

(5) Development of legal principles on environmentally sound and sustainable development. The Secretariat prepared and updated a series of analytical studies and relevant recommendations on those issues to assist its Member States and make modest contribution to the success of the Rio Conference.

The Committee's endeavours in respect of the preparation for the UNCED were reinvigorated during its 31st Session held in Islamabad in January 1992. At that Session, a two-day Special Meeting on Environment and Development was convened: Following a series of formal and informal exchange of views, a draft text of the statement entitled "Statement of General Principles of International Environmental Law" was adopted.

It was consequently circulated as an official document in all working languages of the UN under agenda item, *Principles on General Rights and Obligations*, of Working Group III.

The AALCC was represented at the Rio Conference by the then President Mr. Aziz A. Munshi and the Secretary-General Mr. Frank X. Njenga. The Secretary-General of the Committee had the honour to address the Conference.

In view of the long-term nature of environmental protection and sustainable development, the Committee decided to continue its efforts and further pursue its environmental programme after the conclusion of UNCED. The measures and actions to be taken in this regard included :

- (a) Prepare a general assessment of the outcome of the Rio Conference concentrating particularly on the issues with legal implications;
- (b) Continue to monitor the on-going process of UNCED at its next stage and following-up aspects of its new programmes with legal implications;
- (c) Prepare a detailed analysis and comments on the two Conventions on Climate Change and Biodiversity and monitor the developments after the signature of the Conventions and make recommendations to the Member States of the Committee in respect of ratification of the Conventions respectively as deemed appropriate;
- (d) Make studies on the further development of international environment law;
- (e) Render assistance to the Member States at their requests in the field of national legislation concerning the protection of the environment; and
- (f) Strengthen the cooperation with the UNEP.

A study was prepared by the Committee's Secretariat in accordance with the mandate given by the Committee at its 31st Session held in Islamabad in January 1992 and in the context of reference to the concerns and involvement of the Committee in the preparation for the UNCED.

This study concentrated on the major issues with legal implications such as the principles on general rights and obligations of States in the field of sustainable development, international legal instruments and mechanisms and international institutional arrangements as well as financial resources and transfer of environmentally sound technologies.

Thirty-Second Session : Discussions

The Secretary-General introduced the document containing three studies prepared by the Secretariat after the conclusion of the United Nations Conference on Environment and Development, in 1992. The first part sets out a brief assessment of the Rio Summit held in Brazil in June 1992. The second part contains an analysis of the provisions of the Framework Convention on Climate Change and the third part deals with the Convention on Biological Diversity. This document had been placed before the AALCC's Legal Advisers Meeting held in New York on 23rd October 1992. At that meeting a comprehensive statement was made by Mr. Nitin Desai, Deputy Secretary-General of UNCED on the outcome of the UNCED. In addition, the President of the International Court of Justice Sir Robert Jennings had addressed the meeting on "The Role of the International Court of Justice in Peaceful Settlement of Environmental Disputes".

He recalled that following the decision of the General Assembly in its resolution 44/228 of 22 December 1989 to convene the United Nations Conference on Environment and Development, the Committee at its Beijing and Cairo Sessions had mandated the Secretariat to monitor the related developments and prepare studies with a view to assist the Member Governments.

The Secretariat officials participated in the important meetings of the Prepcom, UNCED and the Intergovernmental Negotiating Committee meetings on the Framework Conventions on Climate change and Biodiversity.

The Secretary-General stated that the Rio Summit was an event of great importance. The significance of the adoption of the Rio Declaration, the Agenda 21 containing the detailed programme of activities, including the institutional arrangements and the signing of United Nations Framework Convention on Climate Change and the Convention on Biodiversity during

the Rio Summit could hardly be over-emphasized. These legal instruments have far reaching implications well beyond the present decade. The theme of the United Nations Conference on Environment and Development would continue to be the guiding post for ensuing activities in the field of environment. He drew attention to the general observations on the Rio Declaration.

The principal outcome of the Rio Conference however was the adoption of Agenda 21. The faithful implementation of Agenda 21 was the crux of future activities of the United Nations System, and intergovernmental, governmental and non-governmental organizations. The General Assembly at its Forty-seventh Session took vital decisions to revitalize and enhance the role and functioning of the United Nations System in the field of environment and development. It decided to establish a high-level Commission on Sustainable Development in order to ensure the effective follow-up work.

One of the major tasks of the Commission would be to review the implementation of the commitments contained in Agenda 21 including those related to provision of financial resources and transfer of technology.

He also stated that two other new initiatives or follow-up of the Rio Summit, were the establishment of an Inter-governmental Negotiating Committee for the elaboration of an international convention "to combat desertification in those countries experiencing serious drought particularly in Africa", and the convening of a global conference on the sustainable development of small island developing States in April 1994. It was expected that the international convention to combat desertification will be ready for adoption by June 1994.

The adoption on 9 May 1992 of the United Nations Convention on Climate Change by the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change and its signing by more than 150 States during the Rio Summit was a notable achievement. Although the Convention was not a perfect one, it had been considered as a first step in a co-operative response to the common concern of the adverse effects of Climate Change.

Article 21 of the Convention provided that the Intergovernmental Negotiating Committee will continue to function as an interim Secretariat until the completion of the first session of the Conference of the Parties to the Convention. Already initiatives had been taken to plan the programme activities and measures aimed at supporting the entry into force and effective implementation of the convention.

While noting the legitimate concern of some of the AALCC Member

States especially the oil producing States, the Secretary-General considered that their participation in the Convention process was desirable. It would provide them the opportunity to correct the imbalance which had crept in the Convention and to expose the hypocritical approach, if any, followed by the developed States responsible for the largest emission of CO₂ and other greenhouse gases.

The Secretariat would continue to monitor the developments in this regard. It was also ready to assist the Member States in the preparation of national legislation to implement the provisions of the Convention.

According to the Secretary General, the Convention on Biological Diversity was another significant achievement. It provided a broad legal framework for the conservation use and of biological diversity at national and international level.

The developing countries had vital stake in the successful implementation of the provisions relating to access to and transfer of technology and funding mechanisms. He referred to pages 89 to 119 of the Secretariat brief which besides providing an overview of the Convention also made a few suggestions for consideration which were reflected on pages 118 and 119. These related to preparation of national legislation to implement the Convention, the question of liability and compensation for causing damage to the biodiversity or environment of other states, transfer of technology including bio-technology which are covered by intellectual property rights, financial resources for developing countries and the financial facility.

With regard to the work-programme of the Secretariat in the field of environment, the Secretary-General informed the meeting that monitoring of the progress on ratification of the Framework Convention on Climate Change and the Convention on Biodiversity was one of the priorities. In that context, since the Global Environment Facility (GEF) would be playing a key role in the context of both the Conventions, the Secretariat was engaged in the preparation of a detailed study focusing on the ways and means to improve the democratization and governance of the GEF system. The review of the work of the Commission on Sustainable Development and other institutional arrangements emerging from the decisions of the General Assembly during its *forty-seventh* session would also be the areas for consideration by the Secretariat.

The Secretary-General considered it a matter of satisfaction that the Rio Summit had recognised the need for concerted international action to control desertification by *inter alia* formulation of an international legal instrument. The decision of the General Assembly at its Forty-seventh Session to establish an Intergovernmental Negotiating Committee to elaborate an

International Convention to combat desertification was a crucial step in this direction. The Framework Convention on Climate Change and the Convention on Biodiversity provided good precedents to follow. The AALCC Secretariat's involvement in the preparatory phase of these two Conventions and the UNCED meetings would provide an opportunity to assist the Member Governments in respect of matters concerning the proposed international convention on combating desertification.

The Secretary-General further stated that the conclusion of a co-operation Agreement between the AALCC and the UNEP provided an opportunity to organise and co-ordinate the Committee's activities in the environmental matters in a more productive way. In addition, jointly with the Organisation of African Unity and the League of Arab States, the Committee could make a concerted approach to deal with these problems particularly on desertification. However such endeavour needed support both financial and material from the Member Governments. Any voluntary contribution to the Special Fund on Environment would greatly facilitate its task.

The Representative of the United Nations Environment Programme (UNEP) outlined briefly the programme of work as undertaken by his organisation and also presented an overview of the international legal developments in the arena of environment. While examining the emerging norms of the law of sustainable development against the backdrop of Rio Conference and the principles enunciated therein, *he noted the shift which was taking place from the law of environmental protection to the law of sustainable development.* He termed Agenda 21 as a crucial example to embody this development.

He briefly noted the major International Environmental Conventions which had taken place during the intervening period of Islamabad and Kampala sessions. He mentioned three major conventions, namely, (a) Vienna Convention on the Depletion of the Ozone Layer and its Montreal Protocol; (b) The meeting of Parties to the Basel Convention on Transboundary Movement of Hazardous Wastes held in Piriapolis (Uruguay) and (c) The meeting of parties of the Convention on International Trade in Endangered Species. These Conventions, however, dealt with certain issues which needed further clarifications. Further, he noted two major International Conventions on the environment, namely, the Climate Change and Biological Diversity which had received unprecedented support when opened for signature and the establishment of an Inter-Governmental Negotiating Committee on a Global Convention on Desertification by the General Assembly of the UN.

He informed the plenary about the UNEP's programme, as approved by

the Inter-Governmental Meeting of Officials, for the next ten years for the Development and Review of Environmental Law known as Montevideo Programme. While referring to Agenda 21, he noted the value of national legislation as an instrument of social change. He presented the principal features of Montevideo Programme and hoped to augment the existing cooperation between AALCC and UNEP in realising the objectives embodied in the programme.

The Delegate of Japan referred to the scope of the work to be accomplished at the post-Rio Conference with the co-operation of participating governments and international organisations. He stressed that efforts should be made for an early and effective implementation of both the UN Framework Convention on Climate Change and the Convention on Biological Diversity. He called for the strengthening of confidence to provide the basis for a dialogue and his Government's commitment to strengthen overseas technical and financial cooperation in the arena of afforestation and sustainable management of forests. He also referred to the institutional arrangements for the effective implementation of the UNCED. He made it clear that Japan had supported and would support the efforts of developing countries in the area of environment and multilateral cooperation. He outlined objectives set by Japan to disburse ODA of approximately 7-8 billion US dollars during the five-year period from fiscal 1992 in the field of environment. He informed the meeting about the establishment of International Environment Technology Centres of UNEP at Osaka and Shiga in Japan which, *inter alia* would carry out activities to promote the transfer of environmentally sound technologies to developing countries with the special focus on the sustainable development of big cities and the preservation of fresh water resources.

The Delegate of Republic of Korea while referring to the Earth Summit, stated that it demonstrated many challenges involved in bridging the differences between nations. According to him, foremost issue would be relating to the financing the necessary measures contained in Agenda 21. He also noted the difficulties and complexities involved in the technology transfer while pursuing environmentally sound development and efforts devising the mechanisms facilitating global technology transfer. He stressed on the necessity for the international community to focus its efforts on the creation of an effective Commission on Sustainable Development (CSD) in order to monitor UNCED follow-up actions. He mentioned briefly as regards his country's national programmes and also the environmental co-operation of the North-East Asian Region, comprising Korean Peninsula, Japan, Russia, China and Mongolia.

The *Delegate of Islamic Republic of Iran* stressed the need for the fulfilment of the right to development for developing countries. He noted two crucial factors which generally received universal acceptance, namely (a) Environmental degradation and its effect on earth; and (b) sustained economic growth and development. He discussed, albeit briefly, diverse causes for environmental degradation and the decision-maker's dilemma in resolving varied conflicting values and priorities. He related these environmental problems to lack of provision of additional financial resources and transfer of technology. He also touched on the problem of desertification and land degradation. In conclusion he emphasized on the need for closer cooperation and the implementation of Agenda 21.

The *Delegate of Jordan* felt that although the Rio Conference had adopted Agenda 21, the outcome of that Conference was not expected to lessen the degradation or destruction of the environment. According to him, the environmental problems affecting the world included (i) the environmental problem in Somalia; (ii) lack of water and food in some of the developing countries; (iii) international organisations spending money on academic research rather than on useful enterprises; and (iv) the non-participation of industrialized countries in many of the international convention regimes such as the Basel Convention. He pointed out that his Government was one of the few developing countries which had prepared a national strategy for environmental protection. To that end, he suggested the initiation of the following measures: (i) Establishment of a Committee to prepare a national strategy for environment; (ii) Preparation of studies on the state of environment in every country; and (iii) Training of technical personnel in the developmental fields.

The *Delegate of China* presented a brief overview of the genesis and outcome of the Rio Conference and stressed that issues relating to environment and development should proceed on in an integrated manner. He outlined the concept of "new global partnership" as enunciated by the Rio Conference for an enhanced international cooperation in the presentation, protection and restoration of the global ecosystem as well as in economic development. He briefly explained the relationship between economic development and environment. He also outlined the five different features of "new global partnership" which included — enhanced international cooperation, respect for basic norms (five principles) of international law, equitable and just order, proper handling of issues relating to financial resources and technology transfer, active and effective participation of the whole international community. Finally, he noted that results of the conference would ultimately depend upon the credibility and effectiveness

of the follow-up.

The *Delegate of Indonesia* recognised the need for the implementation of Agenda 21 of UNCED to save the planet Earth from self-destruction. He briefly addressed the issues of sustainable development. He also pin-pointed the obstacles faced by developing countries in realising the objectives set by the Agenda 21. He recognised the institutional capability of the AALCC to deal with certain legal issues relating to the environment.

The *Delegate of the D.P.R. Korea* recognising the environment as an issue of public concern, related it to the questions of improvement of health protection of humanity. He pointed out that the cooperation between the developed countries and the developing countries in the field of environment protection was not discussed satisfactorily as the document of the Secretariat noted. According to him, the commitment of assistance by the developed countries in this respect was quite inadequate. He stressed the fact that relevant organisations should initiate appropriate steps so that many developing countries could participate in the work of international treaty-making concerning the protection of environment.

The *Delegate of Kuwait* stated that his country was paying great attention to the environment protection, particularly air and water pollution control measures. His country was actively participating in the International Conferences dealing with these matters. With regard to the Rio Summit, he recognised the importance of Agenda 21 and the Rio Declaration. He referred to Principles 23 and 24 which dealt with protection of environment in the time of armed conflict. He said that the AALCC could play an important role in preparation of studies on legal matters concerning the environment protection.

The *Delegate of Uganda* recognised the crucial importance and close relationship between environment and development. The National Environment Action Plan instituted in his country addressed the environmental problems, including review and recommendations concerning institutional arrangements and laws. He referred to the problem of Climate Change and called on countries to look into that issue with a view to achieving stable climate. He urged the developed countries to invest more in technologies that would reduce the introduction of concentrations of greenhouse gases into the atmosphere. He also urged the AALCC Member States to sign and ratify the United Nations Framework Convention on Climate Change. Recognising that the Biological Convention and Agenda 21 contained all aspects of livelihood and existence, he called upon the legal community in every State to transform them into municipal law, to educate and sensitize their people on the possible consequences. He expressed

concern that financial and technical resources flowing from the developed countries to the developing countries on environment and development had their specific interests to protect and were often guided by political considerations.

The *Delegate of Pakistan* addressing the issues of UNCED laid stress on the organized political process for the successful accomplishment of the objectives set forth by UNCED. He expressed concern over the prevalence of lack of commitment on the part of the developed countries to help developing countries arrest environmental decay. He agreed that the outcome of the Rio Conference for developing countries was substantial in the current state of political balance and the changing world order and laid stress on the role of NGOs and international media in acting as pressure groups within developed countries.

The *Delegate of Sri Lanka* observed that environment and development issues were of global concern and there was common responsibility to protect the environment. He stressed the need for taking concrete measures on the transfer of sound technologies to the developing countries.

The *Delegate of Tanzania* informed the Plenary that his Government had decided to ratify the following four instruments which essentially concerned environment. Those were (i) The Bamako Convention on the Prohibition of Transboundary Movement of Hazardous Wastes; (ii) The Basel Convention, (iii) The UN Framework Convention on Climate Change; and (iv) The Global Convention on Biological Diversity. He assured that his country would be willing to play its part in ensuring the successful realisation of the objectives of UNCED.

The *Delegate of Libya* recognised that the developed States were mainly responsible for the degradation of the environment by establishing huge factories, nuclear reactors etc.

ii. The *Delegate of India* stated that his Government had signed the Convention on Climate Change and the Convention on Biodiversity and that during the year India had become a party to the Basel Convention on Transboundary Movement of Hazardous Wastes and to the Montreal Protocol on Substances that Deplete the Ozone Layer. He supported the proposal for a special meeting or seminar on the subject in collaboration with UNEP and stressed that the concept of sustainable development required to be operationalised in practical terms. At the legal level this raised the question of further elaboration of the principle of common but differentiated responsibility. But at a practical level, especially for the developing countries, in order that environment and development were evenly matched and

balanced, there were two most important requirements. They were the availability of new and additional resources and access to alternate technologies on fair and non-commercial terms. Pursuant to the Agenda 21 adopted at the Rio Summit, it would be necessary to develop suitable implementational mechanisms.

The *Delegate of Nepal* recognised the role of the AALCC to assist the Member Governments in field of environment.

The *Representative of the Organisation of African Unity* expressed concern over the delay in ratification of the International Conventions. He was pleased to learn that the Government of Tanzania was in the process of ratifying the Bamako Convention. He stated that in the African region, there were four treaties which dealt with the Environment. Among them, was the Bamako Convention, which was adopted by the Ministers of Environment in January 1991. However, that Convention so far had received only four ratifications and needed six more to bring it into force.

(ii) **Decision on the item 'Environmental Law' : United Nations Conferences on Environment and Development, 1992**

Adopted on 4.2.1993

The Asian-African Legal Consultative Committee

Having considered the Secretariat Document No. AALCC/XXXIII/Kampala/93/10 entitled "United Nations Conference on Environment and Development ¾ Outcome and Follow-up".

Noting with appreciation the follow-up work undertaken by the Secretariat in connection with the United Nations Conference on Environment and Development, the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity;

1. *Directs* the Secretariat to continue monitoring the follow-up work in the aforesaid fields and prepare studies aimed at promoting ratifications of the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity and the institutional arrangements resulting from the decisions of the General Assembly at its Forty-seventh Session;
2. *Requests* the Secretary-General to initiate preparation of studies on the proposed international convention to combat desertification;
3. *Welcomes* the conclusion of Memorandum of Understanding on cooperation between the Asian-African Legal Consultative Committee and the United Nations Environment Programme.
4. *Approves* the proposal to convene an Expert Group Meeting on Environmental Law jointly with the UNEP;

5. *Invites* the Organisation of African Unity and the League of Arab States to participate and initiate joint programmes on environmental issues in co-operation with the Asian-African Legal Consultative Committee;
6. *Urges* the Member Governments to make voluntary contributions to the AALCC's Special Fund on Environment; and
7. *Requests* the Secretary-General to submit a report on progress on environmental programmes undertaken by the Secretariat during 1993 at the AALCC's Thirty-third Session.

(iii) Secretariat Study : United Nations Conference on Environment and Development — Outcome and Follow-up

The RIO Declaration on Environment and Development

One of the main outcomes of the Rio Conference was the adoption of a historical instrument, the Rio Declaration on Environment and Development, better known as the "Earth Charter" through which the Members of the international community have solemnly declared their political commitment to the protection of the Earth's environment and to the attainment of sustainable development in the interest of present and future generations.

Main elements of the Rio Declaration

The Rio Declaration consists of a preamble and 27 principles. The Preamble indicates that the Declaration is built upon the 1972 Stockholm Declaration on Human Environment, and that its goal is to establish a new and equitable global partnership through the creation of new levels of Cooperation among States, key sectors of societies and people. The 27 operational principles deal respectively with a wide range of various substantial elements :

1. the fundamental right of human beings;
2. the sovereign right of States over their resources and the corresponding responsibility;
3. the right to development;
4. Intergration of environment and development;

5. Eradication of poverty;
6. Special needs of developing countries
7. Common but differentiated responsibilities;
8. Reduction and elimination of unsustainable patterns;
9. Endogenous capacity-building;
10. Public awareness and participation;
11. National environmental legislation;
12. Environment and trade;
13. Development of Law regarding Liability and compensation for environmental damage;
14. Prevention of relocation of hazardous activities and substances;
15. Precautinary approach;
16. Promotion of the internalization of environmental costs;
17. Environmental impact assesment;
18. Environmental natural disasters and emergencies;
19. Notification and consultation;
20. The role of women;
21. The role of the youth;
22. The right of people under oppression,
23. Domination and foreign occupation;
24. Protection of environment in time of armed conflict;
25. Peace, development and environment;
26. Peaceful settlement of environmental disputes; and
27. International cooperation.

The Rio Declaration first proclaims that human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature (Principle 1). So the Declaration lays down a sound foundation for the environmental protection and sustainable development. It then refers to the rights of States in this regard by confirming that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction (Principle

2) and that the right to development must be carried out in such a manner so as to equitably meet developmental and environmental needs of present and future generations (Principle 3).

In this context the integration of environment and development is emphasized in Principle 4, which points out that in order to achieve sustainable development, environment, protection shall constitute an integral part of the development process and cannot be considered in isolation from it. Subsequently, the eradication of poverty and the special needs of developing countries are stressed by Principles 5 and 6. According to these principles, all states and all people shall cooperate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world (Principle 5) the special situation and needs of developing countries, particularly the least developed and those most environmentally vulnerable shall be given special priority (Principle 6).

The Declaration then, turns to the complicated and controversial issue of responsibility and unsustainable patterns, Under Principle 7, first, States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. Secondly, in view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. Finally, the developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command. Under Principle 8, States should reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies.

The endogenous capacity-building for sustainable development is addressed in Principle 9. The means, through which States shall cooperate to strengthen such capacity-building are identified as improving scientific understanding through exchange of scientific and technological knowledge and enhancing the development, adoption, diffusion and transfer of technologies, including new and innovative technologies.

The public awareness and participation as well as the role of certain groups receive special attention in Principles 10, 20, 21 and 22. It is underscored that environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, and the opportunity to

participate in decision-making process, States shall facilitate and encourage public awareness and participation (Principle 10). The Declaration further recognizes that women, indigenous people and their communities as well as other local community have a vital role in environmental management and development (Principles 20 and 21) and that the creativity, ideals and courage of the youth of the world should be mobilized to forge a global partnership (Principle 21).

Principles 11 and 13 lay down the guidance to the enactment and development of law at the national and international levels. States shall enact effective environmental legislation. Environmental standards, management objectives and priorities should reflect the environmental and developmental context which they apply. Standards applied by some countries may be inappropriate and of unwarranted economic and social costs to other countries in particular developing countries (Principle 11). States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage. States shall also cooperate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control or to areas beyond their jurisdiction (Principle 13).

Principle 12 is linked to international economic system. It provides that States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on an international consensus.

Transboundary environmental effect and the precautionary approach are addressed in Principles 14, 15, 18 and 19. Under these principles States should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities and substances that cause severe environmental degradation or are found to be harmful to human health (principle 14). They should immediately notify other States of any natural disasters or other emergencies that are likely to produce sudden harmful effects on the environment of those States. Every effort shall be made by the international

community to help States so afflicted (Principle 18). States shall also provide prior and timely notification and relevant information to potentially affected States on activities that may have a significant adverse transboundary environmental effect and consult with those States at an early stage and in good faith (Principle 19). In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation (Principle 15).

The rest of the Principles are related to the internationalization of environmental costs, environmental impact assessment, the environment and natural resources of people under oppression, domination and occupation, protection of environment in time of armed conflict, the relations between peace, development and environmental protection, and settlement of environmental disputes. The provisions contained in those principles include that national authorities should endeavour to promote the internationalization of environmental costs and use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution (Principle 16). Environmental impact assessment shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment (Principle 17). The environment and natural resources of people under oppression, domination and occupation shall be protected (Principle 23). States shall respect international law providing protection for the environment in times of armed conflict and cooperate in its further development as necessary (Principle 24). Peace, development and environmental protection are interdependent and indivisible (Principle 25). It is provided that States shall resolve all their environmental disputes peacefully and by appropriate means in accordance with the charter of the United Nations (Principle 26).

Finally, the Rio Declaration proclaims that States and people shall cooperate in good faith and in a spirit of partnership in the fulfilment of the principles embodied in the Declaration and in the further development of international law in the field of sustainable development (Principle 27).

General observations

First of all, it should be pointed out that the adoption of the Rio Declaration at the Earth Summit was a great and epoch-making event in dealing with by the human beings the challenge of the global environmental degradation. The fact itself that so many leaders of States around the world jointly and publicly committed themselves to the environmental protection

and sustainable development strongly manifest a good beginning of the establishment of a new and equitable global partnership through cooperation for the benefits of present and future generations.

Some countries, non-governmental organizations and people might not be fully satisfied with the description of certain principles contained in the Declaration, since the Declaration failed to make strong commitment concerning the provision of new, additional and adequate financial resources and transfer for environmentally sound technologies on preferential and concessional basis to developing countries, or because some principles that they were reluctant to accept were incorporated in the Declaration. Nevertheless if the Declaration is considered as a whole and in a comprehensive and realistic perspective, the conclusion taking into account that the Declaration was a compromise reached after prolonged, fierce debates and hard negotiations among States and State groups, particularly between the developing South and the developed North, the current text of the Declaration is the best reflection of the consensus among the States that could be reached at the present level of the human understanding. It must be acknowledged that it constitutes a delicate balance among the different interest groups of States. It should be therefore commendable.

As far as the form and formulation of the Rio Declaration is concerned, it is significant to note certain characteristics that the Declaration has :

- (a) The use of the Rio Declaration on Environment and Development as the title of the instrument on elaborating principles of general rights and obligations of States in the field of environment and development aptly reflects the need for the intergration of and the linkage between environment and development, as indicated by the General Assembly Resolution 44/228. It is also the title that the AALCC has proposed.
- (b) The Rio Declaration is in its nature not legally binding as a multilateral Convention, but given the fact that it was adopted by over 100 world leaders at the Summit level, it would have very strong moral authority of international community.
- (c) The text of the Declaration is quite concise and can be easily understood by the average person. Its language is to a great extent appealing and inspiring and that is conducive to enhancing wide public awareness of environmental and developmental concerns, and to promoting public participation in the environmental protection.
- (d) The Declaration has not only reaffirmed but also developed the ideas and principles contained in 1972 Stockholm Declaration on Human Environment. It thus represents the deepening and

enhancement of human cognition on human kind itself, the nature, and the relationship between them which hopefully will lead to the 21st Century on a new and more enlightened basis.

In the context of the involvement of the AALCC, the member States of the Committee might be satisfied with that most of the basic ideas and principles advocated and upheld by the Committee at the Islamabad Session in February 1992 are to a large extent appropriately reflected and incorporated in the Rio Declaration, including *inter alia* the following :

- The protection and preservice of the global environment is the common concern of mankind which should be pursued in full cooperation and global partnership;
- The environment and development are intrinsically and inextricably linked. The need to protect the environment requires to be viewed in a perspective where due emphasis is accorded to promoting economic growth and social development of developing countries, including the eradication of poverty and ignorance, meeting basic needs and enhancing the quality of life;
- The principle of sustainable development should be given due effect, and development shall not be pursued in such a manner as would endanger the environment.
- The responsibility of member States of international community shall be common but differentiated and the application and enforcement of environmental standards by the developing countries shall be in accordance with their respective capabilities and responsibilities;
- The principle of precaution shall also be given due effect. All members of international community shall ensure that no appreciable or significant harm is caused to the environment and the environment does not suffer severe and irreversible degradation;
- The need to protect intergeneration equities within the context of the progressive development and condification of international environmental law and
- The instrument to be adopted by the UNCED should include appropriate provision for the peaceful settlement of environmental disputes.

However, as mentioned before, some member States particularly developing countries might be disappointed in the wording of principles regarding the financial resources and technology transfer. Most of member States of the Committee are of the view that the developed countries,