Winter 1999


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DEAN FRED F. HERZOG DISTINGUISHED LECTURE SERIES PRESENTS:

THE CURRENT GLOBAL ENVIRONMENT OUTLOOK: HOW IS INDUSTRY DOING IN MEETING THE RIO DECLARATION GOALS

HELENE GENOT, DAN TARLOCK, AND DIXIE LEE LASWELL

INTRODUCTION

Dean Gilbert Johnston:

Good afternoon, and welcome to the John Marshall Law School. I am Gil Johnston, Dean of the John Marshall Law School. We are having the Herzog lecture today, which is part of our Centennial Series of lectures. The topic of this year’s Herzog lecture will be global environment. For those of you who may not be entirely familiar with the John Marshall Law School, I would just like to briefly point out that it was in August of 1899 that a small group of lawyers put together the John Marshall Law School. The tradition of the law school was to be available for people who worked, for immigrants and children of immigrants, for minorities and for women, something that was not a common practice in those days. I believe we have continued on with that tradition since then. Thus we believe that we have provided opportunity for many people and of those people who have taken advantage of the opportunity, why, they have indeed accomplished much. Our Centennial’s motto is A Legacy of Opportunity, A Lifetime of Achievement, and we will continue on in that approach. However, we have also continued on in looking ahead to where the law is going, not merely where the law is. Today’s lecture is one of those lectures that looks ahead by addressing a very important topic.

It is now my pleasure to introduce my good friend and colleague, Craig Peterson, who is chair of this particular conference. Thank you so much.

Professor Craig Peterson:

Thank you. Thank you. As co-chair with my colleague and friend, Karen Halverson, it gives me great pleasure, personal and professional, to introduce to you one of the world’s most prominent
environmental managers, Helene Genot. A graduate in economics and political science in France, Ms. Genot for many years was in charge of various activities with the French Ministry of the Environment. Among other responsibilities, she participated in the development of contracts with local French communities for defining and implementing national environmental policies at the regional and local levels. She was also involved intimately in programs for the protection of coastal zones of France such as the Cote D'Azur, Cannes, St. Tropez, and the very famous Languedoc Coast also on the Mediterranean, places where we would all probably like to be, enjoying better weather than here in Chicago today. For eight years, she has been seconded, that is nominated and paid by the French government, to the United Nations Environmental Programme. That program, located in Paris, has many ambitious goals, including: encouragement of environmental criteria for industrial development plans; the promotion of procedures and principles for the protection of the environment generally; protection of environment through cleaner production methods by industry and other proactive approaches; and, finally, stimulating informational and experience exchanges throughout the world. Her particular office, called the Office of Industry and Environment, was established in 1975 to achieve those laudable purposes. At present, the Industry and Environment Office manages a number of very important program elements, including such matters as catastrophic accident prevention such as oil spills, chemical spills and the like, cleaner production, energy, ozone action, industrial pollution management and tourism.

Ms. Genot’s principal management activities at present are in the tourism division, and she participates very actively in other key programmatic aspects of the United Nations Environmental Programme. Again, it is a great personal and professional pleasure to welcome to this very distinguished podium Ms. Helene Genot of the United Nations Environmental Programme.

POINT

Ms. Helene Genot:

Thank you, Professor Peterson. Ladies and gentlemen, dear friends, it is my pleasure and indeed an honor to be with you today for this lecture. I arrived in Chicago three days ago and I have the impression to have been here for a long time already. I had the opportunity to meet with Dean Herzog, and I would like to really thank him for providing this opportunity. I also had the pleasure to meet with Mr. Biro, and I would like also to thank Dean Johnston and his team for the very warm welcome and the perfect organization. As you were just told, I work in UNEP which is, in fact, a kind of ministry of the environment of the UN system. UNEP was created in 1972; our office in 1975. The headquarters
are based in Nairobi, Kenya and our Industry and Environment office in Paris.

Among the main missions of UNEP are assessment of the state of the environment at the global level, the sustainable use of natural resources which are more and more scarce, water, biodiversity and, of course, to fight against pollution. Our Industry and Environment Office works with many other international organizations and also many industry associations to try to promote the best practices in the industry in order to develop while avoiding pollution. As we are in a law school, I should also mention, of course, that UNEP has been very active in catalyzing efforts for the preparation and signature of regional and international conventions such as the Biodiversity Conventions, the Climate Change Convention, and the Montreal Protocol for Protection of the Ozone Layer.

Our topic today, global environmental outlook and how is the industry doing in meeting the Rio Declaration goals is, I feel, particularly timely. There is this week, as you are aware, in Buenos Aires, Argentina, an international conference on climate change and the implementation of the Kyoto Protocol for reducing CO$_2$ emission. And, of course, this is the main challenge for both governments and industry. Environmental damage resulting from human activity is not new. However, growth of the population, worldwide demand for economic development, and the development of technology have accelerated the problems. As our planet is now a small world, they are high on the international agenda. The situation is critical, as demonstrated by the state of the environment prepared by UNEP. "Environment and Development" was precisely the topic of the UN International Conference and Interview in Rio de Janeiro, Brazil in June, 1992 called the Earth Summit. Out of this conference came the concept of sustainable development defined as a development which is economically viable, socially equitable and environmentally responsible.

The conference also produced Agenda 21, the program of action agreed upon in Rio and which is considered as the Earth's program of action towards sustainable development. Agenda 21 recognizes that economic growth is vital to sustainable development and presents a strategy for transition to more sustainable practices. This strategy stresses the essential role of the private sector and Chapter 30 of Agenda 21 is entirely devoted to the role of business and industry in attaining sustainable development. As the UN Secretary General put it: "The overall message is clear. Nationally and internationally, the key to growth is with the private sector. The role of the governments is increasingly shifting to one in which their primary task is to create an enabling environment for individual's energies and initiatives.
to flourish."

Nearly seven years after the Rio Conference, where do we stand? How has the world environment evolved? Have we progressed toward sustainable development? What has been the role and involvement of the private sector? What progress has been achieved? These are some points I would like to cover today. In response to the environmental reporting requirements of Agenda 21, in 1997 UNEP published GEO, the Global Environmental Outlook, which presents information on the state of the global environment. It aims to provide a tool for an early warning system and informed decision making. The second issue of this report is being prepared. GEO demonstrates that we are still far from a sustainable trajectory. Despite significant progress made at all levels since Rio, the environment has continued to degrade in all regions. Humanity is polluting and using vital resources quicker than they can regenerate. Over one third of the world's coastal regions are at high risk from land-based sources of pollution and infrastructure development. This proportion is even higher in Europe and Southeast Asia. More than three billion people rely in some manner on coastal and marine habitats for food, building, recreation, and waste disposal. The decline in biological diversity outside protected areas is a threat to overall biodiversity. Coral reefs are at high risk. Many regions experience problems related to fresh water, and water certainly will be the impediment to development in the future of several regions such as the Mediterranean, the Middle East, and Africa. Damage to the ozone layer continues at twice the predicted rates. The growth in CO₂ emissions and global warming is a concern everywhere.

In a nutshell, progress toward sustainable development has simply been too slow and a sense of urgency is lacking. Of course, industry is only one of the many causes of these problems. However, it does contribute to them, and as stated by Agenda 21, should thus also be part of the solution. What, since Rio, has been the progress in what could be called responsible entrepreneurship? What activities have been undertaken by industry? What is progress, and what are gaps still to be filled in? To address these points and try to be as concrete as possible, I will take the example of the tourism industry. Why the tourism industry? Firstly, because up to now, governments and NGOs have often scrutinized industry sectors such as oil and chemicals, especially after the Bhopal catastrophe. Some sectors are very concentrated and contain only a few big international firms. However, many other sectors with many small and medium-sized enterprises also have a lot of impact on the environment and should also be considered. This is the case with the construction industry, for instance, as is the case with the textile industry, the sports industry, and
tourism. With tourism, perhaps, the problems and the solutions are a little different.

Tourism is one of the world’s biggest industries today. Current estimates show that tourism accounts worldwide for about 11 percent of the world’s GDP. For many countries, in particular in the developing world, tourism is an important source of foreign exchange and a major contributor to GNP. For instance, it is estimated that tourism accounts for between 15 to 20 percent of GNP for countries bordering the Caribbean and the Indian Ocean. According to the World Travel and Tourism Council (WTTC), one of the main industry associations, tourism employs more than 260 million people worldwide, one out of every ten people in the world. Every year more than $800 billion U.S. dollars are invested in this sector. Over the ten past years, the number of hotel rooms worldwide has increased by 25 percent. Tourism is developing quickly. It is an important industry, and the forecasts are huge. By 2020, the World Tourism Organization forecasts 1.6 billion tourists.

Second, tourism and the environment are very closely related. At the Rio Summit in 1992, Mr. Maurice Strong, its Secretary General, said: “Without a clean and healthy environment, travel and tourism cannot retain its role as a world leader, business cannot thrive and destinations will continue to be abandoned. To enjoy success, the industry needs to embrace the concept of sustainable development and make it a reality in the next century.” The president of the WTTC also has claimed on many occasions that environmental quality is vital to the success of the industry and that environmental practices will become a decisive factor in travel and tourism purchases. Threat to the environment minimizes the viability of the tourism industry. To give a few examples: the haze from forest fire in Southeast Asia last year affected tourism in the region. We know also that water pollution in many parts of the world affects coastal tourism, for instance, in Thailand and in some destinations in the Mediterranean. Also, loss by over-construction of landscape and biodiversity affects a number of tourist destinations.

What I am saying is that tourism suffers from the deterioration of the environment. In addition, however, given its scale and global extent, the impact of tourism on the environment has often been underestimated in the past. What are the impacts? First, tourism is a huge consumer of natural resources, and the resources are more and more scarce, not perhaps in your country here but in many regions worldwide:

Land. especially sensitive and coveted areas such as coastal zones for construction of resorts, et cetera.

Water. It is estimated that a medium-sized 50 to 150 room
hotel needs between 400 and 600 liters of water per guest each day for laundry, kitchen, guest room facilities, et cetera, and even more if there is a swimming pool. This is often ten times more than the consumption by the local population in developing countries where water is often scarce.

Energy. Tourism is a huge consumer of energy for heating, lighting, air conditioning facilities and transportation. Energy consumption is one of the main reasons for CO$_2$ emission and air pollution and climate change.

Second, tourism generates large quantities of liquid and solid waste and uses dangerous chemicals and ozone-depleting substances. Of course, transport for tourism is also a major source of pollution.

Given also the very close links between tourism and the environment and the fact that the quality of the environment is one of the main assets for the industry, this industry should be a pilot in demonstrating what sustainable development is all about. Is this really the case today?

There are three pillars of sustainable development: economy, social and the environment. These pillars have clear interlinkages. A tourism development that is not economically viable cannot be environmentally sound in the middle term because it will not be maintained. Unfortunately, we already have examples in Europe of some derelict tourism areas. We also know now that when local communities strongly oppose tourism development, as in Goa in India or now Pukhet, Thailand, tourism cannot be viable in the long term. I was at a conference last week where we jointly organized with the World Tourism Organization on tourism in small island developing states. There were representatives from all regions of the world: the Mediterranean, the Caribbean, the South Pacific and the Indian Ocean. For all regions, involvement of the local population and how to insure that they will reap benefits from tourism development was one of the topics which was the focus of most interest from the delegates. As I work in UNEP, I will focus this presentation more on the environmental aspects.

Certainly, one of the main obstacles to sustainable development in tourism, as well as many other sectors, is lack of information and certain misconceptions that are too often held. Here are a few examples for the tourism sector. First misconception: tourism has little impact on the environment. We have seen this is not true. Second misconception: eco tourism is synonymous with sustainable tourism, in other words, mass tourism could be a problem, but eco tourism would be fine. Again, this is not true, and unfortunately we already have an example demonstrating that eco tourism can also create problems if not
properly planned and managed in sensitive areas. “Loving nature to death.” This expression sums up the dilemma of eco tourism. Third misconception: high-level tourism has less negative an impact on the environment. We know that this also is not true. Cruises, gulfs, and marinas also have impacts. For sustainable tourism and sustainable development as a whole, it should first be recognized that all types of tourism must be carefully planned and managed. Unfortunately, this is not the case. For instance, it appeared from a recent survey launched by the International Hotel and Restaurant Association that currently less than eight percent of hotel schools worldwide have any kind of curriculum on the environment. Clearly this situation has to be remedied so that future managers will be aware of these issues. What I say here for the tourism schools applies equally to mining schools, business schools, et cetera. Much effort must be made on this topic. In our office, we are trying to provide teachers in all these schools with information in order that they can provide information in their courses. For instance, we are currently preparing with the International Hotel and Restaurant Association a training package for teachers in tourism school, a training package on the environment. The lack of information is really a problem.

What have been the main initiatives taken by the tourism industry for responsible entrepreneurship? We can try to consider a three-stage process for responsible entrepreneurship. The first stage would be compliance with international and national law. The second stage would be compliance plus voluntary approaches on eco-efficiency and cleaner production. I will come back to this. The third stage would be compliance, eco efficiency, cleaner production, and strategic redefinition of businesses to take into account their strategies on environmental issues. As to the first step, for the tourism industry, this means, for instance, compliance with land use planning, environmental impact assessments, risk assessments, building regulations, emissions standards, conservation of biodiversity and so on. It is obviously difficult from a worldwide point of view and in an industry such as tourism, which constitutes many small and medium-sized enterprises, to make a judgment on whether the industry complies with regulations. However, it appears that the tourism industry and often many industries with small and medium-sized enterprises still perceive environmental issues more as an expense than an opportunity. For instance, if a sanitation plant has to be built and the coastal water is clean, it is seen as a cost and not an opportunity for business. The industry also often lobbies to avoid any new regulation or taxation. Agenda 21 for the travel and tourism industry is the sectoral sustainable development program prepared by three international bodies: the WTTC, the World Tourism Organization, and the Earth Council. This
programm mentions compliance with regulation as a step that should be taken by the tourism industry. This is also the case, for instance, with the Pacific and Asian Travel Association Code of Conduct. Should we understand from this that compliance by the tourism industry is not obvious and should be improved? Perhaps. In any case, without a doubt, it is impossible to have inspectors to check the compliance of so many small and medium-sized enterprises. Two steps appear necessary to develop voluntary approaches in the industry: provide it with information on how to reach the targets defined by the law and disseminate examples of good practices.

Let us turn to the second step, eco-efficiency and cleaner production beyond what is required by the regulations. What is eco-efficiency? It is maximization of outputs for the same level of natural resource use. This means less consumption of energy, water, and raw material for the same level of production of goods and services. A group of experts met recently on the invitation of the German Wupperthal Institute to address eco-efficiency in industry. They came to the conclusion that productivity in the production of goods and services, downstream productivity, has really increased over the past year. The challenge for the future is to increase upstream productivity of the use of natural resources. They proposed that this should be increased by a factor of ten in the forthcoming 20 years. As the tourism industry is a huge consumer of natural resources, its potential for increased eco-efficiency is also huge. Cleaner production aims at minimizing environmental impacts at all stages, and especially at the source, good housekeeping measures, modifying techniques such as packaging, or shifting to new technologies. Even if the term "cleaner production" is not really the most appropriate for a service industry such as tourism, this approach proves very efficient. It means, for instance, that the environment is integrated into daily operations. The performances are monitored and improved, facilities are placed, designed, and constructed with minimal environmental impact. Environmental management such as reducing water and energy consumption and reducing waste makes good business sense in the tourism sector but also in many industry sectors. If you reduce your water use, your energy consumption, et cetera, you reduce your costs. We have good examples of the best practices, not only in developed countries, but also in developing companies. Hotels worldwide have developed environmental audits, have started water reduction and recycling programs, energy consumption reduction programs, solid waste reduction, reuse and recycle programs, the purchase of environmentally friendly and recycled products, et cetera. This is also true in many other industries. However, even if all this is very positive, it should not be considered hard evidence that the
tourism industry is embracing the concept of sustainable development. Although information and good examples can be found on issues already mentioned, such as waste management, it is much more difficult to find good examples on, for instance, the siting and design of facilities. It appears that, up to now, efforts have been concentrated on measures that generate short-term economic benefits. However, it is clear that real eco-efficiency and cleaner production also require much more difficult measures, and here a lot of progress has still to be made. As one of my correspondents puts it: “What is the interest in increasing the benefits of hotels by environmental management if they are used to build a new facility in a fragile and sensitive environment?” It is certainly not enough to be the “greenest hotel” if the building is not well designed or if the local communities neither participate nor derive benefits from its existence.

If we turn back to the three stages of responsible entrepreneurship I mentioned: compliance with law, eco-efficiency and cleaner production, and strategic redefinition of business, I feel that the tourism industry can be considered as being in the middle of stage two, still having progress to make on this stage and certainly not having entered stage three. This is the case with most of the industry sectors. Perhaps a few concentrated sectors with multinational corporations, such as chemicals and oil, are starting to enter stage three. Perhaps many other sectors are only on stage one. We thus have a lot of gaps to fill in order to put industry on the path towards sustainability. And I would like to address some of them. The first gap is that the message and good practices are not sufficiently relayed to the many, many small and medium-sized enterprises (SMEs) that form the backbone of the industry. It has been estimated, for instance, that in Europe, 88 percent of firms in the tourism sector employ fewer than five persons. Also, SMEs are too often unaware that good environmental management also makes good business sense and still consider it to be a costly luxury. As to the second gap, progress should be made not only on what we could call “low hanging fruits” such as minimizing waste but also on other aspects as well. The outcomes of risk and impact assessments should be better taken into account for the siting of facilities, as well as factors such as minimum set back from the coast, from mangroves, et cetera. Environmental considerations should also be taken into account in the design of facilities. These include the use of lighting, insulation, natural ventilation to minimize lighting, heating and air conditioning. When you travel a little in the world, you are struck by how the facilities are more or less the same everywhere in Asia, the Mediterranean and the U.S. Certainly traditional architecture could help also to save natural resources. As for the third gap, sustainable tourism requires
environmental improvement to be industry-wide, not only in hotels but with cruise companies, travel agents, tour operators, et cetera. Most of the progress to date has been carried out in the hotel industry, and we have very few examples of environmental policies for cruise companies or tour operators. The fourth gap applies to many, many industry sectors. The industry is not really monitoring and reporting on its environmental performance. How then do we ensure that we are moving towards sustainable development if we do not monitor the results? Very few companies have started to communicate environmental objectives, practices, and achievements either through their annual financial reports or through the publication of environmental reports. For sustainability, environmental reports should be more widely prepared and shared, and reporting criteria and frameworks should be adopted by each industry sector. With the fifth gap, as already mentioned, environmental education is currently nearly non-existent in many training schools for industry sectors. Here there is really a big challenge if the industry is to move toward sustainability.

To date, it thus can be seen that the “self-regulatory approaches” in the tourism industry have not fully provided an efficient alternative to traditional command and control approaches or the use of economic instruments in achieving sustainability. However, we should not be negative either. It is well known, as already mentioned, how difficult it is to ensure compliance with regulation, especially with SMEs. It is also well known that the regulatory framework is often insufficient in developing countries, where sustainability should also take place. The first goal should, therefore, be to reinforce, make more efficient, and more widely disseminate the voluntary approaches that exist. Let me mention just a few examples, the first being voluntary codes of conduct. Industry associations, governments and NGOs have prepared codes of conduct in many sectors. The International Chamber of Commerce Charter, for example, applies to all industry sectors. In the tourism sector, industry associations have created voluntary codes of conduct. However, too often the organizations having launched codes have not sufficiently considered their implementation and monitoring. Insufficient effort has been made by members to support implementation through technical expertise, dissemination of information, or financial assistance. Usually no action is taken to measure the progress and monitor the implementation, and no sanction is taken if a firm having signed up does not implement the code. Here there is also some prospect for progress. A number of eco labels have been launched for many products and in particular also in the tourism sector. Eco labels can be very effective. They are both an environmental management tool and also a much
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appreciated marketing tool. For instance, if consumers go to a hotel with a Green label, in principle they will find environmental management there.

However, it is obvious that the eco labels' capability of improving environmental performance is based on the relevance of the criteria that are used and the credibility and transparency of the scheme. Here, again, progress should be made because the criteria are not always as stringent and as relevant as they should be. Our office recently launched a survey and prepared a publication on eco labels. It appears that most of the eco labels currently existing aim only in the tourism sector at accommodation. And here again, progress should be made in other sectors, such as tour operators and travel agents. Certainly you have heard of the ISO standards. It is hoped that the ISO standards, and especially ISO 14,000, can help disseminate environmental management systems in the industry. However, for an industry such as tourism with many small and medium-sized enterprises, only a very limited number of firms have applied for the moment to ISO 14,000.

Some industry associations, such as the International Hotel and Restaurant Initiative with the Green Hotelior Award or companies such as British Airways, have launched award schemes. They can also be an interesting tool to raise the awareness of the industry. All these tools, codes of conduct, eco labels, or awards can facilitate the involvement of many small and medium-sized enterprises and develop self-regulation. However, this can be achieved only if these goals do not remain only good intentions, words on a piece of paper, but if they really help attain results that are then monitored.

It is now time for the industry, and this applies to most industry sectors, to review the effectiveness of voluntary initiatives developed so far and help identify the actual and potential contributions of those initiatives for sustainable development. This is necessary for several reasons. The UN Commission on Sustainable Development (CSD) 1998 meeting suggested that an industry led assessment of business voluntary environmental initiatives should be undertaken. And as the 1999 meeting of the CSD will focus on tourism, the review for this sector is even more urgent. More and more NGOs and also governments tend to be highly skeptical of industry's promotion of voluntary initiatives. They feel they are used to prevent independent monitoring and evaluation, avoid new regulations, and perhaps even justify dismantling of existing regulations. NGOs point to the serious credibility gap due to the lack of information and of multi-stakeholder participation. They claim that to improve the effectiveness of voluntary initiatives would require creating greater transparency and moving from good intentions to action. I
feel it is in the interest of the industry to now answer this type of criticism by monitoring the result of the voluntary initiatives. In fact, we should also at this stage raise the following question: Has Agenda 21 put excessive expectations on the voluntary initiatives by business and industry to promote sustainable development? Of course, voluntary initiatives can play their role. However, the industry is only one of the many stakeholders to be involved, and sustainable development will require action by all partners and not only by industry. And here again, I will take the example of the tourism industry, knowing that this could apply to many other industry sectors. Tourism is a young, highly competitive industry that operates on small margins and has a predominantly short-term outlook. Two or three years is usually the horizon. When decision times come, economic values tend to win over others, and this is normal. It is not surprising that voluntary initiatives can take place only in areas where businesses see self-interest. Also, the tourism industry is not the only key player for sustainable tourism. The national and local government often responsible for the regulatory framework and infrastructure development are main partners, as well as the local communities and, of course, the tourists themselves.

Sustainable tourism and sustainable development of other sectors require, in fact, a shared vision by all these partners on the type of development they want. It requires an agreed-upon programme of action by each of the partners. It also requires consistent monitoring and review of the results achieved in order to modify the programme of action, if necessary, and close the loop. For many industry sectors, the development of public and private partnerships and joint implementation appears to be a condition for progress.

In order to define this shared vision and subsequent program of action, there is obviously a need for strong leadership. Who can be the leaders depends on the local situation and the countries. Sometimes it can be the local governments, sometimes the central government, sometimes the private sector, and sometime an NGO. I remember once in our office, a chain of hotels in Thailand came to us saying, please, help us to convince all the partners in our country that we can no longer develop as we do and that we now need to take environmental issues very seriously because it is our business that could suffer. So here the leader came from the private sector. Sometimes it is another type of organization.

This leader can play a number of roles. It can identify the interested parties to be involved and strongly encourage them to participate and voice their views. It can act as a mediator. It can set goals for environmental improvement, facilitate the implementation of these goals and monitor the results achieved. Until now, it can be noted that usually this leadership has
emerged when a crisis has to be faced. This is the case, for instance, in the Balearic Islands in Spain where tourism was dramatically decreasing, and action had to be taken in some destinations in Asia as I just mentioned. But I feel that for sustainable development, this leadership should take place even without and before a crisis is anticipated. Certainly, local authorities are well placed to play this role, to involve their industry at the local level and develop with them dialogue and cooperation, especially with the many small and medium-sized enterprises.

And the consumers, where do they fit in all this? They are very important. They are potentially the most powerful ally in promoting the concept of sustainable development, particularly in the tourism sector. NGOs may be quite successful in changing consumer preferences and in highlighting sensitive issues and problematic areas. In the Mediterranean, for instance, Friends of the Earth, one NGO, has been very active in informing tourists of the need to reduce their water consumption in Mediterranean countries. Another factor that could expedite progress would be more involvement of the financial and insurance sectors in environmental issues. This trend has started and is certainly promising. It could change a lot. If you apply for a loan in a bank and if one of the criteria of the bank is your environmental policy, this could really expedite progress. The same goes for the insurance industry. Again, this has started because insurance companies are starting to lose a lot of money with all the hurricanes we had last year and the year before due, in part, to climate change. Thus the fact that the financial and insurance sectors could take the environment into account will expedite the process. This process has already begun with the World Bank and the big development banks.

There are many other topics I would have liked to address with you today. However, it is time to conclude. I tried to demonstrate how the concept of sustainability is indeed complex and difficult to implement by using the example of one sector, tourism. Tourism is representative, I feel, of many sectors with a lot of small and medium-sized enterprises. I did this only from the environmental point of view. Certainly, it would have also been interesting to focus on social aspects and analyze whether the industry is moving toward corporate social responsibility. I am afraid we also see in this area that at least the tourism industry does not, as a whole, really participate in the social development of areas where the developments take place, and that there are sometimes conflicts with the local population. Here again, progress should be made. However, we would certainly come to the conclusion that the involvement of all partners and particularly local communities is necessary and that there is not
one way to sustainable development.

Sustainable development is indeed a long march, and each partner from both the public and private sector will have to take part and develop proactive measures with long-term perspectives. Since a one-policy response alone, such as voluntary initiative by the industry, cannot be sufficient, a wider range of policies should be developed and implemented. First, of course, regulations, since we are in a law school. Second, economic instruments, adequate pricing of natural resources. If water is not expensive, why should industry bother to save water, for instance? And third, voluntary proactive approaches by industry. Certainly, as I tried to explain, consumers’ attitudes and pressures as well as increased involvement of the financial and insurance sectors will expedite progress in the forthcoming years. I personally feel that the role of local authorities will be essential to catalyze voluntary initiatives in industry sectors with many SMEs because they can help and convince industry to make progress. “Think global, act local” was, as you know, one of the mottos for the Rio Conference. For many industry sectors, I would like to propose that the motto could be “think local, act local” and in doing this, you will help also the global environment. Thank you.

Professor Craig Peterson:
Thank you, Ms. Genot, for such a thoughtful, structural analysis of a complex topic that is going to be with each of us for our entire career. I think we can offer that as a thought. We now have the next stage of our program, and I would like to introduce to you our co-chair, Professor Karen Halverson.

Professor Karen Halverson:
Good afternoon. My name is Karen Halverson, and I am a faculty member here at John Marshall Law School. I have the honor today of introducing two environmental law experts who will be responding to Mrs. Genot's remarks, Professor Dan Tarlock and Ms. Dixie Lee Laswell. Dan Tarlock is Distinguished Professor of Law and Co-Director of the Program on Energy and Environment at the Chicago-Kent College of Law. In addition to Chicago-Kent, Professor Tarlock has taught either permanently or as a visiting professor at the Universities of Chicago, Indiana, Bloomington, Kansas, Michigan, Texas and Utah. He is an internationally known scholar on environmental law having written, lectured and consulted both in the United States and in a number of foreign countries in the areas of water law, domestic and international environmental protection and natural resources management. For six years, he was a member of the Water Science and Technology Board of the National Academy of Sciences National Research Council. Professor Tarlock is also co-
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author of a case book on environmental law entitled Environmental Protection: Law and Policy, the third edition of which will be published in 1999.

Dixie Lee Laswell is a partner in the Environment, Safety and Health Group with the law firm Seyfarth, Shaw, Fairweather and Geraldson in its Chicago office. She has substantial experience in environmental law practice ranging from complex chemical releases to siting toxic waste facilities. She is currently vice chair of the Law Practice Management Section and chair of the Environmental Controls Committee of the Business Law Section of the American Bar Association and speaks and publishes frequently on environmental law issues. She has also served as commissioner on the environmental quality control commission of the Village of LaGrange, Illinois. Finally, Ms. Laswell is a distinguished alumna of John Marshall. She graduated summa cum laude from The John Marshall Law School, is currently chair of the law school’s Board of Visitors and teaches a course in John Marshall’s graduate program in real estate on environmental aspects of real estate transactions. Please welcome Dan Tarlock and Dixie Lee Laswell.

RESPONSE

Professor Dan Tarlock:

Thank you very much, Karen. I am very honored to be here at John Marshall and to share the podium with such truly distinguished guests as well as to participate in the Centennial. We have just heard a really fascinating environmental analysis of a very important problem and one very dear to my heart. If I did not have a mortgage and college payments, I would really like to work in this area full time and do the necessary, very demanding, field research to become an expert in global tourism. I want to do put Madame Genot’s analysis of the problems of subjecting the tourism industry to the standard of sustainable development into the larger context of some very important changes that are happening in environmental policy and which will ultimately work themselves into environmental law. Environmentalism as we know it today dates only from the late 1960s. Its roots go all the way back to the dawn of human civilization. But modern environmentalism dates only from the late 1960s. We are now moving from the first to the second generation of environmental problems. And like all transitions, it has continuities and discontinuities. But there are some sweeping generalizations that I can make about the first and second generations that I think show up very clearly in Madame Genot’s lecture.

In the first generation, we focused primarily on gross or visible pollution. Visible pollution is a term I borrow from Canadian Human Rights Law which protects almost exclusively a
category of victims called visible minorities. We focused on what we could see, smell and in some cases touch. We also focused on the reduction of the risk of cancer and to a lesser extent on the preservation of scenic beauty, natural areas. This is basically modern environmental law. The focus of the law has been on disciplining bad guys. We have quite successfully demonized most heavy industry and a good part of government as well, and the focus has been on subjecting them to a number of environmental standards. This is a very necessary step. I do not mean at all to suggest that it was not necessary to deal with the problem. But that is where environmental law started and has stayed. I think we are now moving to another focus. However, the first focus still will be important.

We are moving to an idea of net pollution reduction. People are trying to develop, for example, methods of analysis called product audits which look at the total environmental impact of products. Just to give a simple example, in heavily polluted urban areas, Los Angeles, the East Coast and so forth, there is a lot of interest in introducing more electric cars. It probably would be good for reducing ozone. But as people begin to do a total environmental analysis of what goes into producing the batteries, recharging the batteries, electricity generation and so forth, you begin to question whether this is a net environmental gain. We are going to see a lot more of that analysis. We are also much more concerned now with putting values on environmental resources. Biodiversity, of course, is the leading example. But there are all sorts of resources we are trying to value now that we could not deal with economically in the past because they had no value. Congress is talking about total resource value. This leads to a point that came through crystal clear at the end of Madame Genot's lecture. It means instead of focusing so much on industry and government, we, the individual consumer, are now directly involved in environmental protection; consumers have to be involved in environmental policy through market choice. This is going to be very difficult. In that sense, information becomes much more important. I think Ms. Laswell will talk more about that. But I want to focus on information related to standards; in order for any legal system to operate, you must have standards against which conduct can be judged to decide if it conforms or not and whether to impose sanctions. In the tourism area, this is extremely difficult, and I just want to give a few examples which are really amplifications of what Madame Genot was discussing.

In order to have a standard, it must meet at least three criteria. It has to be consistent globally or at least over a large area, and it has to be exclusionary. By that I mean not everybody will be able to meet the standard from an industry perspective. From a consumer perspective, it means that it sometimes requires
hard choices. And third, it has to be precise enough to justify sanctions. We are definitely not there in the tourist industry. Let me give the example of eco tourism which Madame Genot touched on a little bit. One of the policy prescriptions that has come out of the debate about sustainable development is that local areas ought to depend on activities which are not so resource consumptive in the traditional sense. Local areas are always told to promote tourism, but they are told to promote good tourism which has become defined as eco tourism. It is a wonderful word, and it is one of the many examples of words that have been coined specifically for the environmental movement to achieve a desired result. Biodiversity is the best example. It was a construct that was thought up by a bunch of biologists to get public attention. It is worked beyond their wildest dreams. So eco tourism sounds good. However, there are three problems. It does not meet the criteria for a standard. It is not consistent anywhere because there is no consensus on what eco tourism is. And it is not exclusionary. As you go around the world to Australia, Brazil or the United States, people who are running wildlife tours, just put up a sign saying eco tourism. Anybody can participate in the eco tourism industry by self-definition. Using the model of religion, religions are by definition exclusionary so eco tourism has to have some barrier to be overcome before one can become a member. Participating in eco tourism so far does not put much of a penalty on the tourist. Now, if you look at some of the more serious eco tourism developments, they do require a certain amount of sacrifice because you are not going to have the level of instant comfort that you have in many tourism areas of the world since you will not have the dependence on energy and resource consumption. It is also not clear that that is happening yet. It is very difficult, if not impossible, to sanction somebody for practicing illegal eco tourism. But it is a concept that's working itself up to a standard through a long, complicated process, which Madame Genot has partially described, of voluntary codes of conduct, global initiatives and so forth. But until we get some sort of crystallization, it will not be a standard and there won't be any price link—eco tourism has got to have an economic bite so that there will be incentives to practice it and disincentives not to practice it.

If you turn to the broader issue of sustainable development, from a legal perspective, of course, the major question is whether this will ever meet the criteria of a standard, that is, whether it will be universal, whether it will be exclusionary and ultimately whether it will lead to decisions about which people can be sanctioned. And ultimately, I think if this does not happen, then all the other initiatives that Madame Genot described will to a certain extent lose steam because there's no incentive to
undevelop them. Let me just suggest a possible scenario by which sustainable development could actually merge as a standard that could be a basis for sanctions. As J. B. Ruhl articulated in a recent article, ideas go through long complicated processes of germination. They first have to be articulated—sustainable development was articulated in 1987 in the Brantland Report.

Then it has to reach some sort of consensus stage, that is, who is against environmentally sustainable development. It is very, very hard to be against it and actually, as you go around the world, sustainable development is taken much more seriously in other countries than it is in the United States. We think we are doing it, but we are not so we do not pay as much attention. But a lot of countries pay attention. Then it has got to have the possibility of working itself into the law. That is, the courts have to pay attention to it as well as legislatures, and that is starting to happen. There was a decision of the International Court of Justice last year in a dispute involving Slovakia and Hungary over the construction of some dams on the Danube River, and there's a very important concurring opinion by the Vice President of the Court announcing that sustainable development, along with environmental impact statements, are customary principles of international law. It is not binding. It is not the opinion of the court. But we lawyers know that that does not matter. Some judge said it and that is enough to convince another judge to say it. So the process of precedent building is actually underway.

Ultimately, something must be prohibited because it is not consistent with sustainable development. I do not think we are there in the United States or anywhere else, take another similar idea which has been percolating up, the idea of environmental justice. It went through a similar gestation period and more and more we are seeing activities rejected in whole or in part because they do not conform to the standard of environmental justice. Sustainable development is lagging behind, but it is on the same trajectory that would lead to a standard. So there are some very important legal developments supporting the analysis that Madame Genot laid out. To sum up, the example of tourism is a perfect, second generation environmental problem. It involves a diverse rather than concentrated industry. It involves trying to regulate an industry where there are no standards, and it involves a tricky combination of standards that will ultimately lead to a price system that will discipline both consumers and the industry and that will discipline the industry at all stages of its process.

Right now, environmental law is primarily concerned with two stages of industrial development. The first stage is the siting of the facility and the last stage is what comes out the pipe. We are now moving to try to integrate the law more seamlessly through the whole chain of activities of the industry. Madame Genot's lecture is a fascinating look into the future. Thank you.

Ms. Dixie Lee Laswell:
Wow! What difficult acts to follow. Heavens. And I forgot my black hat! My comments are my own, not those of Seyfarth, Shaw or any of my clients, but I do want to comment on what is going on here in the United States and work into that some discussion of the things that Madame Genot stated as well as those noted by Professor Tarlock.

Number one, what is sustainable development? As Professor Tarlock pointed out, it really was defined by the Brantland Commission's Our Common Future, which was the report of the World Commission on Environment and Development in 1987. That definition is: "sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs." As both of my esteemed colleagues have stated, no one disagrees with that. The question is, what is the definition of "development." That is the inherent tension. As Professor Tarlock noted, there must be consensus on that issue, and I do not believe we have that consensus now. On the one hand, we have a definition of "development" as actually allowing the market forces, the self-correcting free market system, to operate, and sustainable development will just happen on its own. On the other hand, we have "development" defined as because we cannot support our industrialized society as it exists, therefore, we must scale back and go back to the way it used to be. And until we reach some midpoint of consensus between these two opposing views of "development," I do not think that we will be able to move to the next step because of this inherent tension in what, in fact, is "development."

But in any event, we do have a holistic approach which consists of economic development, social equity and ecological integrity. When I was in college, one of my majors was biology, and I spent a lot of time studying ecology, and what sustainable development says to me is a very effective ecosystem working in the world as a whole. And I think we can all agree, unfortunately, that that does not exist today. The question is—how do we get there?

I would like to address a little bit about what is being done today, at least from my understanding. I believe that there is corporate social responsibility as defined by Madame Genot. I do believe that large multinational businesses and even smaller
companies expect to play their role in achieving sustainability. It is important to their employees. For public corporations, it also is important to their shareholders. And, of course, it is important to the public, the ultimate consumers. But businesses are clearly not the only ones who need to play a role in achieving sustainability, as pointed out by Madame Genot. There is government; there are the communities in which the businesses are located; and there are the consumers of the product, whether it is the tourists themselves or the ultimate consumer of the widget that is being produced.

So what contributions can business make to sustainability? I think that some examples are: finding renewable energy resources; continuing good environmental management; continuing good natural resource stewardship; and maintaining a responsible attitude to their employees and to the communities in which they operate. Business is only, however, one of the actors. Government must take a lead role in the area of social policies. And, as Ms. Genot noted, the consumer is a very powerful actor. Finally, community involvement is essential.

What incentive does business have to make these contributions? I think to become the first choice. As Professor Tarlock noted, there is going to be fallout from achieving sustainable development, and that means necessarily that we'll have some businesses survive and some businesses will survive while others will not.

What are the special challenges faced by business? I think in the longer term, the finite nature of our resources is probably the ultimate challenge. The local impact from their operations and from using their products and the contributions of emissions to potential global climate change with the risk of the damaging impacts are tremendous challenges, as Madame Genot stated.

What are the benefits to society? I think the obvious ones are the products and the generation of wealth and employment. We have community initiatives. We have technology development and transfer. I think all of these are benefits to society. But what can be done in the short term? Ms. Genot emphasized that eco-efficiency is necessary, which I define as increased efficiency with continuous reductions in environmental impacts. What can be done in the long term? As Madame Genot stated, clean production approaches must be implemented. What is industry doing? Currently, industry is developing alternatives to the finite resources which we have, and these alternatives must of necessity be attractive in the sense that they must not be price prohibitive. And I think that industry is also in the process of developing ways in which to use resources more efficiently to satisfy human needs because, of course, that is where the demand comes from.

What does all this mean? Sustainable development is a
journey of continual change, as understanding of the consequences of human activities improves and as opportunities to modify them arise, resulting in cost savings. In my view, both extremes that I mentioned before, that of doing nothing or that of completely abandoning current lifestyles and practices, are not responsible approaches. We are going to have to come to some middle ground to which all of the participants buy in. And, of course, the inevitable trade-offs among the conflicting objectives need to be made responsibly and in a constructive way.

What is burdening industry is monitoring and reporting their results here in the U.S., as suggested by Ms. Genot. They are pursuing continuous improvement in the health, safety and environmental aspects of their operations, their products, their services and their use of material inputs. As Ms. Genot pointed out, real eco-efficiency and cleaner production will lead to sustainable development, and she noted the ISO 14,000 standard. ISO 14001 is an environmental management system which enables the company's, operations and businesses to recognize their potential impact on the environment. It integrates corporate environmental awareness into all of the business's activities, products and services enabling the business to determine to what extent impacts can be controlled. It helps the business allocate its resources where they are more needed to protect the environment and suggests opportunities for ventures grounded in sustainability. Environmental management systems are expected to drive development toward sustainability, using technology and innovation in response to the wishes and demands of political societies and environmentally conscious consumers.

How are these management systems being implemented today? Companies on the cutting edge are developing intranets — for company eyes only—with a safety, health and environmental component which is probably one of the largest components of these intranets. You heard Ms. Genot emphasize the importance of training. This intranet component includes interactive modules with links to source documents and tools. The guidance modules contain, among other things, the company's "best practices" and self-assessment guides that can be used by managers. This intranet site allows employees quickly to access and to understand how to integrate safety, health and environmental considerations into their operations down at the facility level, at the plant level. It is a real knowledge management tool. An environmental compliance intranet site can provide information to plants and facilities throughout the world. Everybody can be on the same page. One company's annual environmental business plan reports an $18.5 million savings in cost avoidance solely due to its safety, health and environmental intranet site. This site also contains tools for hazardous waste tracking, chemical inventories and
online training. We are moving forward, I submit, in the area of sustainable development, even down to the plant level.

How are businesses using these efforts? As Professor Tarlock noted and Ms. Genot stated, societal pressure worldwide will result in a new generation of products that are less damaging, less resource intensive and more recyclable throughout their full life cycle. This is an interesting phenomenon, and it is one to which Professor Tarlock alluded when he was speaking of electric cars.

What is the full life cycle analysis? It sets up a cradle-to-grave system of responsibility in evaluating the product. It assesses the energy used in manufacturing, and the material content, including the hazardous material content. It looks at the distribution, the use and the disposal of not only a product but also its packaging. As Ms. Genot stated, voluntary approaches are important, and one of the voluntary approaches that clearly is ongoing is the development by industry of voluntary guidelines based on market pressure rather than on complex regulations.

Companies are paying attention to the lifecycle of their products and are participating in the development of voluntary guidelines for eco-labeling that provide consistency and the ability to go across borders. As Professor Tarlock noted, it is very difficult to make a regulation international because the value or use of a resource in one area may be totally different than in another geographical area. So it is difficult to develop guidelines that can be used across national borders and also provide consistency. But I do believe that business is in the process of looking at this and developing life cycle assessments so that when we, as consumers, go into a store and are comparing two products, we can look at the labeling, the eco-labeling on the products and say Product A uses four times as much energy to produce as Product B. Then we can make a reasoned choice as to which product we want to buy.

Where do we go from here? We note the interaction—the world, the ecosystems of the communities, the government, business, societal goals and views, and limited natural resources. As Professor Tarlock stated, it would be nice if we could just devote all of our time to doing the analyses necessary to bring us into the third millennium in much better shape than we are today. But I do truly believe that industry has to have a way to evaluate the effectiveness of their voluntary initiatives, only a few of which I have time to discuss. I think industry currently is doing so to some extent. We do have reporting. We do have risk assessments that may even appear on the internet in June of next year. We have free trade use of emission trading. There are all kinds of things that are going on that will result in some evaluation, and I agree with Madame Genot that proactivity by business is critical. Companies must continue to pursue environmental optimization
which involves solving society's needs at the least burden to the environment.

In conclusion, sustainability presents opportunities to businesses both on the supply side as well as on the demand side with improved efficiency of use, recycling and others. I thank you for the opportunity to speak to you.

QUESTION AND ANSWER

Professor Craig Peterson:
Thank you, panelists, for outstanding responses and supplementary comments. It is now my great pleasure to serve as moderator and to ask you for questions that you might have of either Madame Genot or the responders. Dean Herzog?

Dean Fred Herzog:
I have a question for Madame Genot. In 1931, Madame Genot, before you were born, I was part of a study group of the University of Vienna, and we toured the Crimea, and we were in Yalta and Sevastopol and Baku and to my amazement, I found that the Black Sea water was clearer than the Blue Danube, the so called Blue Danube in Vienna was gray and polluted. Now, we had some guests three years ago here at the law school from Baku, and I asked him whether the Black Sea is still as clean. He says even the fish die there. You cannot do anything. It is all really black. And what I am interested in is whether your office in any way monitors the fact that the Black Sea, after all, it borders on Azerbaijan and Turkey and Romania—it is really an international water and as I said, does the United Nations Office in any way monitor the situation and exert some influence upon these various governments to clean up? After all, I remember Cicero said 2,000 years ago water is the life blood of the nation.

Ms. Helene Genot:
Thank you, Dean Herzog for this question. I will try to answer both for the Black Sea itself and for the Regional Seas Program as a whole, what is called the Regional Seas Program. Certainly, the situation in the Black Sea is not as good as it was a few years ago because, of course, the water quality of the sea is linked with the pollution upstream in the rivers adjoining the sea. We all know that unfortunately, especially in this region of the world, a lot of pollution is going on. We have in UNEP what we call the Regional Seas Program, and the Regional Seas Program has precisely as a goal monitoring the pollution in regional seas, such as the Caribbean, the Mediterranean, the Black Sea, the Indian Ocean, et cetera, and putting involved governments around the table to agree on a program of action. To first agree on the situation, to sign on to a regional convention, and to take action
accordingly. This has been done in several parts of the world. I was, for instance, one month ago at a meeting for the Mediterranean where all the countries signed the various agreements regarding the next step of their programs. However, this is not and cannot be only the work of an international organization because all the governments have to agree to discuss and to make decision and to take action. As far as I know, I am not a specialist of the Black Sea, but this program has been far less active than other examples I know of in the Caribbean or in the Mediterranean. Nevertheless, some information is collected and there is a start to put governments around the table to analyze and discuss. This has also been improved recently. There is a type of funding known as GEF, the Global Environmental Facility which is funded by the World Bank, UNDP and governments. The Global Environmental Facility aims to help solve global environmental problems by funding action in three areas: biodiversity, protection of the ozone layer, and marine pollution. As far as I know, a program funded by the Global Environmental Facility has been set up for the Black Sea. But it will certainly take a long time. Solving the problem of this very heavy pollution cannot be done instantly, you know, in a minute or even in a year.

Professor Craig Peterson:

I have a question for Professor Tarlock. How do you envision liability rules as impacting, if at all, on sustainability? We talk about regulation as methods, but how about compensatory damage rules and so forth?

Professor Dan Tarlock:

In emerging international and environmental law, there are about five or six core principles bouncing around. One of them is polluter pays, which would lead to liability rules. But I think the tourism industry especially is an example of the limits of approaching things from a pollution and from a liability perspective. Let me give one example that comes to mind. One of the big problems of sustainable tourism has been large hotels right on the ocean. Again, it is harder for me to see a regime where we would impose liability for their construction. We could have various nuisance standards. But I would like to see a regime as we are moving towards the United States, which says, if you are going to build them there, if you can get the local government to approve it, all right. But when the natural disaster comes, you are not going to get any compensation. We are not going to invest millions of dollars to rebuild the beach for you and so forth. I think those incentives might then cause industries to develop entirely different land use strategies.
Professor Craig Peterson:
I would like to pass the question also to Ms. Genot in the sense that, within your office, you have a catastrophic accident division or subsection. How does that relate, if at all, to Bhopal problems and liability issues?

Ms. Helene Genot:
It does not relate directly. What we call ACTEL, prepares local industry, local governments and all partners to possible catastrophes. So what does this little team do? They work, in fact, to help partners to set up a strategy and a plan of action in case of catastrophes. This means they help them to define what steps need to be taken, identify what is to be involved, et cetera, in case of catastrophe in order that all the responses, all the answers can come on time. There is a system in place in order that the response from all partners in case of catastrophe could come directly and quickly. But they do not address the issue you were just mentioning. ACTEL is more about setting up a process to respond on time, to be prepared in case of catastrophe. But I totally agree with you that this question of liability and insurance can really be very, very important in order to help people take responsibility and not, for instance, build on the beach if we know that there will certainly be hurricanes or sea level rising in a few years. I am sorry to say this in a law school, of course, laws are and will remain very important, but for an industry such as tourism and many other industries of this kind, I believe economic instruments, especially, for instance, the pricing of natural resources, will be very important. Here again is the role of the government. We are very interested, for instance, in the use of solar energy for tourism facilities. I mentioned the conference on small island developing states. Most of the islands are in the tropics and certainly there the use of solar energy would be possible and efficient. However, for the moment, there are few examples of the use of solar energy. When you start to analyze and discuss with people why, you have two types of answers. The first one is related to the price of traditional energy, that it is a little more complicated and not so well known to introduce solar energy. In addition, the market is not so wide, the price of the solar panels, for instance, is still rather expensive because the market is not wide. So if traditional energy is not more expensive than the price of introducing solar energy, why bother? The second obstacle to the introduction of solar energy is again the lack of information and training. Even if you are firmly convinced, and there are some of them that try, one has difficulties finding good professionals who know exactly how this would work. So I would say training and economic instruments in addition to law, of
course are two very important topics for sustainable development in the future.

Professor Karen Halverson:
Mrs. Genot, I actually have a question that is related to the point that you just made, that is, the notion of economic incentives being important to encourage businesses to utilize resources effectively. I was wondering what governments are doing, if anything, to tax either production or consumption patterns that are not environmentally friendly. For example, the use of tolling to decrease the use of automobile consumption. I think these ideas have been written about, but I am not sure that many governments, local or otherwise, have actually utilized them.

Ms. Helene Genot:
I feel that personally we are really only at the very beginning of this. Of course, we should be cautious because taxes can also have an adverse impact. So they should be introduced carefully and perhaps they are not always the solution. You certainly read in the press as we do in Europe that it is from time to time suggested to introduce taxation on aviation and CO₂ emission. But this is for the moment very, very strongly opposed by many governments and also by many industry sectors. So I would say first, we have to be cautious in the introduction of economic instruments. We are only at the very beginning. Second, there are obviously lobbies, which are not always negative, to oppose the new taxation. Certainly, aviation taxation is a very good example because the debates are well known. It is very, very controversial.

Professor Craig Peterson:
Thank you. Professor Sheid.

Professor John Sheid:
Yes, thank you. A question to anyone on the panel. How do you answer objections brought forth by some leaders of emerging nations, to the effect that if we have to pollute in order to come into the 20th Century and become modern, in effect, that is just part of the price that the rest of the world will have to pay. I have heard it expressed sometimes that Europe and the Americas have come of age, but we have not, and in order to do that, we simply have to do things that are likely not environmentally sound. Is there any way to counter that and/or help those nations?

Professor Dan Tarlock:
Well, as Madame Genot knows, that is why sustainable development was invented. It was invented as a political compromise to bridge the north, south gap. That is why it has
gained so much currency because it has succeeded in bridging the
dialogue that was absolutely stymied. The next stage of the
dialogue is the greenmail problem—who is going to pay for
development and environmental protection that meets
sustainability standards? That is where the international
community is now deadlocked.

Ms. Helene Genot:
If I may, I would like to add a point. It is a very important
question which is debated at length in the international forum. It
is one of the reasons why some mechanisms are currently being
set up. I feel that sometimes complex mechanisms are perhaps too
complex. For instance, at the conference in Buenos Aires this
week, the problem of what is called joint implementation or clean
development mechanism will certainly be debated at length. What
is this? It is a transfer of technology between developed and
developing countries in order that the total of global emissions
does not increase. For instance, if you are in a developed country,
for several reasons—because it is too expensive, it is not possible,
etcetera - you do not want to decrease your emissions as stated by
the Kyoto Protocol. You can help a developing country by, for
instance, a transfer of technologies to produce with less emissions.
This is an example of a rather complex mechanism being currently
discussed. The transfer of technology is one of the possible
answers. It does not solve all the problems.

If I take again the example of tourism, there is another type
of answer. You can try to demonstrate and to convince countries
that it is not in their interest to make the same type of errors that
were made elsewhere. It is not in their interest to have polluted
basin water, for instance, and if they want to develop their
industry and tourism, they need to take care of this problem from
the very beginning. If they have fisheries, it is the same. So you
have to raise awareness on both the environmental issues and
other types of mechanisms, in particular, technologies. But you
are right, it is a very, very touchy issue in the international forum.

Professor Craig Peterson:
We have a follow up question from Professor Halverson.

Professor Karen Halverson:
Professor Tarlock, you responded that the term sustainable
development is a response to the problem of lesser developed
countries catching up. My question is—to what extent are the
beneficiaries of this sustainable development multinational
companies who are able to move production to those countries that
have less stringent environmental standards?
Professor Dan Tarlock:
It is important to realize that in the environmental community, the term is environmentally sustainable development. That meaning is supposed to ultimately curb the so-called race to the bottom, not promote it.

Professor Karen Halverson:
To what extent then is there validity to the criticism that I think has been leveled that multinationals do, in fact, evade regulation by moving to other countries? Is that something that you observe as being a valid criticism?

Professor Dan Tarlock:
I am not enough of an expert. From the studies I have read, there actually does not seem to be too much evidence to support that. There is actually quite a bit of evidence that they actually raise standards because you cannot be a multinational and have a maze of different standards. So you have to have one standard and impose it on all your units.

Ms. Dixie Lee Laswell:
That is exactly right, and that is why this intranet idea came up so that all of the units worldwide would have access to the same information and, in fact, the ability to have the same training, to have the same innovations, raw material substitutions that are more environmentally sound and probably cost less. Of course, there’s a lot of incentive that comes from the consumer in pushing this. The tension that Professor Sheid referred to is very real, and it is part of the tension involved in the definition as of what is “development.” Is “development” going to be cutting back our lifestyle here in this country and saying to the third world countries, “well, we are cutting back our lifestyle and, therefore, you will never have what we have because we are moving away from it?” Or is it just letting supply and demand make its way? Or is it somewhere in between where businesses that are producing the goods that are being demanded are becoming more environmentally responsible, the communities are involved, the work force is involved, and the government is involved? Everybody’s involved in figuring out how we can have the same goods that everyone is demanding and sustain it so that we are in dynamic equilibrium with the environment, which is the end result that everyone would like to see. In the third world countries, there have to be the kinds of encouragements that Madame Genot mentioned. I do not believe artificial taxation or the like is going to achieve the same kinds of results as we can get by bringing everyone together and hashing through what it means. Does it mean that these developing countries are going to
be rewarded by not putting out so much pollution when they produce the goods that are demanded by the already industrialized countries paying them for their excess pollution? It is working here in this country. Can it work globally? Or is the European Union going to stand firm in blocking it? It is a very interesting debate, and I do not think any one of us has the answer because I would be paid a lot more money than I am paid right now if I did. But I think that it is an interesting debate. It is one the society worldwide is facing, and there are different solutions that are being proposed, and we are going to have the pendulum be somewhere in the middle, but I do think that industry in this country recognizes that that is the future, that looking at their product holistically and looking at this issue holistically in terms of economic development, social equity, and ecological impacts is something that we will be doing. It will become the norm.

Professor Craig Peterson:

Thank you. I think the last few comments have underscored the extreme timeliness and importance of the various topics that we have discussed this afternoon. On behalf of the school, I would like to thank first Ms. Genot, one of the most well respected, worldwide leaders in environmental management, for coming all the way from Paris and being with us. In addition to that, Ms. Laswell and Professor Tarlock, two national, indeed, international leaders in the field. We thank you very much for participating in this particular session.