Chapter IV

North-South Politics during the Establishment of UNEP

The institutional outcome of the Stockholm Conference was the establishment of the United Nations Environment Programme (UNEP). It represents the culmination of efforts over the earlier decades for the protection of environment and exemplifies the institutional response of the international community to safeguard the human environment. It marked the beginning of a new era of international co-operation in the environmental field. As Maurice F. Strong\(^1\) rightly pointed out:

There is a new hope for the world in the action taken by the family of nations in establishing the UNEP and providing it with the mandate and the means to bring new dimensions of knowledge, of planning and of co-operative action to bear on the shaping of our common future.\(^2\)

It also added another dimension to the North-South politics on environment. Wrangling between developed and developing countries preceded the birth of UNEP wherein the debate centred on the nature and location of the new body. The discussion in this chapter attempts to analyse the politics during the establishment of UNEP in order to ascertain the developing countries' role in shaping the new Programme both at the Stockholm Conference and at the subsequent General Assembly sessions on the establishment of the Programme.

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\(^1\) Secretary-General of the Stockholm and Rio Conferences.

The resolutions on institutional and financial arrangements adopted at the Stockholm Conference provided the blueprint for the creation of UNEP. It declared that the United Nations Conference on the Human Environment aware of the urgent need for a permanent institutional arrangement within the United Nations for the protection and improvement of the human environment\footnote{1} . . . recommends that the General Assembly establish the Governing Council for the Environment Programmes . . . [and for that purpose] a small secretariat be established to serve as the focal point for environmental action and co-ordination within the United Nations system in such a way as to ensure a high degree of effective management\footnote{2} . . . [and] in order to provide for additional financing for environmental programmes, a voluntary fund be established\footnote{3} . . . [and] in order to provide for maximum efficient co-ordination of United Nations environmental programmes, an Environment Co-ordination Board, chaired by the Executive-Director, be established under the auspices and within the framework of the Administrative Committee on Co-ordination.\footnote{4}

The structure of UNEP was to be composed of (i) A Governing Council (GC) of 54\footnote{5} members; (ii) a small secretariat to be headed by Executive-Director; (iii) A voluntary Environment Fund; and, (iv) an Environmental Co-ordination Board\footnote{6} under the chairmanship of the Executive-Director.\footnote{7}

\footnote{2} ibid., section 1.
\footnote{3} ibid., section 4.
\footnote{4} ibid., section 6.
\footnote{5} ibid., section 14.
\footnote{6} This was subsequently increased to 58 as a result of amendments proposed by developing countries.
\footnote{7} The Environment Co-ordination Board's (ECB) task was to ensure co-operation among all UN bodies which are engaged in the environmental activities. It consisted of members of relevant UN bodies. The ECB functioned under the auspices and within the framework of the UN's Administrative Committee on Co-ordination (ACC), and under the chairmanship of the Executive-Director of UNEP. It reported annually to the GC of the UNEP. It was made defunct in 1977 when as part of UN reorganisation, its functions were taken over by the ACC.
UNEP was designed to provide an integrated and comprehensive approach to environmental issues within the UN system. Its creation attempted to give a holistic approach to the problems of the ecosystem undertaken by various UN agencies. The central theme on creating a new body therefore, dealt with not creating a new specialised agency or a supra environment body but on establishing a mechanism to co-ordinate the UN action in the field of environment. In the words of Secretary-General of the conference, “the functions assigned to any United Nations body and its Secretariat must be understood and exercised in the context of principles of co-operation, co-ordination and concerted action . . . ”¹¹ Within these parameters, the role of the UNEP was spelt out which turned out to be an extremely limited one.

The mandate of the Programme is inherent in the functions and responsibilities enumerated for the GC which is the chief policy making body of UNEP. Its primary mandate is

(a) To promote international co-operation in the environment field and to recommend, as appropriate, policies to this end; (b) To provide general policy guidance for the directions and co-ordination of environmental programmes within the United Nations system; (c) To receive and review the periodic reports of the Director on the implementation of environmental programmes within the United Nations system; (d) To keep under review the world environmental situation in order to ensure that emerging environmental problems of wide international significance should receive appropriate and adequate consideration by Governments; (e) To promote the contribution of the relevant international scientific and other professional communities to the acquisition, assessment and exchange of environmental knowledge and information and, as appropriate, to the technical aspects of the formulation and implementation of environmental programmes within the United Nations system; (f) To maintain under continuing review the impact of national and international environmental policies and measures on developing countries, as well as the problem of additional costs that might be incurred by developing countries in the implementation of environmental programmes and projects, to ensure that such


¹¹ ibid.
programmes and projects shall be compatible with the development plans and priorities of those countries; (g) To review and approve annually the programme of utilisation of resources of the Environment Fund referred to below.\(^\text{12}\)

The functions of UNEP thus, clearly underlined its co-ordinating role. It was designed to be a sort of focal point of the international environmental activities. As its Executive-Director pointed out in 1985, UNEP was not conceived as an executive agency and hence does not bear the prime responsibility for executing environmental projects in the UN system.

Its job is not to do, but to motivate and inspire, to raise the level of environmental action and awareness on all levels of society, worldwide, and to co-ordinate the environmental work of all the UN’s organisations and agencies.\(^\text{13}\)

The activities of the Programme primarily revolve around Earthwatch which includes the following:

(a) Global Environment Monitoring System (GEMS);

(b) International Referral System for Environment Information (INFOTERRA); and,

(c) International Register of Potentially Toxic Chemicals (IRPTC).

The Earthwatch network of programme is engaged in monitoring, surveillance assessment of environment and exchanging information between governments, scientists, industrialists and concerned organisations so as to facilitate early warning of significant environmental risks and ensure pre-emptive and corrective measures at the national and international levels.\(^\text{14}\)

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\(^{12}\) 'Resolutions on Institutional and Financial Arrangements', No. 3, section 2.

\(^{13}\) UNEP, *UNEP Profile*, Nairobi: UNEP, 1990, p. 38.

\(^{14}\) ibid., p. 6.
A controversial fate followed the mandate and jurisdiction of UNEP. The jurisdiction of UNEP has always been contested. The UNEP was given a very narrow space to tread on. Other bodies of the UN constantly guarded against it and the member governments repeatedly questioned its jurisdiction. As a result, UNEP was plagued by great uncertainty over its activities (see chapter VII).

The Resolutions on Institutional and Financial Arrangements clearly dispelled any suggestion of a greater role for the new programme by clearly stating that responsibility for action to protect and enhance the human environment rests primarily with Governments and, in the first instance, can be exercised more effectively at the national and regional levels . . . [and] that international co-operation programmes in the environment field must be undertaken with due respect to the sovereign right of States and in conformity with the Charter of the United Nations and principles of international law . . . 15

Sovereignty of nation-states and one of the cardinal principles of the UN Charter of not interfering with the domestic jurisdiction16 was underlined. The principle that sovereignty of states is paramount is an accepted norm in any international negotiation/organisation. However, what is significant for our discussion is the mention of the other bodies of the UN. It says, “mindful of the sectoral responsibilities of the organisations of the United Nations system . . . conscious of the important role of the regional economic commissions and other regional inter-governmental organisations . . . ”17 (emphasis added).

15 ibid., para 4.

16 Article 7 of the UN Charter stipulates that “Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII” (on ‘Actions with respect to threats to the peace, breaches of the peace and acts of aggression’).

17 ibid., para 5 & 6.
The representatives of the specialised agencies were also apprehensive about UNEP. They drew attention to their respective jurisdiction and their activities on some aspect of the environmental protection and thus, clearly implied that the new organisation should not usurp or impinge upon their jurisdiction.\(^\text{18}\) The IAEA spokesman speaking on environmental co-operation within the UN system “particularly emphasised the position that any new machinery set up should not infringe the Charter rights and obligations of IAEA.”\(^\text{19}\) Other specialised agencies also “drew attention to their existing programmes.”\(^\text{20}\)

During the negotiations at the United Nations Conference on the Human Environment (UNCHE) thus, there was a consensus that any new institutional arrangement on environment will have to take into account the jurisdiction and ongoing activities of the other UN agencies. At the same time, the need to avoid duplication was also underlined. To dispel such apprehensions of these agencies, Secretary-General of the conference at the onset of discussion declared that “as far as the United Nations Secretariat was concerned, there was no doubt whatsoever that the ultimate authority for the approval of programmes rested within the agencies concerned and their respective governing bodies . . .”\(^\text{21}\)

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\(^\text{18}\) Well before the establishments of the UNEP, a number of other UN agencies were involved with different aspects of human environment. For example, FAO working on food and agriculture focussed its attention on arid land, conservation of soil, plants and animals. It thus included protection of tropical forests, wildlife and fish. Similarly, UNESCO under its ‘Man and Biosphere’ programme was involved in an integrated project on arid lands. It also focussed its attention on the study of tropical ecosystem in western and central Africa and Brazil. UNESCO was also involved with the implementation of environment programmes prepared under the auspices of Intergovernmental Oceanographic Commission during International Hydrological Decade: 1965-74. It also imparts education and training on environmental matters. WMO too involved itself with climate and arid land under its project on agroclimatology. The other agencies involved with environmental issues are ILO, UNIDO, IMCO, IAEA, WHO and ICAO. Apart from these specialised agencies, UNDP with its principle objective of promotion of economic and social development is involved with the protection of environment.


\(^\text{20}\) ibid., para 53.

\(^\text{21}\) ibid.
As far as UNEP was concerned, practically every concerned body in the UN system tried to assert its authority and underlined its specific mandate. There appeared certain degree of conflict between the General Assembly (GA) and the Economic and Social Council (ECOSOC) when GA decided to hold detailed discussion on the report of the UNCHE at its Second Committee. Many delegates speaking at the floors of the ECOSOC underlined Council’s role of co-ordination and integration as stipulated in the Charter and wished that it be given an opportunity to discuss the report at length and not be treated as a letter box. Many (Burundi, Chile, Kenya, Pakistan, Tunisia, USSR, etc.) favoured a decision which underlined the co-ordinating role of the Council to be conveyed to the Assembly rather than just taking note of the report. They reiterated the role of ECOSOC and wished that the GA at the Second Committee would look into this and grant it the “constitutional right to examine the report of the GC of the new body . . . and to co­ordinate and integrate the policies and activities of the United Nations system in relation to the environment.”22 The thinking behind this argument was that

environmental programmes could not be divorced from over-all development programmes, and action in relation to the environment would require co-ordination and co-operation among a number of specialised agencies . . . it was thus essential for the Council to work out guidelines for co-ordination.23

On the other hand Canada, the USA, the UK, the Philippines, Brazil, etc. opined that the institutional arrangements proposed at the Stockholm Conference clearly underlined the role of the Council on the environmental matters and that there was no need to reiterate what has already been its acknowledged functions. Instead it was suggested that it could meet after the final decision of the GA to express its readiness to assume responsibility of co-ordination and ensure that its co­ordinating role was taken fully into account.24

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22 ECOSOCOR, 53rd Session, 1840th Meeting, 17 October 1972, p. 10 (Mr. Akram, Pakistani delegate).

23 ibid. (Mr. Odero-Jowi, Kenyan delegate).

24 ibid., p. 9-10 (Mr. De Azevedo Brito, Brazilian delegate and Mr. McCarthy, UK’s delegate).
Unlike other policy issues, the creation of UNEP *per se* was not contested by developed or developing countries. There was a relative consensus that a new machinery on environmental protection was needed. The structure and form of such an agency was to be decided. It was opined that since environment is a multidisciplinary concern, no single body could be exclusively entrusted with this task. Besides, some of the UN specialised agencies like United Nations Educational, Scientific and Cultural Organisation (UNESCO), Food and Agriculture Organisation (FAO) and others which already had their respective jurisdiction on environmental matters vociferously contested the creation of a super agency which would rob them of any role in environmental matters. It was noted that since UN is already involved through its number of agencies in the field of environment, a body which would co-ordinate these activities backed by a small secretariat and funds, was required.

In the pre-conference discussions, the UK and the USA also supported a limited institutional arrangement. The Swedish delegate proposed an intergovernmental committee of moderate size within the UN framework, with co-ordinating functions to be composed of experts and professionals and adequate scientific inputs. According to the Swedish delegate, the basic purpose of such a body should be to strengthen the work of the existing UN institutions. The Australian delegate also proposed the creation of a modest but highly efficient intergovernment machinery serviced by a small secretariat and if the need be, advised by a small committee of experts to co-ordinate the operational activities of the UN on environmental matters.

Among developing countries, the Philippines’ representative without elaborating on the nature commented upon the importance of setting up an

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25 GAOR, 26th Session, Second Committee, 1422nd Meeting, 29 November 1971, p. 419.

26 GAOR, 26th Session, Second Committee, 1426th Meeting, 2 December 1971, p. 458.
international institutional arrangement and emphasised that the existing machinery should be utilised and the UN should act as the nucleus of co-ordinating efforts.27

Apart from these occasional comments on the institutional machinery, the topic was not discussed at the General Assembly or ECOSOC meetings. India took a note of the fact that Secretariat's internal working group did not discuss the subject in detail and asked the delegates at the Second Committee to express their views on the subject.28 Within the North-South paradigm also, the creation of UNEP was supported by both developing and developed nations and thus, the General Assembly resolution 2997 (XXVII)29 of 15th December 1972 which established the UNEP (among other things), was adopted by a vote of 116 to 0 with 10 abstentions.30 It is said that UNEP came into the world with a general consensus and the will of the developed countries to see it succeed. This consensus however, was very fragile.

The general form of the new body was decided without much debate between developed and developing countries. The question of its location and the size of the Governing Council and Secretariat however were embroiled in controversy. Developing countries strongly advocated that since all the UN bodies are located in developed countries, UNEP should be located in one of the developing countries. A draft resolution to this effect was introduced by thirty-seven developing countries. The draft resolution noted that

the head quarter of the United Nations and the specialised agencies were all located in developed states ... [and] in order to employ international machinery for the promotion of the economic and social advancement of all peoples, in accordance with the provision of the

29 Argentina, Brazil, Canada, Cyprus, Ghana, Greece, Guatemala, Iran, Kenya, Jamaica, Malta, Mexico, New Zealand, Nigeria, Swaziland, Sweden, Tunisia, Tanzania and the United States were the sponsors of the draft text.
30 ibid., p. 331.
UN charter, the activities and headquarters or secretariat of United Nations bodies and agencies should be located having regard to equitable geographic distribution.  

Operative paragraph of the draft resolution in its revised form established the environment secretariat in Nairobi, Kenya. The choice of Nairobi was arrived at after hectic consultation amongst the Group of Seventy-seven (G-77) nations and thus, Nairobi was collectively supported by developing countries as the place for UNEP's secretariat.

A number of developed countries presented amendments to the draft whereas USSR supported the location of UNEP in Nairobi, Kenya. A proposal by the Netherlands, Sweden and Finland suggested a new draft resolution according to which (a) the Secretary-General should undertake the in-depth study of the geographical distribution of the UN bodies and present a report in 1973 on the possibility of locating units in developing countries; (b) the Secretary General should submit a report, based on the survey of all probable location for the environment secretariat in 1973 and (c) decided to postpone the final decision till 1973. Defending the new text, the Netherlands delegate said that equitable geographical distribution should not be linked to the location of secretariat and that all other countries suggested as possible sites should be given adequate considerations. It was withdrawn later.

The UK amendment asked the assembly to consider whether secretariat should be located in a developing country or in one of the locations listed in the report of the Secretary General. It suggested that the location should be chosen by ballot in the 1972 General Assembly session. The proposed amendment was rejected by 81 to 30 with 12 abstentions.

Similarly, a proposal by Tunisia which sought to postpone the final decision was rejected. The Tunisian amendment asked for the location of the Secretariat in a

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32 GAOR, 27th Session, 2112th Plenary Meeting, 15 December 1972, p. 3.
developing country. It provided for postponing the decision till 1973 and provisionally locating the environment secretariat in one of the sites offered. It was rejected by 68 votes to 20 with 35 abstentions. Spain also proposed an oral amendment which proposed voting on all the proposed sites. It was withdrawn subsequently. 33

Later, the Second Committee adopted the draft as a whole by a vote of 93 to 0 with 31 abstentions on 10 November 1972. The developed countries of both the East and the West abstained but the G-77 of developing countries acted as a bloc and voted in favour of the resolution. 34 Later the General Assembly resolution 3004 (XXVII) dated 15th December 1972 decided to locate the secretariat of UNEP in a developing country -Nairobi, Kenya. It was established in October 1973. The resolution did not receive any negative votes. The roll call vote was not taken but keeping in mind the developed countries' stance during the discussions, they must have abstained. What is significant is the fact that in favour of consensus, they did not cast negative vote. Developing countries were thus, successful in achieving their objective with UNEP becoming the first UN agency to be housed in a developing country.

The location of UNEP was decided in favour of developing countries but the matter did not rest there. A subsequently controversy erupted over the construction of permanent headquarters for the Programme. The move to construct a permanent building for UNEP was initiated in 1981 35 when the Executive-Director on behalf of the Secretary-General of the UN, submitted a report to the 36th session of the General Assembly. Subsequently international tenders were invited. Out of thirty-


35 UNEP was initially housed in a temporary makeshift office at Uchumi House in Nairobi with two professionals and five general staff. As its staff grew in strength, it was housed in a rented accommodation at Kenyatta International Conference Centre (KICC). This arrangement was for five years ending in 1978 and received fifty percent rent subsidy from the Kenyan government. However, in the long term it was more economical to own a permanent accommodation and for that purpose, the Kenyan government donated 100 acres of land to UN at Gigiri together with a contribution of Kshs. 6 million ($ 0.8 million).
seven applications from eighteen countries,\textsuperscript{36} the lowest bid came from an Israeli firm but it was rejected in favour of a Kuwaiti firm. \textsuperscript{37} Apparently, Israel being a developed nation, a strong US ally and a country which was (and still occupies) in occupation of large parts of the Palestinian and Arab land (developing countries consistently supported the cause of Palestine and Arab nations) was not favoured by developing countries. Subsequent to the discussion held at the UN headquarters at New York and at UNEP, Nairobi, new specifications were issued and the final contract was given in March 1982 to a Kuwaiti construction company for Kenyan Shillings 174,263,462 (approximately US $ 16.3 million) with a completion target of April 1984.

The move was described as partisan by developed countries particularly the USA and the western media maligned then Executive-Director Mostafa Tolba in this regard.\textsuperscript{38} The work on the project was completed ahead of the schedule in 1983 which probably silenced some of its critics but the incidence speaks of developing countries' concern with symbolic issues which was part of their larger struggle for a just economic and political order, even though unrelated to environmental questions. This point has also been discussed at length in chapter V.

No doubt unity and solidarity of developing countries played a major role in deciding the location of UNEP but developed countries did not exercise their veto on this issue probably because they needed to involve developing countries in the international efforts on the protection of environment. By relenting on this issue thus, they thought that developing countries would give due credence to environment just for the very reason of solidarity. As the Executive-Director recognised, the location "encouraged the developing countries to give it a favourable reception, despite their initial suspicion of the sudden attention being.

\textsuperscript{36} UNEP, Annual Report of the Executive-Director 1992, No. 34, p. 135.
\textsuperscript{38} ibid.
focused on the ‘environment’. However, as the time went by the location of UNEP at Kenya created numerous problems which were detrimental to the work and activities of UNEP as well as the interests of developing countries (see chapter VII).

An important aspect of the process of the establishment of UNEP is that the debate over the size of the GC divided opinions not only between developed and developing countries but within the latter as well. This means that developing countries do not always vote as a bloc even on matters which are crucial for them. In the discussions held at the plenary of the UNCHE, the size of the GC of UNEP was deliberated at length. In the draft resolution, a figure of 48 was agreed upon. The USA since the very beginning was opposed to a large GC but it compromised on a figure of 48 from its original demand of 27 and later 37 members. The UK too favoured a smaller GC. However, in the plenary of the Conference, an amendment on the size of the GC (on the operative para 1 of the draft resolution) was put forth by Australia on behalf of Argentina, Australia, Guyana, India, Indonesia, Iran, Nigeria, Pakistan, Romania, Spain and Thailand.

There appears to be no clear division between developed and developing countries which is evident in the sponsors of the amendment “whereby the size of the GC would increase from 48 to 54 member States.” Cutting across the division of income, many countries including Austria, Columbia, France, India, Malta, Peru, the Philippines, Portugal, Spain, Tunisia, Uganda and Venezuela supported the amendment to enlarge the GC. On the other hand Brazil, Sudan and Sweden which had earlier favoured a large GC at that juncture opined that the figure of 48 “which has been accepted by the Committee in a spirit of compromise and good faith should be kept.” The amendment was adopted by 56 votes to 11, with 14 abstentions and accordingly the size of the GC was fixed at 54 members.

39 ibid., p. 132.
41 ibid.
Subsequently at a meeting of the Second Committee, some developing countries introduced an amendment to further increase the size of the GC from 54 to 58. The amendment was adopted by 72 votes to 36 with 21 abstentions. Developed countries (except New Zealand and South Africa which abstained) together with the USSR and the East European bloc (except Romania which abstained) voted against the amendment.

Developing countries in general voted for the amendment. But again, there was no bloc voting on the issue since Argentina, Brazil, Costa Rica, Cuba, Dominican Republic, Equador, El Salvador, Mexico, Uruguay and Venezuela voted against the amendment and many such as Barbados, Chile, Guatemala, Guyana, Haiti, Honduras, Jamaica, Malta, Nicaragua, Nigeria, Panama, Paraguay, Peru, Trinidad and Tobago and Turkey chose to abstain. Thus, the developing world was divided over plans to increase the size of the GC. Two prominent leaders of the group, i.e. India and Brazil found themselves in the opposite camp with former voting for and latter against the amendment. China too supported the amendment. The divergence of opinion among some of the developing countries is evident.

Subsequently, the General Assembly resolution 2997 (XXVII) of 15 December 1972 established the GC of the UNEP. It was adopted by 116 votes to 0 with 10 abstentions. It was to be composed of 58 members elected by the General Assembly for three-year terms and the selection of members was based upon the equitable geographical distribution. The appropriation of the seats has been listed in Table IV (a).

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42 Thailand on behalf of Afghanistan, Bahrain, Bhutan, Democratic Yemen, Fiji, India, Indonesia, Iraq, Jordan, the Khmer Republic, Kuwait, Laos, Lebanon, Malaysia, Maldives, Nepal, Oman, Qatar, Singapore, Sri Lanka, The Syrian Arab Republic, Thailand, the UAE and Yemen proposed the amendment.

43 GAOR, 27th Session, Agenda item 47, Annexes, UNCHE: Report of the Secretary-General, para 22.

44 ibid., para 23.

The election of members was done at 2112th meeting of the General Assembly’s 27th session, dated 15 December 1972. The election was conducted in two stages. The first stage involved the selection of 58 members from each geographic group and second stage involved the selection of members from the states selected in each category those which will serve for three year, two year and one year respectively. The voting was done by secret ballot within each geographic group at the first stage. After obtaining the required majority the following countries were elected as members of the UNEP GC: Argentina, Australia, Austria, Brazil, Burundi, Cameroon, Canada, Central African Republic, Chile, China, Czechoslovakia, France, Gabon, GDR, FRG, Ghana, Guatemala, Iceland, India, Indonesia, Iran, Iraq, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Madagascar, Malawi, Mexico, Morocco, Netherlands, Nicaragua, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Rumania, Senegal, Sierra Leone, Somalia, Spain, Sri Lanka, Sweden, Syrian Arab Republic, Tunisia, Turkey, USSR, UK, Tanzania, USA, Venezuela and Yugoslavia.⁴⁶

The second stage of the election again was based on the regional groups by means of draw of lots. It was decided that among the 16 African states, 6 would be elected for three years, 5 for two year and 5 for one year. From the 13 Asian states, 4 would serve for three years, 4 for two years and 5 for one year. Amongst the

<table>
<thead>
<tr>
<th>Region</th>
<th>Number of Seats</th>
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<tbody>
<tr>
<td>African states</td>
<td>16</td>
</tr>
<tr>
<td>Asian states</td>
<td>13</td>
</tr>
<tr>
<td>Latin American States</td>
<td>10</td>
</tr>
<tr>
<td>West European and other</td>
<td>13</td>
</tr>
<tr>
<td>Eastern European States</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
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Latin American group 4, 3, 3 would respectively serve for three, two and one year. In the West European group, 4 would serve for three years, 5 for two years and four for one year and finally, from the six East European groups 2 would serve for three years, 2 for two years and 2 for one year.⁴⁷

Tunisia suggested that region-wise vote should not be taken and that one-third of the members should be selected for three years, another one-third for two years and rest one-third for one year. According to Tunisian representative, the criteria adopted was against the principle of universality and quite divisive. India however, supported the procedure to be adopted for selection of the GC members for according to it this will ensure proper representation of developing countries.⁴⁸

India and Sri Lanka on the other hand objected to the year-wise distribution of states in the Asian groups. The Indian representative said “it is not quite fair to put five states for one year. Five states should be either in the middle or should serve for three years.” He therefore, asked for its reconsideration by the President.⁴⁹ India later agreed to the originally proposed distribution. Sri Lankan representative also protested this distribution and questioned why a discriminatory rule was applied in case of Asian states when Western groups with the same number were given a better deal.⁵⁰ Few developing countries thus, once again registered their protest. However, nothing significant came out of this and the original criterion was followed. Developing countries were successful in increasing the size of the GC though.

Developing countries were also instrumental in creating additional funding mechanism exclusively devoted to environmental matters. The establishment of Environment Fund financed by voluntary contribution of the member governments was possible only due to the demand put forward by developing countries during the

⁴⁷ ibid., p.15.
⁴⁸ ibid.
⁴⁹ ibid.
⁵⁰ ibid., p.17.
negotiations at the UNCHE. At the Founex meeting in 1971 which was called to ascertain and incorporate the views of developing countries on environmental matters on the eve of the Stockholm conference, developing countries clearly stated that

additional aid funds will be required to subsidise research on environmental problems of the developing countries, to compensate for major dislocations in the exports of the developing countries, to cover major increases in the development projects owing to higher environmental concern of the developing countries. A suitable mechanism for the channelling of these funds should be devised. 51

A proposal was made for the special fund exclusively for this purpose and although exact institutionalisation was not spelt out at the Founex meeting "it was generally agreed that additional resource flows in one form or another will be needed. 52

During the negotiations at the Stockholm Conference, some developing countries apprehended that the proposed fund would be used by developed countries as an alternative to Overseas Development Assistance (ODA) while assuring that the fund be used for meeting additional environmental costs incurred by developing countries in their respective development programmes. The principle 'polluter must pay' was underlined by many of their spokesmen. 53 The Environment Fund of UNEP is the outcome of this line of developing countries' argument although the developed countries 54 did not favour it. It therefore symbolises the victory of the developing countries.

51 UNEP, In Defence of the Earth, No. 10, p. 38.
52 ibid., p. 34
54 Israel, a close US ally opined that a voluntary fund would not be sufficient to deal with the monumental environmental problems. Contrary to the line taken by the USA, it proposed additional funding to be procured by utilising 3% of any special drawing rights created by the IMF to supplement the Environment Fund and the cause of environment, UN, Report of the United Nations Conference on the Human Environment, No. 19, p. 62.
Given the political mood in the early 1970s, its very establishment was an achievement. Donors had adamantly opposed the creation of any new funds . . . The exception made in this case was due to the keen interest of the North in the environment and its support for the new environment programme of the United Nations.\footnote{UNEP, Annual Report of the Executive-Director 1992, No. 34, p. 137.}

Once again, developed countries extended these concessions in their own interest. Having decided to establish the fund, a number of countries at the Stockholm Conference itself pledged their contribution.\footnote{Canada announced contribution of $5 - 7.5 millions, Australia $2.5 million over a five-year period and the Netherlands pledged $1.5 million. All these pledges were however, subject to parliamentary approval. Also FRG gave DM 100,000 to support the establishment of the new machinery.} Some other countries did not pledge actual contribution but expressed their support for the fund. They included Austria, Botswana, Denmark, France, Italy, Nigeria, Norway, Panama, Spain, Switzerland and the United Kingdom.\footnote{UN, Report of the United Nations Conference on the Human Environment, No. 19, p. 62.}

The Environment Fund was established by the General Assembly resolution 2997 (XXVII), part III dated 15 December 1972 (which it came into effect on the 1 January 1973)\footnote{UN, Yearbook of the United Nations 1972, No. 28, p. 325.} and is the most important source of UNEP's funding.\footnote{Apart from the Environment Fund there are three other sources of UNEP's funding: (i) Allocation from the regular UN budget: It is used in partial defraying of the expenses incurred in administrative and organising the meeting of the GC; (ii) Trust Funds: The trust funds are established by group of nations to pay for the activities which deals with a common problem. Examples of such contributions are funding of some of the regional programmes, CITES, etc. Trust Funds are primarily established to pay salaries of junior officers and to fund clearing house activities. As per the report of the Executive-Director to the GC in 1993, there were total 45 general and technical co-operation trust funds under the management and administration of UNEP and (iii) Counterpart Contributions: These funds are provided by governments and institutions for particular projects or conferences, seminars, etc. In 1987, these funds accounted to 5 million US $.) The primary objective of the fund is to provide additional financial support to the environmental programme. Its resources as envisaged, are to be used primarily to finance partly or wholly the cost of new environmental initiatives in the UN system, provide seed
money to such projects and to bridge financial gaps in environmental action at all levels.\textsuperscript{60}

As envisaged, developed countries continue to be major donors although developing countries too have contributed over the years. The list of top twenty donor countries between 1990-96 includes the USA, Japan, the United Kingdom, Germany, Finland, Sweden, Norway, Switzerland, the Netherlands, France, Denmark, Russian Federation, Italy, Canada, Spain, Australia, Austria, Belgium, Kuwait, China. Moreover, Denmark, Finland, the Netherlands, Norway, Sweden, Switzerland and the United Kingdom's contribution to the Environment Fund is in excess of their estimated level based on the UN assessment.\textsuperscript{61} That means these countries are contributing bulk of the finances among the major donors [see Table IV (c)]

However, the fund has been plagued by financial problems since the very beginning as a result of which the Programme's working has been seriously jeopardised. According to the Executive-Director, the financial situation faced by UNEP is due to

(a) Decreasing contribution to the Environment Fund; (b) Late submission and unpredictable nature of payments to the Environment Fund; (c) Reduced carry-over from one biennium to the next as a result of a previous Governing Council decisions; and (d) Increase in the number of trust funds and cost of their implementation, including by staff financed from the Programme.\textsuperscript{62}

Over the years thus, one observes a rise in other forms of contributions to UNEP over and above the unpredictable contribution to the Environment Fund [See Table IV (b) and Chart IV (a)]. Put together, both trust funds and counterpart


\textsuperscript{62} ibid., para 8.
contributions rose from 0.6% in the year 1976 to 8% in 1982 and 23% in 1989 of the total finances handled by UNEP.\textsuperscript{63}

Since the nature of contribution is purely voluntary, there is no way by which developed countries can be forced to pay. As a result, the funds are difficult to come by. The pledges of contribution by states lag behind and the donations are unpredictable. The contributions to the fund had been fluctuating despite an increase in UNEP's activities. Matters become more serious if inflation is taken into account. Such ad-hoc pattern of funding has seriously jeopardised UNEP's working. In sum, UNEP has been marred by financial uncertainty.

With regard to the secretariat – an important UNEP organ, the General Assembly in Resolution 2997 (XXVII), 1972 recommended the establishment of a small secretariat to serve as the focal point for environmental action and coordination within the United Nations system in such a way as to ensure high and effective management.\textsuperscript{64}

The nature and number of posts in the Secretariat was also disputed. The debate ensued over not the size of the secretariat but over the concentration of the senior-level posts. Developed countries including USSR favoured a small staff. The Advisory Committee on Budgetary and Administrative matters too noted that the functions of the secretariat would not be operational but that of co-ordination under the overall direction and guidance of the Governing Council\textsuperscript{65} and hence the staff should be limited. The Advisory Committee expressed its concern with the high number of senior posts. It therefore, recommended financial constraint vis-à-vis the size of the secretariat and gradual recruitment. The recommendations if applied, would have reduced the estimate for financial implication in 1973 by $ 87,500, down to $ 2 million. The Kenyan government being host to the new organisation in contrast doubted if there were sufficient senior posts and also called for immediate

\textsuperscript{63} UNEP, \textit{UNEP Profile}, No. 13, p. 37.
\textsuperscript{64} UN, \textit{Yearbook of the United Nations 1972}, No. 28, p. 325.
\textsuperscript{65} GAOR, 27\textsuperscript{th} Session, Fifth Committee, 1551\textsuperscript{st} Meeting, 13 December 1972, p. 498.
recruitment of required staff in order to make an efficient secretariat and long-term efficiency. 66

Developing countries including Egypt, India, Libya, Peru Tanzania and Mauritania also expressed their reservations over the recommendations of the Advisory Committee and declared that “the new body required high-level staff to ensure its effectiveness, if it was to serve as a focal point for environmental action and co-ordination . . . a task that required knowledge experience and authority.” 67 The Mauritanian delegate was more vocal in his attack and declared that “the financial difficulties of the United Nations only seemed to appear if a developing country was chosen as the venue . . . for the secretariat of a United Nations body.” 68

Developed countries as discussed earlier, had always favoured a small unit. In this case, even USSR joined hands with other developed countries in favouring a small secretarial staff in view of the prevailing financial difficulties. It declared that 98 posts were far too large and that “it was incomprehensible that the Committee should decide . . . to establish such a large secretariat for environmental programmes.” Moreover, it opined that since the primary function of the secretariat is co-ordination, the United Nations by means of transfer could easily find people to do that work without any further recruitment. 69

Thus, while developing countries favoured a large high-level technical staff, developed countries including USSR favoured a small number of staff. Schism was again visible during the sixth session of the GC when some delegates raised the issue of inequitable geographic distribution in the staff of the Secretariat particularly, the inadequate representation of the Asian and Pacific personnel. 70

66 ibid., pp. 499-500.
67 ibid., p. 500 (Mr. Mani, Indian Delegate).
68 ibid., p. 501 (Mr. Mamadou, Mauritanian delegate).
69 ibid., p. 501.
Executive-Director however denied such accusations and declared that a
comparison of number of staff members from Asia and the Pacific with Latin
American and Caribbean and African reflected a proper geographical balance.\textsuperscript{71}

There appears to be an unfair geographical balance in the staff of UNEP. As
evident in Table IV (d), the high-level staff of UNEP had a heavy concentration of
nationals from developed countries, i.e. West European and other states that
included the USA. This is despite the application of criterion of geographical
distribution to certain number of posts. It could also be due to lack of such
professionals in developing countries rather than a result of systematic policy of
discrimination. This has been noted by the Executive-Director who declared that
“talent sought by UNEP was not abundant, particularly in the developing
countries.\textsuperscript{72}

The experts involved with UNEP primarily come from developed countries
but developing countries’ experts too participate in substantial numbers. During the
period 1976-78, experts from the developed countries chiefly came from France,
UK and the USA while among developing countries India and Kenya contributed
substantial number of experts. Among the Socialist and East European countries,
former USSR was the forerunner in number of experts involved in the technical co-
operation activities of the UNEP.\textsuperscript{73}

After the finer details about the structure were finalised, UNEP was created
by the GA resolution 2997 (XXVII) at its 27\textsuperscript{th} session on 15 December 1972. It
occupies a peculiar place in the UN system. It does not have any charter or statute
of its own. It is a subsidiary body of the GA and it reports to the GA through
ECOSOC. This arrangement of reporting through the ECOSOC was resorted to

\textsuperscript{71} ibid., para 105, p. 28.

\textsuperscript{72} ibid. p. 9.

Public Information, various years.
because of the UNEP’s central responsibility as a co-ordinating agency so that ECOSOC

would transmit to the General Assembly such comments on the report as it may deem necessary, particularly with regard to questions of co-ordination and to the relationship of environment policies and programmes within the United Nations system to over-all economic and social priorities . . . "74 [and] to consider environmental activities of the United Nations system in relation to the other principal activities of the system, particularly in the economic and social fields. 75

The above discussion highlights that the structure of UNEP as created in 1972, in large part accommodated developing countries’ views. This was achieved largely due to the joint action of developing countries and also due to the willingness on the part of developed countries to involve developing countries. At this stage developing countries were in a better bargaining position in the sense that they were reluctant to address the issue of environmental protection unless these efforts were backed by adequate aid packages and recognition of their sets of priorities. To assuage their feelings UNEP was based in a developing country, the size of GC was enlarged as per the requirements of developing countries and an additional funding structure was created.

Its priority areas were also markedly tilted towards developing countries’ focal area. As per developing countries’ insistence, they were also ranked hierarchically. Developing countries were also successful in enlarging the scope of the Programme by raising important environmental issues at the GC relevant to their needs and priorities (see chapter V). In practice however, UNEP because of various reasons could not fully address the problems of developing countries. This aspect has been discussed in greater detail in the next chapter.

75 ECOSOCOR, No. 22, p. 6.
Annex

Chart IV (a)

Contribution to UNEP Environment Fund
1973 - 1996


Chart IV (b): UNEP Organisational Chart

Source: UNEP Website at http://www.UNEP.org/.
### Table IV (b)

Sources of UNEP Funding 1973-1996

<table>
<thead>
<tr>
<th>YEAR</th>
<th>ENVF</th>
<th>TF</th>
<th>CC</th>
<th>RB</th>
<th>TOTAL</th>
<th>%TF/ENVF</th>
<th>%CC/ENVF</th>
<th>%RB/ENVF</th>
<th>(TF+CC+RB)/ENVF</th>
</tr>
</thead>
<tbody>
<tr>
<td>1973</td>
<td>$6,559,648</td>
<td>$0</td>
<td>$0</td>
<td>$1,753,973</td>
<td>$8,313,621</td>
<td>0.00%</td>
<td>0.0%</td>
<td>26.7%</td>
<td>26.7%</td>
</tr>
<tr>
<td>1974</td>
<td>$17,777,023</td>
<td>$27,000</td>
<td>$60,000</td>
<td>$2,457,919</td>
<td>$20,321,942</td>
<td>0.15%</td>
<td>0.3%</td>
<td>14.8%</td>
<td>14.8%</td>
</tr>
<tr>
<td>1975</td>
<td>$16,858,097</td>
<td>$0</td>
<td>$554,895</td>
<td>$2,432,198</td>
<td>$19,845,190</td>
<td>0.00%</td>
<td>3.3%</td>
<td>17.7%</td>
<td>17.7%</td>
</tr>
<tr>
<td>1976</td>
<td>$27,931,816</td>
<td>$38,000</td>
<td>$216,895</td>
<td>$2,889,054</td>
<td>$31,075,765</td>
<td>0.14%</td>
<td>0.8%</td>
<td>11.3%</td>
<td>11.3%</td>
</tr>
<tr>
<td>1977</td>
<td>$29,051,892</td>
<td>$60,000</td>
<td>$72,767</td>
<td>$3,109,818</td>
<td>$32,294,477</td>
<td>0.21%</td>
<td>0.3%</td>
<td>14.4%</td>
<td>14.4%</td>
</tr>
<tr>
<td>1978</td>
<td>$28,477,392</td>
<td>$299,943</td>
<td>$0</td>
<td>$3,705,030</td>
<td>$32,482,365</td>
<td>1.05%</td>
<td>0.0%</td>
<td>14.1%</td>
<td>14.1%</td>
</tr>
<tr>
<td>1979</td>
<td>$31,833,189</td>
<td>$2,817,045</td>
<td>$0</td>
<td>$4,329,045</td>
<td>$38,979,279</td>
<td>8.85%</td>
<td>0.0%</td>
<td>22.4%</td>
<td>22.4%</td>
</tr>
<tr>
<td>1980</td>
<td>$26,834,203</td>
<td>$3,665,475</td>
<td>$0</td>
<td>$5,580,573</td>
<td>$36,080,251</td>
<td>13.66%</td>
<td>0.0%</td>
<td>34.5%</td>
<td>34.5%</td>
</tr>
<tr>
<td>1981</td>
<td>$35,553,749</td>
<td>$603,985</td>
<td>$0</td>
<td>$5,326,374</td>
<td>$41,484,108</td>
<td>1.70%</td>
<td>0.0%</td>
<td>15.0%</td>
<td>15.0%</td>
</tr>
<tr>
<td>1982</td>
<td>$30,333,560</td>
<td>$4,434,974</td>
<td>$0</td>
<td>$5,108,391</td>
<td>$42,008,104</td>
<td>14.62%</td>
<td>0.0%</td>
<td>20.8%</td>
<td>20.8%</td>
</tr>
<tr>
<td>1983</td>
<td>$27,823,651</td>
<td>$4,722,873</td>
<td>$648,738</td>
<td>$5,228,677</td>
<td>$38,423,939</td>
<td>16.97%</td>
<td>2.3%</td>
<td>38.1%</td>
<td>38.1%</td>
</tr>
<tr>
<td>1984</td>
<td>$22,339,680</td>
<td>$4,684,090</td>
<td>$1,084,266</td>
<td>$5,108,391</td>
<td>$33,216,427</td>
<td>20.97%</td>
<td>4.9%</td>
<td>48.7%</td>
<td>48.7%</td>
</tr>
<tr>
<td>1985</td>
<td>$36,325,253</td>
<td>$5,683,601</td>
<td>$1,881,171</td>
<td>$4,883,743</td>
<td>$48,773,768</td>
<td>15.65%</td>
<td>5.2%</td>
<td>34.3%</td>
<td>34.3%</td>
</tr>
<tr>
<td>1986</td>
<td>$29,378,517</td>
<td>$4,644,413</td>
<td>$2,658,373</td>
<td>$3,930,100</td>
<td>$40,611,403</td>
<td>15.81%</td>
<td>9.0%</td>
<td>38.2%</td>
<td>38.2%</td>
</tr>
<tr>
<td>1987</td>
<td>$31,904,384</td>
<td>$5,103,325</td>
<td>$2,218,610</td>
<td>$5,049,566</td>
<td>$44,275,885</td>
<td>16.00%</td>
<td>7.0%</td>
<td>38.8%</td>
<td>38.8%</td>
</tr>
<tr>
<td>1988</td>
<td>$34,001,839</td>
<td>$7,287,266</td>
<td>$2,745,755</td>
<td>$4,544,768</td>
<td>$48,579,628</td>
<td>21.43%</td>
<td>8.1%</td>
<td>42.9%</td>
<td>42.9%</td>
</tr>
<tr>
<td>1989</td>
<td>$38,582,969</td>
<td>$11,090,244</td>
<td>$4,065,143</td>
<td>$5,625,126</td>
<td>$59,363,482</td>
<td>28.74%</td>
<td>10.5%</td>
<td>53.9%</td>
<td>53.9%</td>
</tr>
<tr>
<td>1990</td>
<td>$51,644,836</td>
<td>$13,869,604</td>
<td>$5,223,244</td>
<td>$4,236,200</td>
<td>$75,421,517</td>
<td>33.58%</td>
<td>9.7%</td>
<td>46.0%</td>
<td>46.0%</td>
</tr>
<tr>
<td>1991</td>
<td>$59,378,068</td>
<td>$19,941,170</td>
<td>$5,732,121</td>
<td>$5,049,566</td>
<td>$104,761,700</td>
<td>38.77%</td>
<td>16.9%</td>
<td>64.3%</td>
<td>64.3%</td>
</tr>
<tr>
<td>1992</td>
<td>$63,744,425</td>
<td>$34,960,593</td>
<td>$6,139,678</td>
<td>$7,027,262</td>
<td>$114,995,633</td>
<td>52.28%</td>
<td>9.2%</td>
<td>72.0%</td>
<td>72.0%</td>
</tr>
<tr>
<td>1993</td>
<td>$65,893,858</td>
<td>$47,049,448</td>
<td>$9,906,296</td>
<td>$4,236,200</td>
<td>$127,085,802</td>
<td>71.40%</td>
<td>15.0%</td>
<td>92.9%</td>
<td>92.9%</td>
</tr>
<tr>
<td>1994</td>
<td>$58,057,931</td>
<td>$37,049,994</td>
<td>$6,301,375</td>
<td>$5,565,100</td>
<td>$106,974,400</td>
<td>63.82%</td>
<td>10.9%</td>
<td>84.3%</td>
<td>84.3%</td>
</tr>
<tr>
<td>1995</td>
<td>$47,750,000</td>
<td>$40,000,000</td>
<td>$11,618,000</td>
<td>$2,654,900</td>
<td>$102,022,900</td>
<td>83.77%</td>
<td>24.3%</td>
<td>113.7%</td>
<td>113.7%</td>
</tr>
</tbody>
</table>

Note: ENVF: Environment Fund; TF: Trust Funds (Multilateral Fund under the Montreal protocol is excluded); CC: Counterpart Contributions; RB: UN Regular Budget.

* Figures for 1996 are estimates prior to the closing of the 1996 accounts by September 1997.


### Table IV (c)

Contributions to Environment Fund and Burden Shares: 20 Major Donors and Rest of the World

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total: 20 major Donors</td>
<td>98.79%</td>
<td>98.80%</td>
<td>98.55%</td>
<td>96.78%</td>
<td>97.37%</td>
<td>97.78%</td>
<td>97.11%</td>
<td>97.88%</td>
<td>100%</td>
</tr>
<tr>
<td>Total: Rest of the World</td>
<td>1.21%</td>
<td>1.20%</td>
<td>1.45%</td>
<td>3.22%</td>
<td>2.63%</td>
<td>2.22%</td>
<td>2.89%</td>
<td>2.12%</td>
<td>0.00%</td>
</tr>
<tr>
<td>Total: Environment Fund</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Note: Country-wise burden shares for the 20 major donors are derived after averaging for 100 percent total among them. Source: UNEP, Resource Mobilisation Unit, June 1997, http://www.UNEP.org/.
Table IV (d)
Regional Distribution\(^1\) of UNEP Staff in Professional Category and Above

<table>
<thead>
<tr>
<th>Year/ Total(^2)</th>
<th>Africa</th>
<th>Asia</th>
<th>Eastern Europe</th>
<th>Western Europe and other</th>
<th>Latin America</th>
</tr>
</thead>
<tbody>
<tr>
<td>1982</td>
<td>32</td>
<td>31</td>
<td>15</td>
<td>67</td>
<td>15</td>
</tr>
<tr>
<td>1984</td>
<td>39</td>
<td>29</td>
<td>16</td>
<td>75</td>
<td>18</td>
</tr>
<tr>
<td>1988</td>
<td>38</td>
<td>37</td>
<td>15</td>
<td>87</td>
<td>20</td>
</tr>
<tr>
<td>1991</td>
<td>58</td>
<td>34</td>
<td>21</td>
<td>111</td>
<td>26</td>
</tr>
</tbody>
</table>

\(^1\) The geographic distribution does not correspond to that of the UN criteria. Since membership of the Governing Council is distributed among five regions, the data has followed the same regional grouping.

\(^2\) Includes posts subject to geographical distribution and posts not subject to geographical distribution.