

## THE COMMISSION ON SUSTAINABLE DEVELOPMENT: FIRST SUBSTANTIVE SESSION, NEW YORK, 14-25 JUNE 1993

### I. INTRODUCTION

ONE of the key documents adopted at the United Nations Conference on Environment and Development ('UNCED') – the 'Earth Summit' – held at Rio de Janeiro from 3 to 14 June 1992 was Agenda 21.<sup>1</sup> This is a formidable 800-page document setting out the necessary action to be taken by states to address both national and global environmental problems.<sup>2</sup> A principal recommendation of Agenda 21 is to be found in Chapter 38, "International Institutional Arrangements". It called for the setting up of a high-level Commission on Sustainable Development to ensure effective follow-up of UNCED.

The Commission on Sustainable Development (CSD) was subsequently established as a functional Commission of the Economic and Social Council ('ECOSOC').<sup>3</sup> Its functions are enumerated in General Assembly resolution 47/191 adopted on 29 January 1993.<sup>4</sup> Basically, the CSD is to monitor progress and problems in the implementation of Agenda 21, and to make appropriate recommendations to the United Nations. It is to promote the incorporation of the principles of the Rio Declaration<sup>5</sup> in the implementation of Agenda 21. Also, it will monitor progress in the area of technology transfer and provision of financial resources.

The CSD is expected to draw on the expertise of UN organisations, international financial institutions and also non-governmental organisations including business, industry and scientific groups. Its fifty-three members were elected from among all states members of the UN and

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<sup>1</sup> The other documents adopted were: (1) the Rio de Janeiro Declaration on Environment and Development and (2) a "Non legally-binding authoritative statement of principles for a global consensus on the management, conservation and sustainable development of all types of forest." See UNCED A/CONF 151/26, Vols I, II and IV.

<sup>2</sup> A plain language version entitled *Agenda for Change* has been published by the Centre for Our Common Future (1993).

<sup>3</sup> By decision 1993/207.

<sup>4</sup> Para 3 to 5.

<sup>5</sup> See Foo Kim Boon, "The Rio Declaration and its Influence on International Environmental Law" [1992] SJLS 347.

members of the specialised agencies to serve in the CSD for a term of office varying from one to three years according to the following allocation of seats: thirteen seats for African states; eleven seats for Asian states; ten seats for Latin American and Caribbean states; six seats for Eastern European and other states; and thirteen seats for Western European and other states.<sup>6</sup> Singapore is a member of the CSD.<sup>7</sup>

In accordance with Economic and Social Council decision 1993/207, the CSD held an organisational session at UN Headquarters, New York, from 24 to 26 February 1993. At the organisational session, Ambassador Razali Ismail of Malaysia was elected to chair the CSD session for 1993.<sup>8</sup>

At the organisational session, it was also decided that the first substantive session of the CSD would be held in New York from 14 to 25 June 1993, while the high-level segment at ministerial level was to be held from 23 to 24 June 1993.

## II. FIRST SUBSTANTIVE SESSION

### A. *The Task of the Commission*

Describing the CSD as a facilitator and consensus-builder and that it cannot afford to falter or to fail, Chairman Ambassador Razali Ismail of Malaysia, in his opening address, said: "the Commission has the potential, with support from the public and other groups to influence important course adjustments of governmental and institutional programmes and the redirection and expansion of resources for the global agenda under Agenda 21." In short, the CSD can be a powerful catalyst for change.

At the inaugural session, Ambassador Luis Fernando Jaramillo of Colombia, on behalf of the Group of 77 countries and the People's Republic of China, not surprisingly, took the line that developed countries were not doing enough. "[D]eveloped countries are still far from carrying out their [financial] commitments," he said. Also, although the liberalisation of trade, easier market access and stable commodity prices are crucial for developing countries, "[n]o positive results can yet be seen in negotiations ...." Indeed, the agreements at Rio "have not become reality at the political level." Ambassador Jaramillo saw the main task of the Commission as achieving "a common understanding to fulfil the basic principle of the Rio Declaration: 'Human beings are the centre of concerns for sustainable

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<sup>6</sup> Elections were held on 16 February 1993.

<sup>7</sup> Till 31 December 1994.

<sup>8</sup> The following Vice-Chairmen were elected to the bureau: Arthur Lampeau of Canada for the Western Europe and Others Group; Bedrich Moldan of Czechoslovakia from the Eastern European Group; Rodney William of Antigua and Barbuda from the Latin America and Caribbean Group; and Hamadi Khoini of Tunisia from the African Group.

development. They are entitled to a healthy and productive life in harmony with nature.' " (Principle 1.) Since the developing world is home to about three quarters of the world's population, this anthropomorphic focus is understandable.

### B. *Procedural Matters*

The first portion of the two-week substantive session was devoted to procedural matters such as the multi-year thematic programme of work, issues which relate to the future work of CSD, and guidelines to the secretariat for organising information transmitted by governments on their implementation of Agenda 21.

#### 1. *Multi-year programme of work*

In order to make its work more manageable, the CSD adopted a multi-year thematic programme of work, under which the forty chapters in Agenda 21 have been grouped into nine clusters.<sup>9</sup> These are (i) critical elements of sustainability (chapters 2 – 5); (ii) financial resources and mechanisms (chapter 33); (iii) education, science, transfer of environmentally sound technologies, co-operation and capacity building (chapters 16, 34 – 37); (iv) decision making structures (chapters 8, 38 – 40); (v) roles of major groups (chapters 23 – 32); (vi) health, human settlements and fresh water (chapters 6,7,18 and 21); (vii) land, desertification, forests and biodiversity; (chapters 10 – 15) (viii) atmosphere, oceans and all kinds of seas (chapters 9,17); (ix) toxic chemicals and hazardous wastes (chapters 19, 20 and 22).

As they are cross-sectoral issues, the first five clusters would be considered on an annual basis; the last four clusters being sectoral issues, it was envisaged they would be covered within a three-year framework.

The General Assembly had, in resolution 47/191, recommended to the Commission that a multi-year thematic programme of work be adopted at its first substantive session.<sup>10</sup> The main aim is to enable the progress of Agenda 21 to be reviewed in a systematic way, especially the need to ensure an integrated approach to all of its environment and development components as well as in linkages between the sectoral and cross-sectoral issues. Full account should also be taken of the principles of the Rio Declaration. Such a programme of work would facilitate review by the Commission of the progress in the implementation of the whole Agenda 21 by 1997.

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<sup>9</sup> ECOSOC E/C 17/1993/5, 1 June 1993.

<sup>10</sup> Para 12.

## 2. *Future work of the Commission*

The CSD adopted the decision made at its organisational session that both the need for and the number of informal negotiating groups will be considered at each session, but that there be no more than three such groups at any one time, and no more than two of these groups should meet simultaneously. This is to enable the smaller delegations to participate meaningfully in all discussions. All proceedings of the informal negotiating groups should be interpreted into the official languages of the UN.

Concerning the high-level meetings, it was readily acknowledged that ministerial participation was important and is to be encouraged. Such meetings should as a rule be not more than three days. They should provide for an open exchange of views as well as opportunities for informal discussion.

The CSD also decided to obtain, through ECOSOC, reports from relevant organisations of the UN system, including the Global Environment Facility,<sup>11</sup> and international, regional and sub-regional organisations outside the UN system, on their activities having a bearing on sustainable development, and for the secretariat to make analytical summaries for consideration by the CSD. It also recommended that the report of the high-level Advisory Board,<sup>12</sup> whose members are appointed by the UN Secretary-General, be submitted to the CSD.

## 3. *National reports*

The issue of national reports was a much debated item at the organisational session itself. The European Community (EC) and Nordic countries, in particular, had insisted that the UN should assist countries, especially developing countries, in preparing national reports for submission to the CSD. At the organisational session, EC tried to take it one step further: that the Commission should work out guidelines for governments when they submit national reports. The EC proposal was strongly resisted by G77 countries. India, for instance, had at the Earth Summit resisted even the idea of a voluntary report. They feared that the reports would be scrutinized for their effectiveness or lack of it, and their domestic environmental policies come under attack.

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<sup>11</sup> Administered by the World Bank together with the United Nations Environment Programme and the United Nations Development Programme, the GEF was set up in 1990 as a three-year pilot programme with US\$1.3 billion set aside to finance projects on global warming, biodiversity, international waters and ozone depletion.

<sup>12</sup> Twenty-one eminent persons have been appointed in their individual capacity. Ambassador Professor Tommy TB Koh is one of them.

After much debate, a compromise was reached at the first substantive session: there would be guidelines for the secretariat but not for governments. This was in keeping with the tenor of the agreement reached at the Rio Conference. Chapter 38 of Agenda 21 and UN General Assembly resolution 47/191 merely state that the CSD is: "To consider information provided by Government, for example, in the form of periodic communications or national reports regarding the activities they undertake to implement Agenda 21 ...."<sup>13</sup>

Governments would therefore send periodic reports to the secretariat on a voluntary basis, but were urged to follow the secretariat's guidelines as much as possible. The secretariat would in turn prepare two reports – an annual overview report on the implementation of Agenda 21 and a thematic report corresponding to Agenda 21 sectoral clusters in accordance with the multi-year programme of work based on these clusters.

The CSD also recognised the importance of improving national co-ordination and information exchange mechanisms; and how these information are used by governments in their decision-making processes to achieve sustainable development. Accordingly, it would be up to governments to decide how often they wish to submit the reports and in what detail. However, they should bear in mind that the information provided should be relevant to the clusters to be discussed for that year; each report should not exceed fifty pages; and, where possible, an executive summary of no more than five pages be provided.

One can imagine the formidable task facing the secretariat in having to collate and analyse the information provided by governments. Unless timely and accurate information are provided by governments in the format asked for, the secretariat's task – and indeed that of the CSD – would be seriously hampered.

### *C. Financial Resources and Transfer of Technology*

At Rio de Janeiro, the G77 group of countries had pressed for new and additional resources for financing Agenda 21, as well as a separate 'Green Fund'. They did not succeed. The final package was a compromise. First, the developed countries agree to commit themselves to providing new and additional resources for financing Agenda 21. Developed countries had pledged themselves voluntarily to achieve 0.7% of their Gross National Product as Official Development Assistance<sup>14</sup> (ODA). Secondly, reference was made to a statement by Lewis Preston, President of the International

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<sup>13</sup> Para 3(b). Also, para 38.13 of Ch 38 of Agenda 21.

<sup>14</sup> The relevant part of para 33:13 of Agenda 21 reads: "Developed countries reaffirm their commitments to reach the accepted United Nations target of 0.7 per cent of GNP for ODA and, to the extent that they have not yet achieved that target, agree to augment their aid

Development Association (of the World Bank), that the 10th replenishment should match the level of the 9th replenishment "in real terms".<sup>15</sup> What is meant by "in real terms" was of course ambiguous – which was why it was acceptable to the developed countries! Thirdly, there was agreement to restructure the Global Environment Facility in an appropriate manner to accommodate the concerns of developing countries. Particularly, at the insistence of the developing countries, the need for universal governance and transparency in decision-making.

The Group of 77 countries and the People's Republic of China had hoped that the ODA target be reached by year 2000. But, of course, the developed countries could not agree to this, particularly Japan and Germany. The Nordic countries who had reached this target saw no reason why they should go the "extra mile". The US was non-committal. Clearly the era of the blank cheque is over; more accountability is now required from both donor and donee.

The UNCED secretariat had estimated that about US \$600 billion is required to finance the implementation of Agenda 21 for developing countries. More than two-thirds of this amount are expected to come from the developing countries themselves – thus up to US \$125 billion would be needed in concessional financing. But the question is from which source? By any standard, the amount is mind-boggling; still, it has to be borne in mind that the amount represents only a fraction of the US \$1 trillion spent on military expenditures annually. At the first substantive session, the question "where is the additional money coming from?" was still left unanswered. The report by the Secretary-General on initial financial commitments, financial flows and arrangements was most uninspiring and disappointing.<sup>16</sup> It was nothing more than a catalogue of present activities and policies of most of the developed countries – but no new commitment to meet the 0.7% ODA target or by what time frame.

The question of the transfer of environmentally sound technology and upon what terms was highly contentious.<sup>17</sup> Such technology covers know-how, goods and services, equipment as well as management skills. At Rio, developing countries had pressed for assured access and for fair and most favourable terms, including concessional and preferential terms, in their acquisition of appropriate technology to solve their environmental problems – but without success. At the insistence of the developed countries,

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programmes in order to reach that target as soon as possible and to ensure prompt and effective implementation of Agenda 21."

<sup>15</sup> Speech made at the Earth Summit

<sup>16</sup> See ECOSOC E/CN.17/1993/11, 7 June 1993 and ECOSOC E/CN.17/1993/1 I/Add 1, 8 June 1993. These were discussed under Item 7 of the agenda. The US apparently did not contribute any information to Add 1.

<sup>17</sup> See Ch 34 of Agenda 21.

the words "as mutually agreed" were added, thus diluting the text. Clearly the developed countries want a return for their investment in technological research and were not prepared to turn them over to developing countries at a loss.

Although the CSD was to have considered the progress achieved in promoting the transfer of environmentally sound technology, cooperation and capacity-building, this did not take place because the short interval between the organisational session and the first substantive session did not afford time to consider an extensive survey. However, the CSD did discuss a report identifying the main trends and activities in both within and outside the UN system in the area of technology transfer and capacity-building.<sup>18</sup>

The CSD reiterated that implementing the science and technology provision of Agenda 21 requires money. It supported the setting up of environmentally sound technology centres. The objective would be to promote technology transfer and to foster sustainable development. It also supported the networking of regional science and technology information systems including access to these systems by developing countries at low cost.

Since the Earth Summit ended more than a year ago, there was a perception amongst some developed as well as developing countries that not enough attention was given by states to implement the commitments made. With respect to financial resources and technology transfer, the progress has been dismal. At this session, the CSD accordingly agreed to set up inter-sessional *ad hoc* open-ended groups of experts on financial resources and technology transfer in the hope of expediting the mobilisation of such resources. It was the developing countries who put up this proposal. Although this was initially resisted by the developed countries, they eventually relented.

#### D. High-Level Segment

The high level segment of the CSD was held from 23 to 24 June 1993. About 46 Ministers of the 53 member states in the CSD attended, including Dr Ahmad Mattar, our Minister for Environment.<sup>19</sup> Although the chairman of the CSD, Ambassador Razali Ismail of Malaysia, had earlier said that no general statements should be made at the ministerial session, but instead there should be further informal discussions on the substantive issues, this did not materialise. Most ministers asked for the floor to make general statements, leaving little time for substantive discussions. It was generally

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<sup>18</sup> ECOSOC E/CN.17/1993/10, 4 June 1993.

<sup>19</sup> It was his last overseas duty. He resigned effective from 1 July 1993.

felt that the CSD being a political forum should concentrate on monitoring and reviewing the implementation of Agenda 21. There should also be more opportunities for ministers to talk freely among themselves.

In his statement, Dr Ahmad Mattar emphasised the need for CSD to provide the political impetus to ensure the successful implementation of Agenda 21. Though the primary responsibilities of implementing Agenda 21 lies at the national level, there should be a continuing partnership between the North and South, between South and South and between the public and private sectors within a country. He added: "Technology and particularly appropriate technology therefore forms the key component towards achieving sustainable development. The transfer of technology can be possible though a joint process involving international organisations, local governments and private organisations."

Vice-President Al Gore's keynote address to the CSD won him a standing ovation.<sup>20</sup> Vice-President Gore's speech was simple, effective and inspiring – it struck a responsive chord, especially from developing countries. In his speech, Gore admitted the developed countries had a disproportionate impact on the environment. Though they have less than a quarter of the world's population, they use three quarters of the world's resources and create roughly the same amount of solid waste. The twin pillars of constructive action towards sustainable development, he emphasised, were national responsibility and partnership.

### III. CONCLUSION

What has the first substantive CSD session achieved?

There is no doubt it has added a fresh impetus to implementing Agenda 21, and also the recommendations, commitments and decisions adopted by states in Rio de Janeiro. Many laudable United Nations proposals have unfortunately languished for lack of action. It was feared the same fate could befall the commitments made at the Earth Summit. The setting up of inter-sessional consultations will presumably gear the process forward. There is the ever present danger that such discussions will result in nothing more than sanctimonious calls for further action. A common refrain during the session was the need to harness the political will of governments to get their own domestic environmental problems under control. It is heartening that participants reaffirmed the principles of the Rio Declaration

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<sup>20</sup> In contrast, President Bush had said at Rio that the US had difficulties with the technology transfer and intellectual property rights protection provisions and would not sign the Convention on Biological Diversity. These difficulties appear to have vaporized under the Clinton administration. The US signed the Biodiversity Convention on 4 June 1993. Singapore signed on 10 March 1993.



and called for their widespread dissemination to promote greater public awareness regarding sustainable development. One could say that the first substantive session of the CSD was a qualified one.

FOO KIM BOON\*

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\* B Comm (Hons) (B'ham); LLB (Hons)(NUS); LLM (Lond); Deputy Senior State Counsel, Attorney-General's Chambers.