional organization; each major sector of interest would establish the equivalent of a professional association. Thus, each NGO delegate would participate in two bodies and elect two representatives (or multiples thereof) to the CPCB.

For each conference, the regional representatives to the CPCB may choose to establish standards for attendance that would define which sectors may elect representatives to the CPCB. The CPCB would preferably operate by consensus and, for controversial matters, develop majority and minority positions. As this type of mechanism demonstrates itself to be effective and becomes better established, NGOs may find it feasible to convene regional and sectoral meetings in advance of a major conference and identify representatives to that CPCB with some anticipation. Over time, the CPCB might become responsible for nominating NGO representatives to be recognized in the official

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<sup>104</sup> Of course, all parties to the conference would be entitled to pursue their individual interests as well.

<sup>105</sup> These are Asia, Africa, South America, Central America/Caribbean, Australia/New Zealand and Pacific Islands, Europe and North America -- with apologies to those nations not definitely associated with one of these regions.

negotiations.

The purpose of the CPCB would be to focus NGOs politically and enable the governmental sector to identify leadership within the NGO community with some authority. By coordinating their internal development of policy in this way, NGOs may more effectively contribute to the policy deliberations of the governmental decisionmakers. NGOs should be prepared to assert their moral and political interests as democratic representatives of the world polity. But without the authority provided by a representative organizational structure, their entreaties to the decisionmakers seem too often like mere platitudes.

## B. Relating with Governments

In response to the second salient problem -- developing procedures and structures for more effective relationships between NGOs and governments, there are both informal and institutional roles to consider. It is worth reiterating that the provision of professional facilitation services would be invaluable in helping to ensure that organizational inefficiency does not jeopardize reaching agreement at treaty conferences.

### 1. Informal Constellations of Interaction

Horizontal constellations of interaction, like those I prescribe to assist NGOs internally, would be helpful in building a functional correspondence between NGOs and governments for essentially the same reasons. Much like NGOs, representatives of the world's governments do not necessarily share values and experience, either. Informal interaction could help build trust and identify areas of common interest that might prove useful in identifying solutions that jointly address the problems of environmental degradation and underdevelopment.

One example of such a constellation would be the creation of "preconference working groups to prepare provisional proposals that do not represent official national commitments of any kind" as proposed by the International Environmental Negotiation



Network of the M.I.T.-Harvard Public Disputes Program. Convening both governmental and non-governmental representatives, these working groups would reflect "the widest array of ... cross-cutting clusters of countries and nongovernmental interests" to generate innovative ideas while offsetting the possibility that disenfranchised groups might later block treaty ratification (Salzburg Initiative 1990 and IENN 1991).

At first on an informal basis, other constellations could be modeled upon the structures established by official conferences to develop better communication between NGOs and governmental delegates. For example, UNCED's structure of three working groups, eight working parties and the parallel Intergovernmental Negotiating Committee on climate suggests that NGOs could organize constellations of NGO representatives interested in these respective bodies and then invite selected governmental personnel in an unofficial capacity to join them. These constellations could become so useful in generating proposals for official interventions by either the NGOs or governments that, over time, a formal relationship between the NGO/government constellation and the official conference committee might evolve.

## 2. National Policymaking

More immediately, NGOs can probably most effectively influence international issues in their respective domestic arenas. As I have described, nations will resort to sovereignty rights supported by international law when confronted with political challenges; this is one of the most stubborn of problems facing advocates of global sustainable development. Despite my arguing that the sovereignty question is moot, given de facto economic and environmental transboundary effects, governmental leaders -- especially in democratic societies -- are motivated by relatively short-term interests (Holmberg, Bass and Timberlake 1991) which NGOs should specifically address.

It is in domestic settings where many political, social and economic issues are considered in their international context. "A number of domestic cum international actors are already there at the conference table or have heavily influenced those government

representatives who sit at the table. They are primarily transnational corporations, international banking and commercial interests and to a lesser extent representatives from international trade unions, churches and religious agencies and various academic and research institutions. Citizen organizations can represent those significant constituencies that are not the primary interests of many of the above groups" at the national negotiating table (McCoy 1990).

Furthermore, NGOs have better recourse to legal enforcement of domestic policy, in most cases, than in the as yet weak forums of international environmental jurisprudence (Phillips 1986). Domestic action can be very successful in affecting the global environment. For example, as the result of a lawsuit filed in 1988 by the California Coalition for Clean Air and the Sierra Club, the United States Environmental Protection Agency "reluctantly" issued guidelines in August 1990 calling for days in which Southern California drivers would not be permitted to use their cars if state and regional plans by the year 2000 are unsuccessful in reducing carbon monoxide emissions (Wall Street Journal 1990). One month later, the California Air Resources Board adopted the strictest "smog laws" in the nation, calling for the mass production of low-polluting cars and other measures; the Wall Street Journal suggested this would set "tough new standards ... across the US" (Jefferson 1990).

To encourage national lawmakers to reconsider energy policy in the light of international issues, one of the US delegates to UNCED testified recently before a committee of the US Congress that "where the US makes its greatest transboundary threat to global environmental security is exactly the area where the US has been reluctant to make the toughest domestic policy changes, that is in its massive annual consumption of fossil fuels<sup>106</sup>... The lack of action by the US in reducing ... our

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<sup>106</sup> In the metric equivalent of 947,800 British Thermal Units, US citizens consumed per capita 280 in 1987 -- compared to 8 per Indian, 22 per Chinese, 130 per European, 110 per Japanese, and 291 per Canadian (McCoy 1991b).

domestic energy consumption undermines our own government's credibility in the UNCED negotiations when we in turn ask developing nations ... to seriously reconsider the economic uses of their tropical forests" (McCoy 1991b).

These examples illustrate that national action can affect international policy objectives. Because of the political problems related to sovereignty and the prevailing international law of sovereign states, I recommend that NGOs carefully target domestic legal and political opportunities to create national standards and political conditions that influence international policy.

### 3. Monitoring

Strong standards, however, do not ensure compliance; no amount of regulation can achieve environmental and development policy objectives without oversight and intervention. Events in Bolivia's Beni land reserve demonstrate this problem. Declared a "Man and Biosphere Reserve" by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1986, the Beni reserve continued to be logged by timber companies operating under seven governmental concessions subject to a reforestation agreement. Despite these terms, loggers doubled the number of trees felled in the area in the next two years; the President of the Beni Chamber of Commerce, representing 175 lumber companies, acknowledged this non-compliance. He argued that reforestation was not important because a mahogany tree takes 80-100 years to mature and, by then, Bolivia's primary market -- the United States -- will probably have found alternatives to wood for building materials. It was residents of the Beni territory, the Moxos Indians, who succeeded in bringing international attention to the fact that the companies were not in compliance (Collett 1989 and Dawkins 1990b).

While the states claiming territory in Antarctica, for another example, agreed in the 1988 Mineral Resources Convention to "extensive rights of inspection ... not one infraction has ever been noted." Realizing this, NGOs developed their own unofficial monitoring of the Antarctic agreements. Greenpeace drew international attention to the

threat presented by construction of an airstrip to penguin and other bird colonies. The Environmental Defense Fund documented treaty violations and developed an "Antarctic Environmental Audit Protocol" for use in inspections (Laws 1991).

Provisions for the monitoring of environmental agreements are especially difficult to negotiate as they conflict with national sovereignty. In establishing monitoring systems for the Mediterranean Action Plan, the United Nations Development Programme avoided nationalist resistance to monitoring by providing developing countries with expensive equipment and training in its use -- not only to encourage their participation and enhance their national scientific capability but also to avoid using French technology, even though it would have been cheaper and probably more accurate (Haas 1990). To accept on-site inspections of nuclear facilities by the International Atomic Energy Agency, nations insisted on terms giving them "some control over the timing of the inspection and the identity of the inspectors" (Chayes and Chayes forthcoming). In 1986, the US-based Natural Resources Defense Council arranged with the Soviet Academy of Scientists to establish seismic monitoring networks around each other's governments' sites for underground nuclear testing; through monitoring the seismic impacts of underground testing legalized by the 1963 Limited Nuclear Test Ban Treaty, they intended to prove that verifying compliance in a potential comprehensive test ban would be feasible<sup>107</sup> (Schrag 1989 and Norris 1991).

In the field of human rights, NGOs and governments have developed very effective models of cooperation in monitoring. The UN Charter on Civil and Political Rights established a committee of 18 "experts" serving in a personal capacity who request and review reports from countries regarding "progress made in the enjoyment of these rights."

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<sup>107</sup> The US government recently assumed responsibility for this monitoring and is now using the NDRC's "state of the art" monitoring station (Norris 1991).

The Committee also considers individual complaints against signatory states. The UN's Economic and Social Council (ECOSOC), too, established a Commission on Human Rights which reviews complaints and conducts its own investigations as well. There are also regional monitoring bodies such as the European Court of Human Rights which can pronounce binding judgements on states. The existence of these official groups has legitimated the work of independent NGO monitoring groups. Backed by effective publicity campaigns, organizations like Amnesty International, Helsinki Watch and the regional Watch groups have "kept these issues insistently at the forefront of international attention ... [They] and countless journalists and witnesses strengthened the work of the formal enforcement bodies and were in turn enhanced by it" (Chayes and Chayes 1991a).

Post-treaty "regime maintenance" entails, foremost, the definition of binding decisionmaking processes written into the initial agreements for resolving regulatory issues as they arise. And planners must develop measures for inducing post-treaty compliance among parties who perceive at best quite distinct and diffuse benefits. Non-governmental organizations can contribute significantly to the "adjustment and compliance processes" for international environmental lawmaking, as they have in the field of human rights (Chayes and Chayes 1991a). Recognition of a more formal role for non-governmental organizations could help counteract the disincentives among states to enforce liability or otherwise induce compliance and help "soften" sovereign resistance to international monitoring. "An environmental version of the Red Cross, (i.e. The Green Cross) or an international network of independent monitoring groups (i.e. the environmental version of Amnesty International) could play a special role in monitoring environmental treaty compliance from within each country ... [and] avoid arguments about the right of 'outsiders' to intrude in national affairs" (Salzburg Initiative 1990).

For these reasons, I believe that roles for NGOs in monitoring -- through their

access to and evaluation of information<sup>108</sup> as well as through their presence in local communities throughout the world -- should be substantially strengthened. The United Nations and other international institutions should formally recognize and support these NGO services.

#### 4. Implementing Sustainable Development

There are many case studies illustrating the work of innumerable community-based NGOs in implementing sustainable development projects. The Worldwatch Institute, for example, in its 1989 State of the World report estimated the number of grass-roots organizations active in sustainable development from selected developing countries: some 12,000 Gandian self-help organizations in India; about 600 dedicated to "environmental protection alone" in Indonesia; 1200 mostly landless groups in Bangladesh; from 3000-5000 Christian Base Communities in the Philippines; 8000 villages in representing one third of Sri Lanka in its "village awakening movement"; 25,000 women's groups in Kenya; more than a quarter-million family farmer groups in Zimbabwe; 2500 peasant groups in Burkina Faso; about 100,000 Christian Base Communities in Brazil and 1300 neighborhood associations in Sao Paulo alone; "massive" urban squatter organizations in Mexico; and 1500 women's self-help community kitchens in Lima, Peru's shanty-towns (Durning 1989).

Another report entitled Only One Earth describes nomadic herders fighting desertification in Kenya, small-boat owners changing their fishing techniques in the Solomon Islands, women in Lima's shanty-towns who developed a cooperative knitting federation enabling them to work at home and find time to improve the sanitary infrastructure of their community, families organizing light industrial rural development projects in China, organic farmers in Great Britain, neighborhood organizers in California

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<sup>108</sup> NGOs active in the process of preparing National Reports for UNCED will be in an especially advantageous position to monitoring their own country's progress toward sustainable development, as the Reports will contribute to the development of the UNCED Secretariat's data base and the anticipated Agenda 21 plans (Pasztor 1991).

fighting toxic pollution of their well water, and women in Zimbabwe who used a community gardening project as the base for developing their own family planning program (Timberlake 1987).

This type of local sustainable development<sup>109</sup> cannot be instituted by government policy alone, although government policy can support indigenous models of cooperative action (Bennett 1983) and supply urgently needed technical and material resources. But it is local NGOs which can best help community residents learn to use government information and materials. National governments and international development institutions "must learn to work with them... To succeed, sustainable development will have to come from both the bottom and the top" (Durning 1989).

As early as 1972, the Stockholm Declaration on the Human Environment noted the need for an "acceptance of responsibility by citizens and communities and by enterprises and institutions... Local and national governments will bear the greatest burden for large-scale environmental policy and action..." (Stockholm Declaration 1972). In its 1987 report Our Common Future, the World Commission on Environment and Development recognized the ability of NGOs to "provide an efficient and effective alternative to public agencies in the delivery of programmes and projects. Moreover, they can sometimes reach target groups that public agencies cannot." The Commission urged national governments and multilateral agencies, "especially UNDP and the World Bank," to "draw upon NGOs in executing programmes and projects" (WCED 1987).

Because the direct relationship in the field between many NGOs and the communities which must implement sustainable development is vital, the United Nations and other international institutions should recognize and support these NGO services.

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<sup>109</sup> Although "few groups use the words sustainable development, their agendas in many cases embody its ideal. They want economic prosperity without sacrificing their health or the prospects for their children" (Durning 1989).

## 5. Resolving Disputes

If UNCED results in legal instruments such as an Earth Charter and the proposed conventions on climate, biodiversity and forests, the problem of enforcement and dispute settlement becomes paramount. Compliance with any international treaty, conceived as a "consensual act" by states, is dependent upon subtle pressures and interrelationships in which NGOs can play a role; official enforcement is almost non-existent. Punitive measures such as sanction, expulsion or withdrawal are rarely invoked. The UN Security Council has used sanctions only four times<sup>110</sup> since 1945. Expulsion is generally not used because states tend to prefer ongoing access to information and influence that better derives from a continuing relationship, especially in times when a state may be deviating from its obligations. For similar reasons, withdrawal from a treaty regime is usually unattractive to the offending state whose right it is to withdraw. Reprisal -- a modified form of sanction which, in complex bilateral and multilateral relationships, often leads to a "tit-for-tat" dynamic -- is used with some frequency; defense and trade negotiations illustrate this tendency. But the effects of spiraling retaliation cause harm to all parties (Chayes and Chayes 1991b).

Voluntary mechanisms such as non-binding arbitration have been effective in balancing the interests of disputing states, most systematically in the functions of the General Agreement on Tariffs and Trade. "GATT has moved forward pragmatically, point by point, sometimes by trail and error ... in the absence of any political consensus leading to the establishment of legal norms"<sup>111</sup> noted former GATT Director Oliver

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<sup>110</sup> Under Chapter VII of the UN Charter, the Security Council authorized sanctions in response to the Korean invasion, in a limited fashion against Rhodesia and South Africa, and most recently, against Iraq. The Organization of American States Charter provides similar measures which were applied against the Dominican Republic and during the Cuban Missile Crisis (Chayes and Chayes 1991).

<sup>111</sup> The GATT's first Director General called the agreement "a web of exceptions held together by tolerance of violations." In the 1960s, GATT contracting parties recognized the need for "special and differential treatment" for developing countries (Dawkins 1990b).



Long. A nation believing itself injured by "unfair trade" may resort to retaliation, as authorized by the GATT in cases of an acknowledged violation of the law. Formal claims are referred to an ad hoc panel of arbitrators whose finding is referred to the GATT Council, a "legislative arm" of the contracting parties. If a finding of violation is adopted, the Council calls upon the offending state to comply or authorizes retaliation<sup>112</sup> -- the imposition of tariffs, quantitative restrictions, or other measures to compensate for the value of the injury (Dawkins 1990c).

This model of voluntary arbitration has the advantage of generating international moral and political forces of persuasion toward compliance, without disturbing national sovereignty or relying upon sanctions. The World Commission on Environment and Development recommended that "[s]tates should be given up to 18 months to reach mutual agreement on a solution or on a common dispute settlement arrangement. If agreement is not reached, then the dispute can be submitted to conciliation at the request of any one of the concerned states and, if still unresolved, thereafter to arbitration or judicial settlement... [P]ublic and private organizations and NGOs [can] help in this area by establishing special panels or rosters of experts with experience in various forms of dispute settlement and special competence on the legal and substantive aspects of environmental protection, natural resources management, and sustainable development. In addition, a consolidated inventory and referral system or network for responding to requests for advice and assistance in avoiding or resolving such disputes should be established" (WCED 1987).

Because the role of a "neutral" arbiter or mediator is very powerful (Rifkin and Cobb 1990 and Wallace 1991) and considering the complex political interrelationships

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<sup>112</sup> Until recently, retaliation had rarely been used. During the 1980s, the number of claims increased from 3 to 11 per year, with legal rulings by a non-binding panel of arbiters on about half (Hudec 1990). Current trends toward regional and bilateral trading agreements have prompted nations to bypass GATT procedures and "trade wars" between regional pacts appear on the horizon (Dawkins 1990c).

to fulfill the World Commission's recommendation. They should train more of their representatives in dispute resolution techniques and develop rosters of skilled dispute resolution practitioners for use by interested parties.

### C. Identifying Leadership and Joint Planning

As I have shown, there are numerous reasons for NGOs to play stronger roles in pre-negotiation, negotiation and post-negotiation aspects of international environmental treaty-making and extensive case histories demonstrating their competence to do so. But there is a third problem -- in addition to the NGOs' lack of organization and clear relationships with governments -- that blocks the evolution of their playing stronger roles. The international community lacks a plan and the leadership needed to move in this direction.

Planning and organizing on a world scale is certainly a huge challenge. But in analyzing any complex negotiation, the first step is to avoid focusing on the substance and instead assess the stakeholders: who are they and what are their interests. Then it becomes possible to develop a plan (Carpenter and Kennedy 1988). In order to identify the stakeholders in a public sector dispute, the M.I.T.-Harvard Public Disputes Program suggests conducting a "conflict assessment" that lists affected individuals and groups by four categories -- a) those with legal standing; b) those with political clout; c) those with power to block implementation; and d) those with "sufficient moral claim to generate public sympathy" (Susskind and Cruikshank 1987).

Based on this definition, the list of stakeholders in UNCED would include: a) the governments; b) government coalitions such as the Group of 7, the Group of 77, NGO coalitions such as the Business Council or the International Council of Scientific Unions, the Secretariat, and groups or individuals with strong relationships to certain governments or the Secretariat; c) well-organized national and regional coalitions of NGOs; and d) sectoral groups that have effective relationships with the media.

or the Secretariat; c) well-organized national and regional coalitions of NGOs; and d) sectoral groups that have effective relationships with the media.

In any international negotiation, the Secretariat is probably the only entity with the necessary persuasive power to convene all the stakeholders initially. I believe that the double-edged potential that NGOs can either help or hinder the success of UNCED is a persuasive argument that the Secretariat can use in calling a first meeting. But it is then the stakeholders as a group who must decide whether to develop a joint planning process that addresses procedural, not political, matters. Due to the complexity and highly sensitive nature of such a process, the stakeholders should probably solicit the help of a professional facilitation team to help them define and carry-out subsequent steps. In most cases, the Secretariat's mandate from the official conference would preclude its further responsibility in facilitating such a joint process. And furthermore, the Secretariat should participate in the process as a stakeholder.

Between conferences, those governments and NGOs demonstrating leadership in the joint planning process should continue to develop plans for improving and eventually institutionalizing procedures for cooperative NGO/government international policymaking.

To illustrate how this joint planning might improve the prospects for achieving sustainable development, I refer once again to the North/South conflict which probably represents the most significant barrier to global agreement at UNCED.<sup>113</sup> First, it is

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<sup>113</sup> The Law of the Sea provides the classic illustration of how sovereign intransigence and the North/South split stymied environmental and development negotiations. Despite success in reaching agreement on a 200-mile "exclusive economic zone" which effectively extends national territory into the oceans, the conference proposal for an International Seabed Authority -- that would transfer national governing authority and private mining technology to a global institution which would share its revenues with developing countries through a system of "parallel" mining by both transnational and private enterprises -- remains controversial. The Law of the Sea has not yet been ratified by a sufficient number

important to note that much of the NGO community in Geneva was united in expressing a strong commitment to policies and programs supporting the southern need for financial resources with which to implement universally supported environmental objectives (Dawkins 1991). But it is the mirror-image sense of the problem and solution which needs emphasis. As the NGO representative from Sri Lanka stated, "There was a time when [Sri Lanka] was self sufficient... Nonetheless, the state of the world today shows us that the North needs the South as much as the South needs the North. If we are to survive the two sides must come together, they must reach compromises" (De Zoysa 1991).

Nevertheless, in anticipation of negotiating in UNCED a convention on forests, the early bargaining position of the government of Malaysia reflected no willingness to compromise at all. While expressing a wish not "to score points along the North/South divide," began Ambassador Ting Wen Lian, "we need to have comprehensive studies on the deforestation of boreal and temperate forests ... [and] an agreed minimum level of forest cover for each country of the world... [We] call on all countries, particularly the developed countries that have undergone extensive deforestation to draw up national forestry action plans ... aimed at substantially increasing their current extent of forest cover... [C]ountries which allocate more than their fair share in forest land [should] be compensated for their sacrifices made for the benefit of the world community ... [and] any losses incurred by traditional users in reserving certain forests or modifying existing forest-land-use [should] be compensated... Indeed this would constitute the beginning of the process of the greening of the world" (Ting 1991a).

Posturing on the opposite side, the United States<sup>114</sup> has insisted upon a legally

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<sup>114</sup> In their 1990 Houston Declaration, the Group of Seven industrialized countries called negotiations "to begin expeditiously and be completed by 1992 on a global forests convention or agreement to curb deforestation, protect biodiversity, stimulate positive forestry actions and address threats to the world's forests" (UNGA 1991). Statements such as this are noteworthy in their lack of reference to a deforestation or financing terms.

binding convention on forests but firmly objects to "additionality" clauses that would stipulate that donor countries' contributions to an international fund for sustainable development must be in addition to all their other foreign aid programs (Bohlen 1991).

Ambassador Ting's claim for compensation for global environmental damage by the North and the US's demand for binding conventions while refusing to provide financial assistance may be effective strategic positions for bargaining in the traditional sense, but the two are far from an agreement. The question, therefore, becomes whether NGOs can help bridge this divide.

In one possible scenario, the NGOs of Malaysia<sup>115</sup> and the United States<sup>116</sup> organize a global multi-pronged strategy that, on the one hand, involves fighter-type NGOs in building national and international political pressure on both countries while, on the other hand, negotiator-type NGOs work with the two governments and their international allies to devise a policy and program that addresses the concerns of all. The NGOs' commitment to results, their ability to focus on a particular campaign objective, and their technical expertise could help the two governments identify a comprehensive package of options that becomes more easily negotiable. In other words, a forests agreement need not be a question of, in bargaining parlance, "splitting the difference" between the Malaysian and US positions -- a compromise in which Malaysia might ultimately agree to a binding but unenforceable commitment to limit its timber industry and suffer some economic losses in exchange for the US donating a little more money.

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<sup>115</sup> The Penang Consumers Union and the Third World Network, both based in Malaysia, are among the strongest NGOs operating in developing countries. "Although they make the government sweat a bit, they bring about changes ... and the government has given up on some of its ideas," said Ambassador Ting (Ayers 1990 and Ting 1991).

<sup>116</sup> US environmental groups have become enormously powerful in recent years; their lobbying against recent trade legislation that threatened domestic environmental laws resulted in "pledges" to review environmental legislation in both the United States and Mexico "to see where they need improvement [and] promises [of] no weakening of American laws" (Farnsworth 1991).

Instead, a mutually advantageous forests agreement that NGOs can help invent would not only address deforestation, afforestation, and financial assistance -- it might also include a broad range of alternatives like increased trade in processed and non-timber forest products, direct foreign investment in development enterprises substituting for a proportion of additional aid, and debt-for-nature swaps that support health programs for indigenous forest people of the South as well as retraining for loggers displaced by curbs on forestry in the North. In addition to such governmental initiatives, a creative global forests agreement might also direct some of the financial resources -- whether aid, returns on investment or debt swap proceeds -- directly to NGOs providing specific services in the affected communities.<sup>117</sup>

At UNCED, NGOs can use diplomatic skill to emphasize the potential for "mutual gains" -- policies addressing both the South's development concerns and the North's environmental concerns -- and thus offset the "zero sum" stand-off between governments of the North and the South. NGOs can "create value" where governmental representatives tend to "claim value" (Susskind and Cruikshank 1987).

In so doing, NGOs can also enhance their standing in international negotiations and reinforce the custom of NGO participation in treaty-making -- ultimately contributing to the evolution of global democracy and the achievement of sustainable development.

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<sup>117</sup> After all, it is not governments but the individual human living in a local community who must choose "to cut a tree or plant a tree [or] whether or not to use an improved woodstove..." (Holmberg, Bass and Timberlake 1991). In Sri Lanka, one Buddhist monk led a village to national leadership as a model of community development; his first lessons about boiling water led to projects involving agricultural irrigation, road-building, housing construction, and the planting -- not burning -- of trees (Timberlake 1987).

#### IV. Getting Started

In Section II, I theorized that stronger roles for NGOs in international decisionmaking could help overcome the traditional North/South impasse and help build a consensus on policy and programs to develop a sustainable future. Then I described non-governmental organizations generally and their work -- both historically and in contemporary international policy, some of the legal and philosophical issues deriving from their expanding involvement, and current NGO activities related to UNCED. In Section III, with a view to prescribing concrete actions that can be taken by decisionmakers at UNCED, I analyzed what I see as three outstanding problems blocking the opportunity to strengthen the roles of NGOs in international treaties. The three problems are the lack of organization internal to the NGO community with which they can develop a coherent approach to policymaking, the lack of procedures and structures with which NGOs can correspond to the government sector, and the lack of a plan and the leadership needed to resolve the first two problems.

In short, I believe that the lack of procedural and structural methods with which to organize a cooperative relationship among NGOs and between NGOs and governments jeopardizes UNCED and future treaty-making opportunities to build a global consensus on policies enabling sustainable development.

Therefore, I recommend the following steps be taken to address first the overall lack of coordination and then each of the three problems in turn.

### A. Global Coordination of Planning for Sustainable Development

1. The Secretariat should provide professional facilitation services to all participants, governmental and non-governmental, in support of the United Nations' decision to open the UNCED process to NGOs worldwide. To do otherwise is almost to ensure chaos in Brazil, as many thousands of NGO representatives strive for leadership among themselves, for an influential voice with government delegations, and for an understanding of the diplomatic process.

2. The Secretariat should augment its support for universal telecommunications to increase access to NGOs especially in developing countries, provide links to the radio and print media via regional NGO networks, translate highly-technical computer planning models to user-friendly instruments showing the impacts of various policy options, encourage governmental delegations to participate and facilitate intersessional planning on-line.

### B. Regional Organizations and Professional Associations

1. The Secretariat should establish more specific criteria for granting credentials to NGOs wishing to participate in governmental forums of the United Nations. These should require each eligible NGO to demonstrate at least one year of experience in the relevant fields -- in the case of UNCED, either environmental or development work -- and mechanisms of accountability to a base of members defined geographically. In addition, the Secretariat should reserve credentials by categories to ensure diverse and representational participation. The categories should reserve proportionate opportunities for NGOs from each region of the world according to their structure -- grass-roots, national, regional or global<sup>118</sup> -- and broadly balance the relative number of NGOs

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<sup>118</sup> A reasonable approach might reserve credentials for NGOs that consist of nine or ten blocks of equal numbers of seats including seven blocks for each of seven continental groupings and another for those of island nations or other territories not traditionally associated with a particular continent. Within these eight blocks, the Secretariat might try to grant equal representation to NGOs with a grass-roots base and those with a broader,



according to the declared fields of relevance.

2. NGOs should anticipate the Secretariat's call for more representational participation and develop internal organizational structures which promote diversity and balance on a conference-specific basis. One option might be to create a conference policy coordinating body (CPCB) of representatives elected by regions of the world and by sectors of major interest. Each of the seven continental groupings<sup>119</sup> would establish a regional organization; each major sector of interest would establish the equivalent of a professional association. Thus, each NGO delegate would participate in two bodies and respectively elect two representatives (or multiples thereof) to the CPCB. For each conference, the regional representatives to the CPCB could establish attendance-based standards for determining which sectors participate in the CPCB. The CPCB would preferably operate by consensus and, for controversial matters, develop majority and minority positions to correspond with the deliberations of the governments.

3. NGOs should systematically utilize informal constellations of interaction to build trust, reconcile their philosophical and strategic positions, collectively expand the agenda, invent creative options, and otherwise develop a more coherent joint approach to policy.

### C. Institutionalizing Relationships

1. NGOs should seek opportunities to systematically but unofficially interact with governmental delegates in settings such as preconference regional meetings or in constellations that are parallel to but independent of the official structures. Such informal interaction between representatives of the governmental and non-governmental sectors

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perhaps national organization. The ninth and tenth blocks of credentials might be reserved for the representatives of regional and more global international organizations or coalitions of organizations.

<sup>119</sup> These are Asia, Africa, South America, Central America/Caribbean, Australia/New Zealand and Pacific Islands, Europe and North America -- with apologies to those nations not definitely associated with one of these regions.

can also build trust, expand the agenda, invent creative options, and otherwise develop innovative proposals for policy.

2. NGOs should strengthen relationships with their national governments by actively participating in national planning, domestic legislation and administrative regulation, and domestic programs for implementation and monitoring of policy related to sustainable development. In some cases, such relationships may be collaborative; in others, NGOs may fight for political influence. In either case, serious involvement with national policy can affect a government's international position.

3. National governments should recognize the growing influence and expertise of NGOs and, at least to avoid political confrontation, invite NGOs to participate in a full range of official committees for domestic planning as well as on their official delegations internationally. National governments should also collaborate with domestic NGOs to design and carry-out programs that implement sustainable development at the local level.

4. The United Nations should invite NGOs to participate more formally in negotiations, providing certain standards of representation are met. Whether the Secretariat, NGOs collectively, or a facilitated process of consensus-building determines an acceptable formula, cooperation between designated NGO representatives and governmental delegations should progressively expand to include all the working parties, working groups, ad hoc committees, and other functional bodies of international decisionmaking. In addition to inviting designated NGOs to participate in meetings, the United Nations should seek to incorporate representative NGO products such as bracketed text alternatives to negotiable treaty drafts in their deliberations.

5. The United Nations should in the language of international financial and legal instruments provide for the direct support of selected NGOs for implementation and monitoring functions promoting sustainable development.

6. The United Nations should invite NGOs to nominate candidates to potential third-party panels for dispute resolution.

#### D. Cooperative Leadership

1. The Secretariat should invite the major stakeholders for each international conference to develop a process for joint planning to develop procedures, not policy, for NGO/governmental interaction that complements the conference agenda.

2. Between conferences, leadership identified through the joint NGO/government planning process should, in anticipation of future conferences, work to improve and potentially institutionalize mechanisms for cooperative international policymaking.

## V. Achieving Global Democracy and Sustainable Development

Rather than bemoan the decline of sovereignty occasioned by supranational cooperation and regulation, the United Nations and their NGO partners can meet the global need for environmental and development policy by augmenting national democratic institutions with horizontal transnational relationships. Building on the structures developing at UNCED, decisionmakers can establish an array of relationships and institutions which better utilize non-governmental organizations and complement the present multilateral structures.

A stronger role for NGOs in treaty-making may help overcome the political stand-off between nations of the North and the South -- if they become sufficiently organized to interact effectively with governments and avoid the risk of impeding the negotiation process. Stronger roles for NGOs in the implementation, monitoring and dispute resolution aspects of treaty compliance can substantially contribute to the actual attainment of sustainable development.

In addition to affecting the outcome of UNCED and related treaties, NGOs and their government partners can build a relationship which leads to more democratic international structures. The better allocation of rights and responsibilities for global citizens<sup>120</sup> will significantly improve prospects for the sustainable development of the earth and its living communities.

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<sup>120</sup> As early as 1969, then Secretary General of the United Nations U Thant stated that "the mark of a truly educated and imaginative person facing the twenty-first century is that he feels himself to be a planetary citizen (U Thant 1969).

SHARING RIGHTS AND RESPONSIBILITIES  
FOR THE ENVIRONMENT:

ASSESSING POTENTIAL ROLES  
FOR NON-GOVERNMENTAL ORGANIZATIONS  
IN INTERNATIONAL DECISIONMAKING

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