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Transnational Corporations' Strategic Responses to 'Sustainable Development'

Harris Gleckman

'There were two issues we missed out on: transnationals and the military.'

(Comment from a Brazilian delegate on the closing day of UNCED.)

Transnational Corporations (TNCs) can play a critical role in a sustainably managed world or serve as major impediments in this transition. The relationship between TNCs and environmental performance came under scrutiny in the buildup to the 1992 Rio United Nations Conference on Environment and Development (UNCED). By way of background, this paper provides a critical review of the buildup in the corporate world to the UNCED. It then argues that there were strategic reasons why UNCED avoided an overall analysis of international investment and sustainable development. UNCED did raise a number of major intellectual and political issues about the relationship between TNC activity and sound environmental practice, and the management of this relationship within the corporate world and between the corporate and non-corporate worlds. These questions raise several others, and this paper will review three of them:

- Who defines sustainable behaviour?
- Who regulates transnational corporate environmental activity?
- How does society pay for environmental resource extraction and depletion?

TNCs clearly have a global environmental impact. Some TNCs have become leaders in the field of global environmental management. They recognize a growing global 'green' market in goods and services. Their international trade associations have made major recommendations for corporate environmental performance improvements. On balance, however, changes have occurred among a very small minority of TNCs. Most firms are unconcerned about the environmental impacts of their business processes. Those that are actively improving environmental performance tend to pick away at aspects of the problem—recycling, emissions, and the like—rather than take a systemic approach.

TNC environmental performance has come under the microscope as the global environmental crisis has loomed before us. But because TNCs operate outside national political boundaries, they are not treated as a group or subjected to public scrutiny or accountability. The UNCED put TNC environmental activity on the table for the first time, asking the question: what should be the relationship between TNCs and sustainable development? The question raised much heat among corporate leaders, government, trade associations, citizens groups, and workers. It also generated a flurry of activity within the TNC community because, unlike the other groups in this discussion, TNCs have never before had to act as a group on environment and development issues: they have no institutional history, no established leadership, or method to reach consensual positions. But here was an occasion where their very terms of business were potentially being challenged.

In some ways, this is a re-run in the international arena of a 200-year old debate within national democratic systems, of what the relationship should be between the state and its economic actors. Historically, northern democracies created a variety of checks and balances on the free play of economic forces. National industry generally has not welcomed national regulation, but acknowledges the need for regulation to maintain competition and the legitimacy of the market. Consequently there is a permanent love–hate relationship between national government and industry in all democratic societies.

In the international arena there are now highly complex TNCs operating in a literally unregulated international environment. In this international arena, international corporations and national political actors have resisted the concept of international regulation, and have been unenthusiastic about extending the authority of multilateral institutions. The response of TNC leaders illuminates what the issues are for TNCs, and what trends we can expect in the coming years.

What is the Relationship Between TNCs and the Global Environmental Crisis?

In the public mind the issue is clear: there is a level of unacceptable environmental behaviour for multinational enterprises operating abroad. The Gallup *Health of the Planet* survey, conducted in the developed and developing world, showed that 'there is widespread concern for the environment among citizens of *all* types of countries'. In most countries, citizens believe that business and industry are *the* major cause of environmental problems.[1] In contrast, TNCs do not accept that they are the cause of the global economic crisis, but they are beginning to accept that environmental issues need to be managed in some fashion. What are the facts?

The impact of TNC activity on the environment is extensive. TNC importance stems from their vast corporate networks and technological resources and the international consequences of their decision-making. More than 50 per cent of global greenhouse gas emissions are in the province of TNCs.[2] TNCs invest more than US$225 billion each year outside their home countries, and 95 per cent of these investments come from firms based in industrialized countries. Seventy per cent of world trade involves TNCs, who also hold 90 per cent of all technology and product patents. Every major natural resource extraction and processing industry involves TNCs. The environmental impacts of TNCs extend to the service sector (product advertising) and the financial services sector (investment loans).

To put it another way: if all transnational corporations were to adopt sound environmental policies, then the following would occur:

- at least one quarter of the world's assets would be better managed environmentally;
- 70 per cent of the products in international trade would be better labelled;
- 80 per cent of the world's land cultivated for export-oriented crops would use fewer toxic pesticides and more sustainable agricultural policies;
- a large share of the world's new technological innovations would be better evaluated for their health-and-safety effects.

There is every reason to believe that the political–economic–environmental role of TNCs will increase in the coming years. This will continue as the international market adapts to the new World Trade Organization (WTO) and its arrangements on trade and investment, the trade-related investment measures agreement, and the WTO standards code.

In recognition that there is some relationship between TNCs and global environmental issues, some TNCs have adopted new attitudes to environmental issues (see Box 1). Corporate-wide policy statements have been transmitted from headquarters to affiliates; new markets for pollution control equipment and environmental services have been created; global environmental management has turned into a profession; executives are more receptive to work with international organizations on corporate environmental issues; environmental impact assessments and hazardous waste disposal appraisals have become common tools for a good number of transnational corporations; and long-term targets and goals have been set for the control of emissions and the use of natural resources. Without doubt, the preparatory process for Rio generated a good deal of constructive attention in the corporate world. The paths set during the preparatory phase will have a lot to do with the future momentum on these issues.

These pioneering efforts show that environmental and economic excellence can be compatible. Resource recovery and recycling can produce both an environmentally desirable and an economically beneficial outcome. Durable and energy-efficient products make good economic sense and are requisites for good environmental management. Global environmental issues like climate change can be met by innovative environmental and economic solutions. Macroeconomic data also show that environmental leadership and competitive advantage are closely linked. Market leaders in new technologies are firms from home countries that have strong regulatory standards. Within countries, firms operating in sectors with high environmental costs have strengthened their international trade performance.

> The International Chamber of Commerce has stated that industry needs *'to integrate (environmentally sound) policies, programmes, and practices (for conducting operations) fully into each business as an essential element of management in all its functions.'*
>
> A grouping of international banks has declared: *'We . . . recognize that ecological protection and sustainable development are collective responsibilities and must rank among the highest priorities of all business activities, including banking. We will endeavour to ensure that our policies and business actions promote sustainable development; meeting the needs of the present without compromising those of the future.'*
>
> The Keidanren, the largest Japanese industrial trade association, asserted: *'[the] formulation of a complete policy for the protection of the environment of the host country is a responsibility of good corporate citizenship on the part of the expanding corporation and it is hoped that each corporation will establish specific policies with this in mind.'*

Box 1. Some recent comments on environmental responsibility from major international trade associations

TNCs and Environmental Responsibility: How UNCED Put the Issue on the Table and How Business Responded

Although the question of transnational corporate environmental responsibility has been the subject of some activist campaigns, it has received scant attention in intergovernmental discussions, because it falls outside the sphere of national political influence. The first international conference on the environment was in Stockholm in 1972, and the International Chamber of Commerce (ICC) gave a fifteen-minute presentation. In the fall–winter of 1989 the General Assembly agreed to hold a second international conference on the environment in 1992 and to broaden the scope of the conference to integrate environment and development as common themes.

Several groups were interested in reformulating the concept of the traditional corporation so that environmental concerns were embedded into traditional business concerns. Recommendations and strategies were needed at the intergovernmental, non-governmental, and corporate levels to change existing transnational corporations into sustainably managed firms. As a first step, the UN Economic and Social Council (ECOSOC) asked the United Nations Centre on Transnational Corporations (UNCTC)[3] to prepare a set of recommendations on 'large industrial enterprises, including transnational corporations' and their role in sustainable development that governments might use in the drafting of *Agenda 21*.[4] UNCTC had a good track record in this area. The Centre had prepared the first set of standards for sustainable development management, the *Criteria for Sustainable Development Management*,[5] had undertaken research on the environmental policies and programmes of the world's largest firms,[6] had drafted innovative proposals to increase the flow of environmentally sound technologies to developing countries on favourable terms,[7] and had reviewed the state of international and domestic environment law affecting transnational corporations.[8]

It was bound to be difficult to convert a new conceptual definition of sustainable enterprise into operational terms, so care was taken in drafting the document *Transnational Corporations and Sustainable Development: Recommendations of the Executive Director* to ensure that each central recommendation was currently *in use* by a major transnational corporation. As a twenty-year work plan, the *Recommendations* worked backwards from a twenty-year goal and identified key events that would need to take place within fifteen, ten, and five years. These components of the *Recommendations* involved changes in global corporate environmental management, the minimization of risk and hazard in all operations, the encouragement of environmentally sound consumption patterns, the use of full-cost environmental accounting, and compliance with environmental conventions, standards, and guide-lines.[9]

In parallel, the UNCED secretariat prepared a draft of a chapter entitled 'Business and Industry' in a section dealing with the role of major groups, and omitted direct reference to TNC responsibility. In early 1992 the United Nations Industrial Development Organization (UNIDO) hosted a conference on Sound Ecological Development which concluded with some environmental policy proposals affecting TNCs.

For the corporate community the challenge was this: how can business respond to the global environmental crisis and play its part in global regeneration? This was a completely new terrain for TNCs, and one in which the UN and some TNC firms moved rapidly. Efforts to involve TNCs in the 1992 conference began in 1989, a year before the UNCED conference was authorized by the General Assembly. In this period a handful of major firms and some trade associations took leadership of this issue within the TNC community. They began to incorporate environment *and* economic development concerns into business language. They achieved some notable and important shifts in business principle and practice. At the same time, they claimed the right to define a sustainable enterprise and measure its performance.

Many international organizations now claim to speak on behalf of international business, but in truth there is no organization that is the legitimate representative of TNCs on any subject. None of the existing organizations can claim a democratic decision-making system involving all major enterprises. None of the business–environmental organizations can make agreements on behalf of TNCs. In general, all lack the authority to negotiate on behalf of large industrial enterprises, transnational corporations, or industry. The question to the industry, then, of how TNCs would respond to the issue of sustainable development, also called for an industry leader or spokesperson.[10]

The International Chamber of Commerce in Paris, the oldest organization in this area, released its first environmental statement entitled *Environmental Guidelines* in 1965. It incorporated its first reference to environmental standards in its revision to the *Guidelines on Multinational Enterprises* only in 1992. The ICC is an international network of national chambers of commerce. In most cases, the national chambers of commerce in their own countries are not leaders in the field of environmental protection.

The ICC historically assigned its policy-work in this area to its Commission on the Environment in Paris. After its first World Industry Conference on Environmental Management (co-sponsored with the United Nations Environment Programme), it supplemented the Commission with a programme delivery office in an International Environment

Bureau. The ICC Commission functions at the level of vice-presidents of corporations and makes its major decisions by consensus. The ICC Commission has for years argued that environmental standards hamper the market-place and should be accepted only if they apply to all industry. They have also argued that the UN should reduce its attention to environmental matters affecting the international market. At the same time, the membership of the ICC Commission has been almost wholly drawn from individual TNCs.

In response to UNCED and the *Valdez* Principles[11]—a set of corporate environmental principles drafted by US social investors in the wake of the Exxon/*Valdez* oil-spill—the ICC Commission on the Environment decided to prepare a voluntary statement on sustainable development. While portraying itself as a tool for sustainable management, the term 'sustainable development' appears only in the title and in one sub-paragraph. The remainder of the *Business Charter of Sustainable Development* is a series of partial statements on environmental protection.[12]

During the drafting process a number of individual corporations resisted any texts that might require major departures from their existing practices. After discarding a number of drafts, the final version of the *ICC Business Charter on Sustainable Development* utilized the first ten steps of the *UNCTC Criteria on Sustainable Development Management* extensively—without citation or acknowledgment. Currently endorsed by over 1,000 TNCs and trade associations, the Business Charter has been translated and reprinted in over ten languages. The Centre, while pleased that its original ideas were being widely used but aware of the implications for the battle on intellectual property rights, chose not to clarify the origin of the key passages of the Business Charter. On the other hand, the ICC continued to criticize heavily United Nations work on TNCs and the environment. After the second World Industry Conference on Environmental Management (WICEM) in Rotterdam—also co-sponsored with UNEP—the ICC published *From Ideas to Action*, of environmentally good case studies from various industrial sectors;[13] it did not mention problem cases or lessons to be learnt from corporate mistakes.

After Rio, the ICC re-configured the International Environmental Bureau into an expanded World Industry Council of the Environment (WICE). This body will take a more active role than its ICC predecessors in carrying the environmental message to business and national chambers of commerce and in carrying the business message to international organizations and government delegations. Yet the membership of WICE is by invitation and by private corporate dues, so its claim to 'represent' world industry is even more diluted than that of the ICC itself.

Independent of the ICC is a series of specialized trade associations that address environmental issues from a sectoral perspective. The associations, like the oil industry CONCAWA and the International Federation on Metals and the Environment, seek to develop internally acceptable positions on the environment. In the past five years there has been a proliferation of environmental statements from these trade associations covering topics as diverse as contract terms for the transfer of potentially hazardous chemical technologies to the conditions for sustainable tourism. Besides getting in on a currently fashionable topic, these policy statements and new industrial sector associations can be seen as attempts to soften potentially difficult topics for individual sectors and to reassure a sceptical international community that there are environmentally responsible firms within the industry. Yet this trend among trade associations to develop environmental policy statements does not necessarily have a practical result. Most of these guide-lines do not ask signatories to commit themselves to the principles or activities they recommend.

In addition there are various national or regional business organizations that have formalized policy statements on global environment and development issues. The Keidanren (Federation of Economic Organizations) in Japan, for example, has a specific guidance document for its member firms operating abroad.[14] The Chemical Manufacturers Association (US) is probably the only trade association that has even established minimum environmental standards for its member firms covering their operations in their home country.

In part because of the minimal positions taken by the ICC and because of a driving interest by Maurice Strong, secretary-general of UNCED, to actively involve TNC chief executive officers in the preparations for Rio, the post of corporate advisor to UNCED was created. The corporate advisor to UNCED established the Business Council on Sustainable Development (BCSD).

The Business Council was immediately seen as being in competition with the old-guard ICC.[15] The BCSD is an association of fifty chief executive officers who speak in their personal capacities, not on behalf of their enterprises. It functioned at a more senior level than the ICC. While the BCSD and the corporate advisor privately provided advice on UNCED's manuscripts and draft conference proposals, their public involvement was focused on influencing ministers of state and heads of government. With few exceptions, the BCSD did not participate actively in the public sessions of the preparatory committees for UNCED.

The BCSD focused a good part of its attention on an issue which was called by the UNCED resolution the 'transfer of environmentally sound technologies to developing countries on favourable terms'. The BCSD held a series of meetings with industry and government representatives in order to convince them that it would be more appropriate to use

Alliance Internationale de Tourisme
American Hardware Institute
American Plastics Council
American Textile Manufacturers Institute
American Petroleum Institute
Association of International Banks
Association of Petrochemicals Producers in Europe (APPE)
Business Council for Sustainable Development
Bundesverband der Deutschen Industrie e.V
Canadian Chemical Manufacturers Association (CCMA)
Canadian Manufacturers of Chemical Specialities Association (CMCS)
Chemical Industries Association (UK)
Chemical Manufacturers Association (CMA)
The Coalition for Environmentally Responsible Economies (CERES)
Confederation of British Industry (CBI)
Environmental Marketing and Advertising Council (EMAC)
European Auto Manufacturers (ACEA)
European Chemical Manufacturers Association (CEFIC)
European Confederation of Pulp, Paper and Board Industries (CEPAC)
Federchimica
Institute of Petroleum
International Chamber of Commerce
International Council on Metals and the Environment
International Federation of Consulting Engineers (FIDIC)
International Fertilizer Industry Association (IFA)
International Iron and Steel Institute
International Road Transport Union (IRU)
Keidanren
Keizai Doyukai
Schweizerische Gesellschaft für Chemische Industrie (SGCI)
Verband der Chemischen industrie (VCI)
World Tourism Organization

Box 2. Selected list of international business organizations that have formulated positions statements on environmental performance or sustainable development

'technology co-operation' as the umbrella term for this issue. As self-selected corporate leaders on sustainable development, one of the primary tasks of council members is to convince other senior corporate executives to take sustainable development seriously. Their report, *Changing Course*,[16] is an enlightened long-term strategy document that contrasts sharply with the ICC and other trade associations' recommendations for UNCED. However, it also avoids addressing TNCs directly.

As actors on the world stage, TNCs play two conflicting parts. On the one hand, they publicize their global power and global reach. On the other, they deny that their activities, as a group, could have negative consequences, and they deny that, as a group, they have the power to influence events.[17] Both roles were played out during UNCED. For two-and-a-half years before the Conference there was a series of specialized meetings and intergovernmental preparatory conferences to agree on a multi-year plan of action for sustainable development and on a broad declaration of commitment to an integrated approach to environment and development. Concurrently the international community negotiated on environmental conventions on climate change and on the preservation of biodiversity. Within the Rio Conference proceedings there was silence on the role of TNCs; across from the Conference Centre and in São Paulo major meetings of corporate executives from around the world were held to plan further expansions of transnational investment and trade in environmental technologies.[18] The multi-year plan of action, called at the end *Agenda 21*, contains forty-two chapters on a wide range of economic, social, and environmental issues.

After all the fuss, what does *Agenda 21* say about TNCs? When the General Assembly accepted the report of UNCED in December 1992 the international community adopted more substantial references to the responsibilities of transnational corporations developed under the sustainable development umbrella than in any other area considered by the General Assembly. These standards are expressed in eight different technical sections of *Agenda 21*. They have been rearranged in policy categories in the Annex section at the end of this paper.

The key passages of *Agenda 21* adopted by the General Assembly dealing with TNCs are clearly stronger than any other equivalent texts adopted by prior general assemblies, ECOSOC, OECD, or the World Bank. Certain of these passages are likely to foretell new areas of international law. The General Assembly agreed, for example, that TNCs and other large industrial enterprises should introduce policies and commitments to adopt equivalent or not-less stringent standards of operation as in the country of origin and they should undertake research into the phase-out of those processes that pose the greatest environmental risk based on the hazardous waste generated. *Agenda 21* also calls for an annual report on routine emissions of toxic chemicals to the environment, even in the absence of the host country. Without Rio, this text would not even have been considered by the General Assembly. The efficacy of these new statements in altering behaviour will depend in large part on the follow-up by the Commission on Sustainable Development, the Earth Council, the various specialized international business associations, and the NGO community.

The Rio conference could have started a serious consideration of what 'sustainable enterprise' means and how international economic activity could be brought in line with global environmental requirements. As will be explained later, the international business community and the governments of the industrialized countries looked at this possibility for substantive change and flinched. They opted for a narrow definition and lobbied hard to prevent the public scrutiny that lay at the foundation of the question. The key question was what definition would be used of sustainable TNC activity. It is crucial, as perceptions of what the relationship should be between TNCs and sustainable activities will guide public expectation, litigation, and the thinking that occurs around national or international regulation—all of which have implications for the business profitability.

Who Defines Sustainable TNC Behaviour?

The definition of acceptable environmental performance has obvious public-relations implications. For the corporate world, it is crucial that the public believes that there will be no more 'Bhopal-type incidents'. The events involving Occidental Petroleum at Love Canal, Sandoz, with the pollution of the Rhine, Hoffman-LaRoche in Seveso, Italy, Occidental Petroleum again in the North Sea, and Exxon with its *Valdez* tanker must not be seen as evidence that transnational corporations are regularly causing 'difficulties' for the environment.

The definition of acceptable environmental behaviour also has legal and financial consequences. Recent years have seen a proliferation of court cases involving TNCs. Some cases were initiated in the North and then taken to Southern courts (for example, Bhopal); others were undertaken in developing-country court systems with public campaigns of support from the developed countries (for example, the de-registration of pharmaceutical products in Bangladesh); some have started as Northern activist exposés and continued as developing-country legal proceedings (for example, Italian waste dumping in Nigeria); and some 'accidents' in Southern countries have found a court-room in the North (for example, Central American DBCP pesticide victims are before a Texas court).

The general public's view is that there is some inherent concept of minimum international environmental standards below which firms and countries can no longer operate, and that it is the job of governments to enforce these. Firms cannot, even in states with lax regulations and enforcement, discharge mercury, lead, or other heavy metals into the air and water without public indignation and/or legal action. TNCs, irrespective of explicit laws, cannot maintain vastly different health and safety standards for their workers without serious adverse labour criticism and/or civil liability suits. And TNCs cannot be involved in industrial accidents in developing countries and expect to walk away without costs through skilful manipulation of the corporate veil and relocation of assets.

In legal terms, this may herald the evolution of international environmental standards roughly equivalent to the now recognized human rights standards. Even if countries authorize torture, the international community can react with economic and/or diplomatic sanctions. When firms ignore minimum international environmental standards, the world media will find a sympathetic audience when reporting disparate practices. Many firms may behave outside highly regulated markets with a cavalier attitude to environment and development. They are increasingly likely to discover constraining state legal actions and unexpected public-relations costs. But below this threshold of unacceptable behaviour is a vast grey area where TNCs operate outside public scrutiny or government regulation. In this area, TNCs claim that they should be responsible for corporate environmental improvements, and point to successes already achieved.

Published reports of TNC environmental successes celebrate single case studies. The celebratory genre of corporate environmental reporting seen in the ICC book *From Ideas Into Action* has been duplicated in corporate reports and in several reports of 'trends' produced by industry and consulting houses. These reports tend to be popular among business readers. They are defended on the grounds that they lead by example and show what is possible if industry is allowed to be innovative and not over-regulated. At the same time, the limits of their definition of sustainable environmental management must be recognized. They are self-referring, concentrating on 'improvements' in selected areas—often emissions or recycling—over previous performance. They concentrate on discretionary changes that can be profitable.

Leading environmental TNCs announce with pride that they have improved their environmental practices, reduced emissions, cut the generation of hazardous waste, and minimized the likelihood of industrial accidents. In annual report after annual report these firms make impressive public claims and display attractive statistical charts. But these claims are difficult to document unless there is a recognized disclosure standard and an accepted method of measurement. Clearly something has happened for a good number of TNCs, but the overall significance for the firm and the environment is difficult to assess. Even sophisticated users of annual reports are at a loss to compare meaningfully the relative environmental impact of two large firms. For instance, one firm reports that it cut SO_2 emissions over the past three years but fails to relate this reduction to a corporate reorganization that closed down a particular affiliate. Another firm states that it has a corporate goal to reduce hazardous waste by 10 per cent per year over five years without providing the definition of hazardous waste used or the starting amount. Such claims have excellent short-run advantages in the media, but they damage long-term credibility with environmentalists, social investors, and government officials.

Who Regulates Transnational Corporate Environmental Activity?

The issue of what the relationship should be between the nation-state and its business community has generated a sound body of literature. In contrast, there is very little work done on the relationship between international economic actors and international institutions of governance, and the assumptions of corporate governance are not transferred from the national to the international arena. Currently, conventions are drafted and signed by governments on behalf of nation-states. TNCs are not formally part of this process, nor are they directly addressed in the conventions. On the global economic stage, the lead players are in the wings: they neither participate in the process of preparing a convention nor are they obligated by its conclusions. This is a contradiction that is beginning to get some attention, particularly in a post-Uruguay GATT world.

Consequently, environmental conventions that do have industrial consequences are written in a roundabout fashion. The Basel Convention on hazardous waste is designed to restrict the shipment of hazardous waste. Governments sign conventions but firms ship waste. So the Basel Convention says governments will take measures to prevent firms from exporting hazardous waste. The USA, for example, does not have an export review system, except for military-related products. So it really does not have the capacity to control waste exports directly. Another example of this indirect method to control industrial pollution that has global effects is the approach in the Montreal Protocol on Ozone Depletion. While governments negotiated and adopted the Protocol, industry manufactures and uses ozone-depleting compounds. The Montreal Protocol states that member governments should take actions to reduce and eliminate certain classes of ozone-depleting compounds within their national boundaries, but there is no effective corporate verification procedure. One effect of this approach is that some non-signatory countries may choose not to become members of the Montreal Protocol as a device to encourage foreign investment in their countries.

What prompts TNCs to establish corporate-wide environmental management systems? The *Benchmark Corporate Environmental Survey* asked TNCs this question. Respondents were offered nine choices including:

- consumer protests;
- negative media publicity;
- potential legal costs;
- home country environmental regulations;
- host country environmental regulations; and
- accidents at their firm and accidents at other firms.

The results showed that the largest single factor motivating the establishment of a global environmental policy is the development of environmental laws and regulations *in the home country*. It appears that for large firms it may make more technological and managerial sense to have firm-wide environmental policies and procedures rather than to attempt effective management of internal, often contradictory, practices and technological standards. It is interesting that this reality is recognized by citizens around the world. In the Gallup Survey, over 55 per cent of the respondents 'strongly favour' that home countries formulate model environmental laws to put appropriate restrictions on business and industry.[19]

More surprisingly, and in marked contrast to the hype around 'self-regulation' created by leading trade associations and individual corporations, international business strongly believes that there *is* a major role to be played by the United Nations (and, presumably, other multilateral organizations) in regulating international corporate environmental performance. In the only statistical sampling done to date on TNCs and environmental performance, two-thirds of TNCs thought that the UN should work towards standardizing national environmental rules and regulations. A majority also felt that the UN should be active in setting international policy guide-lines.[20] Both positions are directly opposed to the views expressed by the ICC, and are not widely publicized. There is a major question here, of who represents international industry and who represents the views of international industry on sustainable business practice.

At the same time as TNCs recognize that better environmental practices will only happen through legislation, most firms take strong public exception to international environmental regulations. This is to be expected: few firms have ever called for environmental regulations in their home markets. One might assume, therefore, that TNCs would not take the lead in international environmental regulations. However, it may be more important to conduct the debate about regulations in the international arena than the national one, where some constraints already exist.

The campaign in favour of international self-regulation by individual firms and industry trade associations has been energetic and has been supported by almost all the international business trade associations. While not generally recognized as such, 'self-regulation' is really an oxymoron. Potential polluters cannot make 'laws' (that is, regulate) and order 'sanctions' (that is, authorize penalties and fines) that are against their self-interest. Further, state regulation presumes that there is a political process that defines a level of pollution, and regulations are issued to disperse this standard equitably over the generators of the pollution. No individual 'self-regulator' can determine the publicly approved level of pollution or allocate to itself the correct amount of pollution.

Although not explicitly made, the self-regulation argument at its most extreme is tantamount to advocating for the international arena only municipal/provincial/state laws and the cancellation of all national health and safety institutions and laws. While not advocating that untenable public position in home country markets, TNCs do not factor the 'common good' into their international economic activity. The demand for 'self-regulation' is couched in the language of trade and competitiveness and is remarkably value-free. It also reflects a double standard. It would be unimaginable to advocate cancelling the laws and institutions in a TNC home country that protect worker safety, water quality, product safety, pharmaceutical standards, or the environment.

National history holds a lesson here. Business cannot be expected to author its own regulation. Moreover, its requirements of government are inherently contradictory—wanting freedom and protection at the same time. Regulations in some form will be needed to maintain mature and stable democratic international economic relations. History shows that the proper debate should be on what kind of regulations are appropriate, not whether they should exist at all. It may have suited short-term TNC needs to try to eliminate references to transnational corporations in *Agenda 21*. But it may not suit them so well in the longer term. And it does not diminish their impact on the environment or their potential contribution to economic development.

In general, citizens' groups and non-governmental organizations call for some level of international standards. For example, the NGO text from Rio calls for 'democratic control of transnational corporations'.[21] There are other supporters of a clearer statement on TNC environmental responsibilities. Governments acknowledge that they cannot create and maintain a regulatory system in their own country that is technologically and scientifically dynamic. Scholars have argued that a 'level playing field' requires a globally consistent set of environmental norms and standards.

Consequences of TNC Self-Regulation

An illustration of how important the definition of sustainable development is to TNCs can be seen in industry's rejection of UN proposals on corporate environmental management. The UN has no environmental enforcement powers against individual enterprises. But when UNCTC's *Criteria for Sustainable Development* was published, it was heavily criticized by industry proponents of 'self-regulation'. There were several reasons. First, while some criteria were already in operation, others would require some corporate-wide changes that they were disinclined to make. Secondly, the 'self-regulation' momentum could not be advanced if the UN or any other intergovernmental body could be seen *in the public eye* to be setting expectations for international business activities. These principles might lead some national governments to adopt laws and regulations based on these recommendations. Thirdly, 'self-regulation' would be weakened if it was understood that corporations could not define for themselves what constituted a sustainably managed firm. Were firms to be seen as unable to formulate sustainable management criteria and using something produced by intergovernmental bodies (or by governments), it would strongly suggest that they lacked even rudimentary 'self-regulatory' capabilities.

Another example is provided by the history of the passage of the UNCTC *Recommendations . . . on Transnational Corporations and Sustainable Development*. When it reached the Fourth Preparatory Committee for UNCED in March 1992, major developed countries, the ICC, and the Business Council for Sustainable Development launched a frontal effort to avoid any reference to TNCs and their potential contribution to sustainable development.[22] Some developing countries and NGOs continued to raise issues regarding TNCs and environmental responsibility during the Fourth Preparatory Committee meeting, to little avail.[23]

TNC leaders resisted all attempts made by multilateral organizations to table meaningful definitions of sustainable development, and ignored offerings from citizens groups. One could understand their criticism of the burdensome nature of international regulations if these really existed or were being proposed. But there is not a body of international conventions and agreements nor a set of agencies monitoring the implementation of corporate health, safety, environmental, and workers' standards. The world does not have agencies with administrators who collect standardized data on emissions. There are no administrative judges who rule and fine for violations of international standards. Inspectors

The Recommendations of the Executive Director of UNCTC to the Preparatory Committee for UNCED articulated a series of interrelated principles regarding acceptable international corporate environmental behaviour. Amongst the principles were:

Transnational corporations should apply the highest practicable principles and standards for environmental protection equivalently throughout each firm's global operations; conform to the provisions of international and regional environmental standards, guide-lines, and conventions to the extent that they are applicable to corporate activities, even though not mandatory under national/local law; and observe all national and local laws and regulations, subject to the overriding responsibility to conform with regional and international standards.

Transnational corporations should include environmental considerations in corporate accounting and reporting in order to relate an enterpris e's environmental activities to its financial position and performance. Subsequently firms should incorporate the full environmental costs into the production of goods and services in order to send the right signals to producers and consumers.

Box 3. Selections from the recommendations of the executive director of the UNCTC to the preparatory process for UNCED

are not appointed internationally to visit operating plants in developing countries. In the absence of any regulation, the battle is nevertheless focused on preventing any—even a minimal system—from gaining public acceptance.

There are some positive aspects of the self-regulation approach. Most importantly, it is important to the leaders that they are not embarrassed by more Bhopal or *Valdez*-type public disasters. Corporate 'free-riders'—those firms who benefit from the lack of international environmental standards regulations but have not made any structural changes themselves—present a difficult case. They cannot be ordered by other firms to take environmental protection seriously but they can prevent the public from developing a 'green' image for TNCs in general.

'Self-regulation' leaders also have to make a convincing case to industry for environmental protection. They do this in a three-part argument. The first is built around traditional rationales for business activities; the second set is couched in defensive external terms,[24] and the third is a joint appeal to governments to make environmental protection profitable.

The traditional argument is that 'environmental protection' is really good business. This line of approach is no different than, say, business consultants recommending streamlined management systems as a good business practice. The environmental version generally has these claims. Good environmental practices will lead to:

- new markets and increased profitability;
- diminished costs of production through reduced purchases of raw materials and inputs;
- increased efficiency of production through internal recycling; and
- reduced operating and maintenance costs through standardization of technological standards.

The defensive approach stresses the likelihood of external 'attack' on TNCs that could be deflected or delayed if firms understand the relative importance in the public mind of environmental issues. This line of approach is similar to strategies adopted by domestic trade associations selling their public affairs services to their corporate clientele. The sustainable development version tends to claim that a good programme can

- avoid or postpone domestic and international regulations;
- minimize costs from civil liability suits;
- counter public criticism; and
- protect consumer markets from media exposés which can discourage consumer purchases and brand loyalty.

The joint appeal to governments is related to the campaign for 'self-regulation.' Rather than maintain an enforceable set of rules, it is argued that governments should use the market to reward financially good environmental behaviour. On the domestic level, incentives *above and beyond* legal requirements can be a powerful lever towards greater levels of environmental protection and regional economic growth. The core concept is that, with a base set of enforceable standards and regulations in place for all enterprises, the state could give incentives to environmentally sound business practices. It could finance supplemental environmental activities by business enterprises. It could induce special regional investment programmes through a variety of incentive programmes.[25] This appeals to firms not currently committed to sustainable development. The benefits of an incentive system on the international level might even be more lucrative as there are no base international environmental standards. It is a potentially large expenditure of resources by governments without a guarantee from firms to raise overall environmental performance. The approach financially rewards firms for doing 'good', but does not constrain them (or others) when they don't.

Despite its publicity through trade associations and leading firms, self-regulation has not spurred a trend towards improved TNC environmental performance. Most TNCs maintain a 'do-nothing' approach: comply with local and national environmental regulations, advertise environmental concerns when appropriate, but keep politically quiet on sustainable development.

Constructive corporate environmental initiatives involve a handful of firms. The former UNCTC estimated that there are now some 35,000 TNCs. At the same time that over 1,000 firms signed the ICC Charter, only 650 attended the major industrial pre-conference to Rio and some 200 TNCs co-operated with the UNCTC in its *Benchmark Corporate Environmental Survey*. Many of these firms were involved in only one major activity in the global public corporate policy arena from 1990 to 1992. One area of improvement, or a handful of case studies, are usually all that are cited in corporate claims to be 'sustainable'.

In practice, the best 'environmentally sound firms' are uni-dimensional or limited in the scope of their environmental efforts. Progressive environmental strategies mean that a TNC has safe worker protection rules *or* good products *or* good waste recycling *or* good environmental audits, but not a broad range of environmental and health and safety standards. The *Benchmark Corporate Environment Survey* identified twenty-two areas which could require corporate policies for environmental protection. The average respondent had publicly available statements in only five areas.[26]

Firms that do recognize environmental issues often treat sustainable development as just another social issue that requires periodic expressions of concern while avoiding any negative messages on the subject. A component of this strategy is to establish a specialized unit on environmental management in a relatively marginal position in the global structure of the firm. A third strategy is to carve out a segment of the growing green market, say green saving in industrial recycling, and extensively publicize the firm's environmental concerns. Only a very small minority re-examine the structures, markets, product mixes, and engineering practices to take on board environmental concerns. This could entail designing a management system that incorporates environmental change into the future growth of the main lines of business. Even then, most corporations are reluctant to have these changes audited by external observers or by external criteria.

When CERES released their *Valdez* Principles (since renamed the CERES Principles), they made it clear that information disclosure was going to be at the heart of the public debate. CERES distributed a detailed data collection form to major firms which were interested in becoming signatories to their principles. The data collection form asked for information over a five-year period on such items as energy efficiency of production lines, waste production per unit of output, and plans for future compliance with the Montreal Protocol on ozone-depleting chemicals. In response to the *Valdez* data collection plans and challenges to the veracity of corporate environmental claims, a number of trade associations have proposed that quantifiable and comparative environmental standards be drafted by industry.

The task is immensely complicated. Does one only measure 'emissions' from a plant but not the rate of use of 'inputs' from nature (for example natural resources)? Does one measure only 'popular' emissions like CO_2, NO_X, and SO_2, but not specialist chemical by-products? Does one only measure the environmental impact of manufacturing industries and not consider the agricultural and growing service industries? How does one assign values to the non-manufacturing or mining use of natural resources like scenic beauty and biological diversity that are generally outside the frame of contemporary accounting? With such diverse measurement questions, the task will take a good deal of technical study and political effort.

Yet even the effort to define measurable environmental standards has caused difficulties for a significant number of TNCs who 'committed' themselves to a green world without making real changes throughout the firm. It also causes difficulties for environmental corporate leaders seeking to attract non-committed firms who now reasonably wonder what will be asked of them to document if they 'sign on' to corporate sustainable development campaigns.

In spite of these cautions, the debate today comes down to who should author disclosure standards—trade associations, individual firms, professional associations, governments, activists, or a combination of the above; and who should carry out the audits—the firm itself, external examiners, or the government. The precedent from the corporate accounting world is that the state sets the basic ground rules and allows specialized professional bodies, like the Financial Advisory Standards Board (FASB) in the USA, to draft detailed rules of accounting and reporting. In the environmental field, there is not yet a recognized body with the capacity to take on this task and command respect from the industry, government, and the general public. With regard to verification of data, the 'self-regulation' advocates generally oppose 'external' audits, which generally mean audits by independent corporate service firms. The tension, then, is between the need for publicly reliable data and the anxiety that a professional body might undertake verification of environmentally oriented data.[27]

Preoccupation with self-measurement of environmental impacts and provable assertions to be a good 'green' enterprise leaves little attention on the measurement of the other side of sustainable development, the development component. To date no trade association has recommended formulating comparative standards to assess the social and economic development impacts and benefits of commercial activity.

Who Pays For Environmental Resource Extraction and Depletion?

In addition to the arguments regarding the disclosure of information, the most complex argument affecting the debate on TNCs and sustainable development is the inclusion of environmental costs in overall production costs or, more generally, the internalization of environmental costs.

There is general agreement that environmental costs need to be internalized. In non-technical language, the economic impacts of business on the environment has historically been left out of the firm's costs of production. The costs of cleaning up waste, for example, were previously passed on to the community. Now it is expected that these and other environmental costs are made internal to the firm's production accounting. This view appears in—or is assumed by—every major policy statement on the economy and the environment by industry associations, developed-country governments, and UN agencies. But there is no agreement on how that should happen while maintaining the current competitive structures of the market system. Proponents of the free market vociferously assert that the market can take care of the problem, without acknowledging that the market has not done so in the past. What is missing is an agreement on the methods needed to 'alter' the market without undermining the independence of the market-place.

Objectively there is a series of major avenues using market mechanisms that can internalize costs. These are:

- an effective, enforced regulatory system that sets costs for previously free goods (land damaged by waste disposal is given a clean-up cost);
- a civil liability system that 'punishes' firms/executives for not taking care of health, safety, and the environment (for example, health damages are paid by the polluter);
- a corporate accounting system that reflects 'real' environmental costs during the internal decision-making process (for example, recycling costs are included in budget forecasts);
- an eco-labelling system that encourages consumers to make purchases on the basis of the product's environmental impact (so that consumer purchasing choices could penalize unacceptable environmental business decisions);
- a national tax system based on the use of natural resources rather than on income flows (taxes could be charged on the consumption of non-renewable resources rather than on income flows);
- a mandated requirement that manufacturers have a responsibility for their products' full life-cycle uses (for example, costs for a public recycling plan are paid for by the manufacturer); and
- an end to government programmes that underprice natural resources and therefore encourage their over-use or misuse (costs for soil depletion are not subsidized by agricultural programmes).

With the exception of the last item, these proposals are frequently criticized even by the corporate environmental leadership as unacceptable on other economic and political grounds. It is often difficult to have a good assessment of these mechanisms because they clearly have significant short-term costs, and generally can result in unpredictable consequences for individual firms and sectors. The business community wants to incorporate a share of environmental costs—so as to equalize the corporate burden on a sound environmental pricing system—but wishes to avoid the associated ideological costs that could be used to incorporate environmental costs into the price of goods.

The current deadlock, then, is that using market signals to convey environment and development costs is well accepted, but the specific available mechanisms are generally scorned as unworkable or impractical. This dilemma needs to be faced. Either the market is self-correcting with self-regulation and self-reporting, or some significant external intervention by the state, by consumers, or by workers needs to take place to prompt the internalization of environmental and natural resources prices into the cost of production.

Conclusion

The confrontation of issues around the theme of corporate responsibility raised in the preparation for the UNCED will continue for a good number of years. The battle for a definition of an acceptable international corporate behaviour and the precision of standards for environmental disclosure will continue largely in the media, in legislative bodies, and in court systems. The battleground on a minimum set of international environmental regulations after Rio will shift primarily to fora drafting the protocols to the climate, biodiversity, and waste conventions, and to campaigns by sustainable development NGOs based on their Rio agreements. Efforts to increase voluntary corporate international environmental management practices and systems will be reflected in increased management seminars, training of environmental auditors, and specialized trade media, and in the further exposés by journalists and NGOs in developing countries. Intra-corporate leadership battles will be reshaped in light of the post-Rio institutional discussions at the UN and the individual assessments within the industrial associations of the durability of public interest in sustainable development.

Following the structure of issues raised in UNCTC's *Recommendations . . . on Transnational Corporations and Sustainable Development*, one can also expect further developments in the methods for global corporate management of large industrial enterprises and in the effort to minimize risk and hazard from products, processes, and services from the manufacturing, mining, and consumer sectors. One can also expect that environmentally sounder consumption patterns will be supported by a broader range of corporate products and services. What is not so clear is the time-scale for these changes or the extent of their implementation by all international investors and technology suppliers. It does seem, however, that efforts for greater use of full-cost environmental pricing and accounting, and for greater acceptance of international standards are less likely in the near future.

With such a significant share of world investment and technology resource involving TNCs, there remains a compelling need to address a range of issues related to the environmental activities of these firms. From a UN perspective it is, of course, best if this were done through negotiation and consensus-building involving all the major stakeholders in the process. Over the coming years public reaction to future 'Bhopal-events' may create opportunities for enhanced attention to the general practices of international investment and technology acquisition. Individual governmental bodies, particularly the EU, may undertake efforts that encourage TNCs to become stronger advocates of a more even international environmental playing-field. It is reasonable to expect that some of the contradictions in the current debate, for example, the now recognized need for internationally recognized, quantifiable measurements of environmental impact, could open avenues for a broader reconsideration of a variety of environmental and development practices of TNCs.

Furthermore, as the post-Rio process starts to gain momentum, some of the principles and tasks articulated in *Agenda 21* could raise the overall level of environmental commitment and discussion in the corporate world. While the high-visibility opportunity of the Rio conference for a major new breakthrough was lost, other international forums may allow more incremental developments on these themes.

Annex. Review of Agenda 21 on TNC-related issues

This Review was produced by the UN Centre on Transnational Corporations in a document, *Followup to the United Nations Conference on Environment and Development as Related to Transnational Corporations: Report of the Secretary General to the Commission on Transnational Corporations*, April 1993 (E/C. 10/1993/14). It organizes the relevant elements of *Agenda 21* under thematic categories established in the UNCTC document: *Transnational Corporations and Sustainable Development: Recommendations of the Executive Director* (E/C.10/1992/2).

A. *Agenda 21* states that *transnational corporations* along with other industrial actors should:

in the area of global corporate environmental management:

1. introduce policies and commitments to adopt equivalent or not less stringent standards of operation as in the country of origin;
2. recognize environmental management as among the highest corporate priorities and as a key determinant to sustainable development;
3. be encouraged to establish world-wide corporate policies on sustainable development;
4. ensure responsible and ethical management of processes from the point of view of health, safety, and environmental aspects;
5. establish environmental management systems, including environmental auditing of production or distribution sites;
6. strengthen partnerships to implement the principles and criteria for sustainable development;[28]
7. have a special role and interest in promoting co-operation in technology transfer and in building a trained human resource pool and infrastructure in host countries;
8. share their environmental management experiences with the local authorities, national governments, and international organizations;
9. report annually on their environmental record as well as on their use of energy and natural resources;

in the area of environmentally sound production and consumption patterns:

10. play a major role in reducing impacts on resource use and the environment through more efficient production processes, preventive strategies, cleaner production technologies, and procedures throughout the product life-cycle;
11. integrate cleaner production approaches into the design of products and management practices;
12. arrange for environmentally sound technologies to be available to affiliates in developing countries;
13. increase research and development of environmentally sound technologies and environmental management systems in collaboration with academia, scientific/engineering establishments, and indigenous peoples;
14. establish clean production demonstration projects/networks by sector and by country;
15. integrate cleaner production principles and case studies into training programmes and organize environmental training programmes for the private sector and other groups in developing countries;
16. consider establishing environmental partnership schemes with small- and medium-sized enterprises;

in the area of risk and hazard minimization:

17. undertake research into the phase-out of those processes that pose the greatest environmental risk based on the hazardous wastes generated;
18. encourage affiliates to modify procedures in order to reflect local ecological conditions;

19. provide data for substances produced that are needed specifically for the assessment of potential risks to human health and the environment;
20. develop emergency response procedures and on-site and off-site emergency response plans;
21. apply a 'responsible care' approach to chemical products, taking into account the total life-cycle of such products;
22. be transparent in their operations and provide relevant information to the community that might be affected by the generation and management of hazardous waste;
23. adopt, on a voluntary basis, community right-to-know programmes based on international guide-lines, including sharing information on the causes of accidental releases or potential releases and the means to prevent them;
24. make available to governments the information necessary to maintain inventories of hazardous wastes, treatment/disposal sites, contaminated sites that require rehabilitation, and information on exposure and risks;
25. report annually on routine emissions of toxic chemicals to the environment even in the absence of host country requirements;
26. phase out, where appropriate, and dispose of any banned chemicals that are still in stock or in use, in an environmentally sound manner;

in the area of full-cost environmental accounting:

27. be invited to participate at the international level in assessing the practical implementation of moving towards greater reliance on pricing systems that internalize environmental costs;
28. co-operate in developing methodologies for the valuation of non-marketed natural resources and the standardization of data collection;
29. work towards the development and implementation of concepts and methodologies for the internalization of environmental costs into accounting and pricing mechanisms;
30. work with governments to identify and implement an appropriate mix of economic instruments and normative measures such as laws, legislation, and standards;

in the area of environmental conventions, standards and guide-lines:

31. develop an internationally agreed-upon code of principles for the management of trade in chemicals;

in the area of post-UNCED follow-up:

32. be full participants in the implementation and evaluation of activities related to *Agenda 21*.

B. Further, *Agenda 21* states that *transnational corporations* and other corporate actors should co-operate with Governments and international organizations which are asked to:

in the area of environmental conventions, standards, and guide-lines:

1. consider adopting policies based on accepted producers' liability principles as well as precautionary, anticipatory, and life-cycle approaches to chemical management, covering manufacturing, trade, transport, use, and disposal;
2. adopt regulatory and non-regulatory measures to identify and minimize exposure to toxic chemicals by replacing them with less-toxic substitutes;
3. phase out those chemicals that pose unreasonable and otherwise unmanageable risks and those that are toxic, persistent, and bio-accumulative, the use of which cannot be adequately controlled;
4. develop guide-lines and policies for manufacturers, importers, and others to disclose toxicity information declaring risks and emergency response arrangements;
5. co-operate in developing guide-lines on public communications on chemical risks;
6. co-operate in developing common criteria to determine which chemicals are suitable candidates for concerted risk-reduction activities;

in the area of risk and hazard minimization:

7. undertake concerted activities to reduce risks from toxic chemicals, taking into account the entire life-cycle of the chemicals;
8. minimize or eliminate as far as feasible risks from the storage of outdated chemicals;
9. develop procedures for monitoring the application of the 'cradle-to-grave' approach, including environmental audits;
10. generate the data necessary for hazard assessment of toxic chemicals;
11. promote mechanisms to increase collaboration in risk assessment of chemicals and related processes;
12. give high priority to hazard assessment of chemicals, that is, of their intrinsic properties as the appropriate basis for risk assessment;
13. launch a project on the harmonization of classification of chemicals and compatible labelling systems for chemicals using all official UN languages and pictograms;
14. prepare an inventory of hazardous-waste production sites;

in the area of global corporate environmental management:

15. conduct environmental audits of existing industries to improve in-plant regimes for the management of hazardous wastes;
16. improve databases and information systems on toxic chemicals, such as emission inventory programmes;
17. establish a technical exchange programme to produce a core of trained personnel with each participating country; and
18. establish technical co-operation with, and provide information to developing countries, especially those with a shortage of technical expertise.

Notes and References

This paper was written with Dr Riva Krut, co-director in Benchmark Environmental Consulting.

1. Respondents chose, as causes of environmental problems, between overpopulation, home government, individual waste, lack of education, business and industry, and technology. Technology was ranked second. George H. Gallup Memorial Survey (1992), *The Health of the Planet Survey: A Preliminary Report on Attitudes Toward the Environment and Economic Growth Measured by Surveys of Citizens in 22 Nations to Date* (Princeton, NJ: George H. Gallup International Institute), ii. 16–17.
2. UNCTC (1990), *Transnational Corporations and Climate Change* (New York: United Nations).
3. In Feb. 1992 UNCTC was reorganized into a Division on Transnational Corporations and Management in the Department of Economic and Social Development (DESD), New York. In Jan. 1993 the section was reorganized again into a Programme on Transnational Corporations in United Nations Conference on Trade and Development (UNCTAD), Geneva.
4. Before starting with this analysis, I should make clear that I served as the chief of the environment unit of the UNCTC, a body that was generally regarded with scepticism by the international business community.
5. United Nations Centre on Transnational Corporations (1990), *Criteria for Sustainable Development Management* (New York: United Nations).
6. United Nations Commission on Trade and Development (1993), *Environmental Management in Transnational Corporations: Report of the Benchmark Corporate Environmental Survey* (Geneva: United Nations).

7. United Nations Commission on Transnational Corporations (1994), *Options to Increase the Flow of Environmentally Sound Technologies to Developing Countries on Favourable Terms* (Geneva: United Nations).
8. United Nations Centre on Transnational Corporations (1990), *Transnational Corporations and the Disclosure of Information on Hazards and Risks* (New York: United Nations); United Nations Department of Economic and Social Development (1992), *Emerging Trends in the Development of International Environmental Law at the Regional and Global Level: Implications for Transnational Corporations* (New York: United Nations).
9. United Nations Centre on Transnational Corporations (1991), *Transnational Corporations and Sustainable Development: Recommendations of the Executive Director. Report of the Secretary-General* E/C.10/1992/2 (New York: United Nations), subsequently referred to as 'Recommendations'.
10. These factions take temporary allies from academic institutions, mainstream environmental organizations, and UN system agencies. For example, the International Chamber of Commerce has links with the United Nations Environment Programme's Industry and Environment Office in Paris; the Business Council for Sustainable Development worked with the Corporate Conservation Council and the Stern School of Business, New York University, in preparing for a joint US–Japanese chief executive officers' meeting on the environment and with the new Canadian think-tank, the International Institute for Sustainable Development, in preparing a report on corporate disclosure practices (*Business Strategy for Sustainable Development: Leadership and Accountability for the '90s*, offset, no date).
11. The *Valdez* Principles were formulated in the USA by the Coalition for Environmentally Responsible Economics (CERES), a group of social investors and environmental leaders, following the grounding of the Exxon tanker *Valdez* in Alaskan waters. The principles have been renamed the Ceres Principles.
12. The imperative of the ICC Charter is not clear from its drafting. The Charter contains a series of infinitive clauses (to cause . . . , to design . . .) without a subject (executives, industry, TNCs, manufacturing firms) and without a main verb (shall announce, will require, may consider, might recommend). This grammatical vagueness can allow a large number of firms and trade associations to assert accurately that they are in conformity to the Charter.
13. International Chamber of Commerce (1992), *From Ideas to Action* (Paris: ICC).
14. Keidanren (1991), *Keidanren Global Environmental Charter* (Tokyo).
15. The new executive director of Business Council on Sustainable Development, Hugh Faulkner, had recently been replaced as the executive director of the International Chamber of Commerce.
16. Steven Schmidheiny (1992), *Changing Course* (Cambridge, Mass: MIT Press).
17. e.g. Stephen Schmidheiny, chairman of the Business Council for Sustainable Development: 'the multinational companies are among the few private organizations powerful enough to influence international environmental and development problems. They often take a longer term and more international view than governments themselves.' 'Our Common Enterprise', *Development*, 1992: 2 (Journal of the Society for International Development, Rome).
18. For example, the ICC three-day conference in Rio omitted any direct discussion of the future tasks expected from national industries or TNCs in *Agenda 21*. The meeting provided TNCs with an opportunity to declare their commitment to 'sustainable development' without clarifying the ways in which they could use their considerable resources to implement a sustainable future.
19. Gallup, *Health of the Planet Survey* (n. 1 above), table 11.
20. In the questionnaire, the largest transnational firms were asked to rank the potential role for the UN system in terms of what would benefit the firm most. Choices included reducing the differences in national regulations, setting international policy guide-lines, recognizing the good leadership of individual firms, advising developing countries on inspection systems, serving as a potential neutral partner to resolve environmental conflicts involving foreign investors, and distributing publicity on industry standards.
21. During the Global Forum, NGOs negotiated various 'treaties' reflecting their interest in key topics of the UNCED agenda. Amongst the general principles in the NGO treaty on transnationals are that these enterprises 'should be held to the highest environmental, health, safety, and labour standards in all countries of operation', and that 'the precautionary approach, which places the burden of proof of no harm on the potential polluter rather than on the environment or potential victims, should govern TNC practices'. (Rio de Janeiro, no date), mimeo.
22. The EC declined to participate in one of the pre-session weekend reviews of the Recommendations; Japan opposed concepts that even the Japanese industrial trade association, Keidanren, had adopted; the US mis-characterized the Recommendations in an intentionally pejorative fashion, calling them a 'regulatory system'; Sweden and Norway introduced text based on the Recommendations then withdrew it two days later; and Canada hosted a series of meetings to co-ordinate the impact of industry representatives on the negotiations.
23. The two NGO newspapers, *Crosscurrents* and *Earth Summit Times*, carried accounts of the NGO and government interaction during the Fourth Preparatory Committee meeting.
24. Both of these lines of arguments were recently used in the background paper for a high-level meeting between US and Japanese chief executive officers on sustainable development sponsored by Business Council for Sustainable Development, International Chamber of Commerce, and the Corporate Conservation Council. Thomas Gladwin (1992), *Building the Sustainable Corporation: Creating Environmental Sustainability and Corporate Advantage*, commissioned for the Synergy 92 Conference of the National Wildlife Federation-Corporate Conservation Council (offset, Washington, DC).
25. Such environmental subsidies may no longer be allowed under GATT.
26. This is dealt with at length in the UNCTAD *Benchmark Survey*.
27. Norsk Hydro does produce an annual environment and development report through the use of internal and external examiners. Norsk Hydro's report is available in Norwegian and English.
28. UNCTC, Criteria for Sustainable Development Management, 1989.