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THE DEVELOPMENT OF CHINA'S ENVIRONMENTAL DIPLOMACY

Cai Shouqiu[†] and Mark Voigts^{††}

Abstract: Over the past decade, activities in the area of international environmental diplomacy have increased. China in particular has increased its efforts to help the global environmental situation, in conjunction with its role as a leader among the rest of the developing world. This essay examines China's historical environmental situation, and presents some of the factors that have influenced, and will continue to motivate, China's environmental decision making.

INTRODUCTION

In 1992, Chinese Premier Li Peng presented a series of proposals for managing the global environment to an audience of over 110 world leaders at the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro.¹ While a number of these proposals called for stricter international controls on environmentally-damaging activities, Li Peng's speech also emphasized that economic development should not be neglected in the pursuit of environmental protection, and that international cooperation should not interfere with national sovereignty.² These concerns provide a context for understanding China's current environmental diplomacy.

To many observers in the developed world, Li Peng's UNCED speech embodied an apparent conflict in China's environmental goals: China seems to want to be a leader in the international environmental movement, yet seems to be unwilling to limit development in order to clean up its own environment. To China, however, a leadership role in international

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¹ *Chinese Premier Presents Proposals to Protect the Earth*, XINHUA, June 12, 1992, in LEXIS, Asiapc library, Allas file.

² *Id.*

environmental diplomacy is a logical development of its unique position as a powerful, albeit developing, country.

China shares many problems with other developing countries, including serious environmental problems, poor economic conditions, and relatively low levels of science and technology. On the other hand, China is a major world power, as evidenced by its permanent seat on the Security Council of the United Nations. China's population alone, the world's largest with over one billion people, makes it a force to be considered seriously.

Thus, China, as a developing nation with considerable political clout, has an important role to play in the arena of international environmental diplomacy. This essay attempts to clarify China's approach to this role. First, the essay examines China's role in environmental diplomacy by looking at China's international and domestic history in environmental protection, and at the factors influencing China's decisions on environmental policy. Next, the essay examines China's current resolution of the conflicting policy objectives inherent in implementing environmental protection. Finally, the essay identifies and explains five principles which articulate this resolution and provide a framework for understanding China's environmental diplomacy.

I. CHINA'S HISTORICAL ROLE IN ENVIRONMENTAL DIPLOMACY

China has not always placed as much emphasis on environmental concerns as it does today. China's approach to the environment has consistently been shaped by the same sorts of economic and political concerns that face most developing countries. Even when an environmental threat is perceived, there is still a significant emphasis on improving living standards and increasing national wealth through continued economic development. China attempts to weigh all these factors when deciding how far to pursue environmental protection, both domestically and internationally.

Much of China's apparent backwardness in environmental law thus stems from its attempts to integrate development and environmental concerns. While China's environmental laws usually include strict, detailed standards, historically there have been no practical or effective means of enforcing them.³ Also, like most developing countries, China's funds,

³ SUSAN SWANNACK-NUNN, ENVIRONMENTAL PROTECTION IN THE PEOPLE'S REPUBLIC OF CHINA 9-11 (1979).

technology, and environmental management capacity have been, and remain, insufficient. In practice, it has been very difficult to implement the provisions of the environmental laws on a national scale. Therefore, China's environmental law has developed as a series of measures and systems suited for a planned economy. The emphasis has been on an overall plan, trying to address economic interests and environmental concerns together.

Such domestic concerns have largely driven China's international practice, which has evolved in three distinct phases. In the first phase, lasting from 1949 to 1972, a long period of international isolation and preoccupation with internal political reform and rapid development put the environment very low among China's policy priorities. Increasing international interactions during the second phase, 1972 to 1979, informed China of the seriousness of its environmental problems, and spurred attempts at domestic reform and further involvement in international environmental affairs. These efforts have born fruit in the final phase, with China gaining international respect for its domestic improvements and international initiatives during the 1980s and 1990s.

A. *1949—1972: International Isolation and Domestic Environmental Decline*

After the revolution, China was largely isolated from the international community. It had some contact with the Soviet Bloc, but even that ceased by the mid to late 1950s. During this period, China was neither a member of the United Nations nor of any of its committees. China did not begin to open up to the rest of the world until after the period of the Cultural Revolution. For the most part, then, China was not involved in any kind of international diplomacy during this phase.

This isolation from international affairs was perhaps even more pronounced in environmental matters. Despite a gradually developing body of international environmental law during this period,⁴ China only recognized one protocol prior to 1970, and that dealt with gas and germ warfare.

China's relative disinterest in international environmental affairs during this phase was at least partially a reflection of the predominance of

⁴ The REGISTER OF INTERNATIONAL TREATIES AND OTHER AGREEMENTS IN THE FIELD OF THE ENVIRONMENT lists 49 between 1921 and 1970. U.N. ENVIRONMENT PROGRAM, REGISTER OF INTERNATIONAL TREATIES AND OTHER AGREEMENTS IN THE FIELD OF THE ENVIRONMENT, at i-iv, U.N. Doc. EP/GC/Information/11/REV.1 (1985).

domestic political and economic policy concerns in decision making. First, the government was involved in implementing "class struggle," which directed attention away from any problem not related to class. Also, party policies were in flux, which kept the party from focusing on environmental problems.

The importance placed on political and economic concerns meant that many party policies were pursued with little or no regard for the environment. For example, in 1958, peasants mobilized by the government built over 600,000 iron and steel making furnaces, which were fueled by coal, wood, straw, or whatever would burn. These furnaces were built very poorly, and with no consideration for the environment.⁵ During this time of "irrational advances," producers took no steps towards pollution control, and the country experienced widespread devastation of its environment.⁶ Exacerbating these conditions was the practice of those in power accusing anyone daring to discuss environmental problems at all to be "tarnishing the reputation of socialism."⁷

It is important to note that during this period environmental problems did not appear to be very serious, so it was easy to discount their importance in relation to that of the other problems China faced. This is hardly surprising considering that China had a population of well over 500 million, with a per capita annual consumption of approximately fifteen dollars.⁸

Difficulties with administering effective environmental protection also illustrate the low position of the environment among China's policy objectives during this phase. For example, China lacked a governmental agency that was solely responsible for environmental protection and for effectively enforcing governmental regulations. The rules which were passed were neither well-distributed throughout the national hierarchy, nor generally well-implemented. The laws and regulations in place were all administrative regulations developed by the State Council and its departments. Very few were passed by the People's Congress, the supreme legislative body.⁹

⁵ QU GEPING, ENVIRONMENTAL MANAGEMENT IN CHINA 211-12 (Yu Yaping & Gan Haishu eds., and Shen Jianguo et al. trans., 1991).

⁶ *Id.* (there are no precise figures available for this time).

⁷ *Id.* at 214 (referring to Lin Biao and the "gang of four").

⁸ STATE STATISTICAL BUREAU OF THE PEOPLE'S REPUBLIC OF CHINA, CHINA STATISTICAL YEARBOOK 1992 15 (1992) [hereinafter YEARBOOK]. (The YEARBOOK expresses amounts in terms of 1992 yuans. These are adjusted to U.S. dollars using an approximate exchange rate of five yuan = one dollar).

⁹ Various plans were proposed which dealt with the problems of industrial waste and effluent runoff. SWANNACK-NUNN, *supra* note 3, at 9.

Furthermore, the environmental laws which were implemented at this time were mainly concerned with sanitation problems. All in all, environmental problems, both domestic and diplomatic, were given secondary consideration at best during these formative years.

B. 1972—1979: Emerging International Activity and Limited Improvement in the Domestic Environment

China's approach to environmental diplomacy began to change in the early 1970s. During that time China began to increase its interaction with the rest of the world in general, and in environmental matters in particular. For example, from 1970 to 1973 China entered into seven environmental conventions or treaties.¹⁰ It was also during this time that the international community began to widely acknowledge the seriousness of environmental problems. Industrialized countries increased their efforts in pollution control and environmental protection, and expected developing countries to do the same.¹¹

It was against this backdrop that China made its first venture into environmental diplomacy, sending a delegation to the 1972 United Nations Conference on Human Environment (Stockholm Conference).¹² This was the first U.N. sponsored attempt to examine the impact that social and economic development have on the environment, and the first U.N. Conference of any type attended by representatives of the People's Republic of China. The conference was important because it showed China just how serious its environmental problems were in relation to the rest of the world.¹³

The Stockholm Conference was also important because it gave China an opportunity to become active in international diplomacy. The Chinese delegation helped draft the Declaration on the Human Environment that came out of the conference.¹⁴ This active participation showed that China was taking steps towards accepting its own environmental responsibilities,

¹⁰ See Appendix.

¹¹ See generally, John Ntambirweki, *The Developing Countries in the Evolution of an International Environmental Law*, 14 HASTINGS INT'L & COMP. L. REV. 905 (1991).

¹² See SWANNACK-NUNN, *supra* note 3, at 94; JEANETTE GREENFIELD, CHINA AND THE LAW OF THE SEA, AIR, AND ENVIRONMENT 219-21 (1979).

¹³ QU, *supra* note 5, at 214.

¹⁴ REPORT OF THE U.N. CONFERENCE ON THE HUMAN ENVIRONMENT, at 51, U.N. Doc. A/CONF. 48/14/Rev.1 (1972).

as well as taking a position of leadership in the realm of environmental diplomacy.¹⁵

Political concerns, however, remained paramount. China's delegation did not sign onto the final agreement because they wanted it to contain strong socialist statements, and it did not.¹⁶ At the time of the Stockholm Conference, advancing the cause of socialism was a more important goal of Chinese diplomacy than was protecting the environment. The fact that the delegation did not sign demonstrates China's concern for an integrated diplomatic approach.

It turned out that the environment was a good issue for China to get involved in at the international level. First, it is not an inherently controversial subject (as in arms control, for instance). Most people, and nations, agree that the environment should be protected, at least to some extent. Second, environmental protection is a very sensitive subject to developing nations. These nations tend to have limited resources, and they generally resent developed nations like the United States interfering with their policies.¹⁷ They find it ironic that the United States and Europe could exploit their own lands and resources, and then turn around and tell other countries not to do the same. Finally, international environmental protection was still in its infancy in 1972. In that sense, it presented a clear field with no predominant players. China took advantage of this, and began to act as a representative of the developing nations of the world.¹⁸

After a strong initial involvement with environmental diplomacy, China's domestic situation kept it from being a major international force in the early 1970s. Until 1976, China was subjected to the chaos of the Cultural Revolution and the subsequent practices of the Gang of Four.¹⁹ Furthermore, the government was in a state of flux following the death of Mao Zedong. It was not until Deng Xiaoping established himself as the leader of China that the government was once again stable enough to proceed vigorously in environmental diplomacy.

¹⁵ GREENFIELD, *supra* note 12, at 219-21.

¹⁶ *Id.*

¹⁷ *See generally*, Ntambirweki, *supra* note 11.

¹⁸ GREENFIELD, *supra* note 12, at 219-21.

¹⁹ The Gang of Four (Jiang Qing [Mao's wife], Wang Hongwen, Yao Wenyuan, and Zhang Chunqiao) were the *de facto* rulers of China in the early 1970s. *See generally*, RICHARD H. SOLOMON, MAO'S REVOLUTION AND THE CHINESE POLITICAL CULTURE 475ff (1971). For a first hand account of the period, *see generally*, GAO YUAN, BORN RED (1987).

Again, during this period, developments in China's international environmental policy reflected its domestic environmental policy. The 1970s were years of expanding awareness of environmental problems on China's part, but not years of increased action. Many of the same political and economic concerns that had dominated policy decisions in the past continued to control domestic policy during this period. Part of the problem was that the government was in turmoil after the death of Mao Zedong. It was difficult for the government to develop policy in general, and the environment was a rather low priority.²⁰ By 1978 China's population was more than 960 million, but its per capita gross national product was only about \$75.²¹ This situation certainly influenced China's decision to emphasize economic growth over the environment.

Another problem was that the environmental protection objectives and standards that did exist were unrealistic. At the time, elements such as class struggle, two-line struggle, revolutionary repudiation, and administrative orders were emphasized by the Chinese government, while the use of economic sanctions, legal enforcement, environmental management, and science and technology were largely ignored. Furthermore, laws and regulations at this time continued to come from the lower levels of the national government. The People's Congress did not enact any of the environmental laws. Thus, neither the leading national bodies nor society emphasized the important position and role of environmental law.

C. *1979—Present: China Emerges as an Important Actor in International Environmental Diplomacy, as Domestic Environmental Policies Begin to Improve*

By 1979, Deng Xiaoping had established his leadership within China. He not only stabilized the government, but also instituted sweeping economic reforms. China began opening up to the world, both politically and economically. Thus began an unprecedented period of international involvement and economic growth.

Deng's open-door policy had repercussions for China's environmental diplomacy. After five years of no activity in international environmental

²⁰ LESTER ROSS & MITCHELL A. SILK, ENVIRONMENTAL LAW AND POLICY IN THE PEOPLE'S REPUBLIC OF CHINA 3 (1987).

²¹ YEARBOOK, *supra* note 8, at 15.

diplomacy, in 1979 China signed an agreement with the World Wildlife Fund to establish a center to protect the Giant Panda. Since then, there has been a steady flow of activity, with China signing a number international agreements (see Appendix). From 1980 to 1992, China signed onto 31 international treaties or conventions, with several coming in 1992, the year of the Rio Conference.

1. *China's Increased Involvement in International Environmental Diplomacy*

As a world actor, China has gained international respect in environmental matters since it began its open door policy in 1979. One way China gained international respect was by increasing its participation in international environmental matters. In 1990 alone China sent over 120 environmental groups abroad and received foreign delegations from over 50 countries.²² China has actively taken part in the protection of the ozone layer, the prevention of global climate change, the maintenance of biodiversity, the prevention of hazardous waste pollution, and the United Nations Conference on Environment and Development.

A specific example of China's diplomatic activities contributing significantly to global environmental protection—and thereby receiving international respect—was in the establishment of a fund for ozone layer protection. In March of 1989, the United Nations Environmental Program and the British Government held the London Conference on saving the ozone, which was attended by 123 countries. The members understood the increasingly aggravated situation of ozone depletion, yet they could not agree on concrete protective measures. China introduced the idea of focusing efforts on providing financial resources and technology to developing countries, thereby allowing these countries to effectively participate in attempts to protect the ozone layer.²³ China, with the support of developing nations like India, proposed an international fund specifically for the protection of the ozone layer.

The Chinese proposal was then considered at the first meeting of the Montreal Protocol signatories, held in Helsinki, Finland, May 2-5, 1981,

²² *China Active in Environmental Diplomacy*, XINHUA, June 7, 1991, in LEXIS, Asiapc library, Allasi file.

²³ *China Proposes Ozone Guard Fund at London Talks*, XINHUA, Mar. 6, 1989, in FBIS-China, Mar. 8, 1989 at 4.

which was attended by all the signatory nations of the Montreal Protocol on Substances that Deplete the Ozone Layer. The developing nations, represented at the conference by the Group of 77, unanimously agreed with this proposition, and ultimately the signatory members voted to establish the fund.²⁴ When disagreements later arose over the structure of the fund and methods of raising the money, the Chinese representatives were again instrumental in facilitating an agreement.²⁵

By successfully using environmental diplomacy to focus on the interests of the developing countries in this way, China has improved its reputation in the world community in the past few years. For example, in a meeting with Li Peng, Mostafa K. Tolba, the Executive Director of United Nations Environment Program (UNEP), praised China's achievements in environmental protection and said he hoped that China will make more contributions to world environmental protection.²⁶ The Chinese press also quoted Ms. Bulska, the Chief of the Environmental Law and Institute Unit of UNEP, as saying that "China has set an example in the environmental legislature. It is undoubtedly important to the world that China participates in various international conventions and treaties, which could not become universal without the presence of China."²⁷

Not only has China participated effectively in events sponsored by international intergovernmental organizations, China has also taken the initiative in sponsoring environmental events focusing on the concerns of developing countries. In June of 1991 the Chinese government hosted a conference in Beijing entitled "The Ministerial Conference on Environment and Development of Developing Countries."²⁸ There were approximately 200 attendees, including the ministerial level representatives from 41 developing countries, special guests from 10 international organizations, and observers from nine developed countries. The group discussed the interaction between global environment and development. The conference

²⁴ *Early CFC Ban Wins Backing of 80 Countries*, FINANCIAL TIMES, May 3, 1989, in Westlaw, INT-News database.

²⁵ *80 Nations Agree Ban on CFCs in 11 Years to Save Ozone Layer*, DAILY TELEGRAPH, May 3, 1989, at 13, in Westlaw, INT-News database.

²⁶ *Li Peng Meets UN Deputy Secretary-general*, XINHUA, Sept. 10, 1990, in LEXIS, Asiapc library, Allasi file.

²⁷ CHINESE ENVIRONMENTAL NEWS, Sept. 5, 1990.

²⁸ *Third World Asks West for Help on Environment*, REUTERS, June 19, 1991, in LEXIS, Nexis Library, INTL File.

resulted in the passage of the "Beijing Declaration."²⁹ Nitin Desai, UNCED deputy secretary general, stated that "China has helped greatly in ensuring the focus of the coming UNCED conference" because the Beijing Declaration crystallizes "the views of developing countries on the UNCED conference."³⁰

In another example of environmental leadership, the Chinese government, in conjunction with UNEP, held a Symposium on Developing Countries and International Law in September of 1991.³¹ It was attended by thirteen developing countries, four developed countries, and nine international organizations and special guests.³² The symposium covered a wide variety of issues important to developing nations, including funding and technology transfer, special needs of developing countries, and environmental protection and human rights.³³ The symposium and the Beijing Declaration demonstrate the important position that China has attained in the realm of environmental diplomacy.

2. *Domestic Advances in Environment Development*

China's increased involvement in international environmental diplomacy in the 1980s was partially driven by an increased domestic awareness of environmental problems, and increased willingness to confront such problems. Perhaps most importantly, some of China's political and economic problems were beginning to ease. China's economy was increasing rapidly at this point. From 1981 to 1991, gross national product increased an average of 8.8 percent each year.³⁴ The population was still huge, almost 1.2 billion people, but the per capita GNP was now over \$300.³⁵ This is not to say that the economic picture was ideal, but it certainly was not as bleak

²⁹ *Beijing Ministerial Declaration on Environment and Development*, June 19, 1991, reprinted in 21 ENVTL. POL'Y L. 267 (1991). (The attending nations signed onto the declarations, which stated their concerns about the world environmental situation and emphasized the necessity of international cooperation.)

³⁰ *Property Rights Issues Should Be Put Aside For Technology Transfers*, Official Says, BNA INTERNATIONAL ENVIRONMENT DAILY, Mar. 9, 1992, in LEXIS, Intlaw library, Intenv. file.

³¹ Note Verbale Dated 19 September 1991 from the Permanent Representative of China to the United Nations addressed to the Secretary-General, U.N. GAOR, 46th Sess., Agenda Item 127, U.N. Doc. A/C.6/46/4 (1991).

³² *Id.*

³³ *Id.*

³⁴ YEARBOOK, *supra* note 8, at 18.

³⁵ *Id.* at 15.

as it had been for much of China's history. With the decreased economic urgency, China could afford to focus more attention on environmental concerns.

China's increased international activity in this period was paralleled by advances in domestic environmental protection. In 1979 China passed the Environmental Protection Law of the People's Republic of China for trial implementation.³⁶ In 1978 the government also instituted a new Constitution, which stipulated that "the State shall protect the environment and natural resources, and prevent and eliminate pollution and other hazards to the public."³⁷ This gave a Constitutional foundation for environmental laws that had been lacking until 1978.

It took several more years, however, for the policies to become effective. In the early 1980s, economic development was still a much greater concern to the government than was environmental protection. For example, the government developed Special Economic Zones (SEZ) to attract foreign businesses. Neither the government nor incoming businesses paid much attention to environmental concerns.³⁸ The first SEZ laws made no direct mention of any environmental controls,³⁹ so that pollution and environmental degradation continued substantially unabated. The lack of environmental controls was significant, considering that in 1985 foreign business had direct investments in China of almost six billion dollars.⁴⁰

Nevertheless, in the mid-1980s the government instituted more effective environmental controls over SEZs. These reforms grew out of China's increasing environmental awareness that had begun in the 1970s. The State Council⁴¹ passed the Provisional Regulations on Environment Management

³⁶ *Environmental Protection Law of the People's Republic of China (for trial implementation)*, in VACLAV SMIL, *THE BAD EARTH* 231-38 (1984).

³⁷ The National People's Congress adopted a new Constitution in 1975, revised it in 1978, revised it again in 1979, and adopted a new Constitution (the current one) in 1982. The revised versions also contain language which acknowledges environmental duties of the government. *THE CONSTITUTION OF THE PEOPLE'S REPUBLIC OF CHINA* (1982).

³⁸ Mitchell A. Silk & Lester Ross, *Environmental Planning for Investment Projects in China*, in *DOING BUSINESS IN CHINA*, ch. 11, § 11.01 (William P. Streng & Allen D. Wilcox eds., 1992).

³⁹ *Id.* at § 11.06. However, all foreign investors were subject to Chinese laws (including the environmental laws). Furthermore, Shenzhen enacted the Provisional Regulations on Environmental Protection Management in Shenzhen (1982) which were more stringent than the national environmental laws at the time.

⁴⁰ *YEARBOOK*, *supra* note 8, at 588.

⁴¹ The State Council is the governmental body directly below, and answerable to, the National People's Congress (NPC).

for Economic Zones Open to Foreigners,⁴² which spelled out the duties of foreign companies. Also, the provisions that created the SEZs began to contain standard clauses like:

Projects which pollute the environment and contain no realistic measures to combat the problem and projects which produce State prohibited or restricted products shall not be permitted to be established in [the] Development Zone.⁴³

If these new regulations did not give companies pause, the increased activity in China's courts did. In 1984, a court forced a Hong Kong manufacturer that polluted the air to pay a fine, court costs, and to install new equipment.⁴⁴ This was the first indication that China was willing to hold foreign companies responsible for their pollution, and was an example of China's early attempts to combine environmental regulation with economic growth.

In the late 1980s China entered the field of environmental regulation with increased earnestness. The government passed laws covering the atmosphere⁴⁵ and water.⁴⁶ In addition, the government passed a new Environmental Protection Law,⁴⁷ a decade after the first Environmental Protection Law.

Despite China's lack of funds and technology, it still has managed to make significant progress in some areas of environmental protection. For example, the Research Institute of Environmental Law, which was co-established by the National Environmental Protection Agency and Wuhan University, has become one of the largest research institutes of environmental law and policy in the world. This Institute has its own office

⁴² Provisional Regulations on Environment Control for Economic Zones Open to Foreigners (1986) (Provisional Regulations of SEZs), available in LEXIS, Asiapc Library, Chinal File.

⁴³ Administrative Provisions of Jiangsu Province on Economic and Technological Development Zones (1986), Article 7 available in LEXIS, Asiapc Library, Chinal File. This was a common phrase in all of the SEZ laws.

⁴⁴ Shekou Environmental Monitoring Station, Shenzhen v. Haida Co. Ltd., Hong Kong, reprinted in CHINA LAW AND PRACTICE, Nov. 1987, at 31-33. The company strenuously fought this ruling, especially the requirement to change equipment.

⁴⁵ Prevention of Atmospheric Pollution Law (1987) available in CHINA LAW AND PRACTICE, Nov. 1987, at 47.

⁴⁶ Water Pollution Control Law (1984) (passed on November 1, 1984 by the NPC, and enacted on September 1, 1989), available in CHINA LAW AND PRACTICE, Jan. 1990, at 52.

⁴⁷ Environmental Protection Law (1989) available in CHINA LAW AND PRACTICE, Feb. 1990, at 59.

building and twenty special researchers. It has trained more than 70 postgraduate students in environmental law and more than 1000 governmental officers, including the current head of the National Environmental Protection Agency, in environmental law. Since its inception, the Institute has been responsible for the development of many of China's environmental laws and policies.

China's progress in environmental monitoring, control of desertification, and ecological farming have all been acknowledged by foreign nations.⁴⁸ China has used its technology to help train over 60 people from Asia, Africa, and Latin America in desert-control. Furthermore, Chinese experts have been to a variety of African countries to assist in desertification problems.⁴⁹

Chinese policies and laws set forth clear standards for the technology, techniques, materials and equipment used in environmental protection and pollution control. There is a large market in China for these types of equipment.⁵⁰ Presently, much of it must be imported; however, China has placed a high priority on obtaining the necessary technology for domestic production. For example, the Provisional Regulations on Environment Control for SEZs states:

Foreign technology and equipment introduced into an area open for external economic relations shall accord with low-pollution requirements or be pollution free. Any imported project that may produce pollution which cannot be disposed of properly by means available in China for the time being shall be supplied with corresponding environmental protection facilities. When introducing, reconstructing, or expanding a project, requisite measures shall be taken to ensure that the corresponding environmental protection facilities will be put into operation along with the main project.⁵¹

⁴⁸ *China Stresses Development of 'Green Industry,'* XINHUA, Apr. 19, 1992, in LEXIS, Asiapc file, Allasi library.

⁴⁹ *China Active in Environmental Diplomacy,* XINHUA, June 7, 1991, in LEXIS, Nexis file.

⁵⁰ *Needs Foreign Funds For Environmental Protection,* XINHUA, Mar. 7, 1993, in LEXIS, World Library, TXITFE file.

⁵¹ Interim Regulations for Environmental Control in Areas Open for External Economic Relations, art. 6, (1986), translated in STATUTES AND REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA Vol. III, § 860315 (1988).

Meanwhile, a competitive environmental protection industry is taking shape in China.⁵² As of 1990, China had 2,000 enterprises with 300,000 workers producing over 2,000 kinds of environmental-protection products.⁵³ During the past decade, over thirty countries and regions have imported these products.⁵⁴

Over the past decade, China has steadily increased its efforts in environmental protection. Economic development is still very important, but it seems as though China is now more willing to temper development with concerns for the environment. At the Symposium on Developing Countries and International Environmental Law,⁵⁵ Qian Qichen, China's Minister for Foreign Affairs, said that "China will spare no efforts to contribute its share to the protection of the living environment of mankind."⁵⁶ If China can continue improving its work in environmental protection and diplomacy, it may achieve this lofty goal.

II. POLICY OBJECTIVES WEIGHED BY CHINA'S ENVIRONMENTAL DIPLOMACY

As this brief review of the development of China's international and domestic environmental activities shows, over the past few decades China has experienced the sorts of problems associated with having an underdeveloped economy, and has simultaneously seen increasing environmental problems. These experiences have had an enormous impact on China's environmental decision making, and have shaped China's policy objectives in environmental diplomacy.

States implementing environmental protection measures face a number of hard policy choices, similar to the ones China has faced over the past twenty years. For every step taken to improve the domestic or global environment there is a potential trade-off, such as slower economic growth rates, decreased use or more expensive exploitation of natural resources, and less money available for other governmental functions. Furthermore, environmental policy choices may have political implications for other areas of domestic or international relations.

⁵² *Green Industry*, *supra* note 48.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Note Verbale*, *supra* note 31.

All nations are forced to ponder these issues to some extent when considering how to participate in protecting the global environment; however, countries at different stages of economic development will strike different balances between conflicting policy objectives. China, as a developing country, follows an approach to global environmental issues which involves acknowledging the differences between developed and developing countries, while working with all countries to overcome environmental troubles.⁵⁷

China's developing-country approach to international environmental issues manifests itself most strongly in three basic policy conflicts: the trade-off between economic development and environmental protection, tensions between international cooperation and maintaining national sovereignty, and questions of allocating the costs of environmental clean-up and technology development among nations.

A. *Economic Development v. Environmental Protection*

Much of the population of the developing world lives in poverty. As China's experience shows, to raise living standards it is generally considered necessary to exploit natural resources and to increase energy consumption, often at the expense of the environment.⁵⁸ Developed countries, on the other hand, do not generally feel the same urgency to raise living standards. Therefore, they may be more willing to sacrifice some economic benefits for protecting the environment.

China, as a developing nation, insists that environmental diplomacy "must cover both environment and development . . . to improve the international economic environment with a view to attaining the objectives of environmental protection."⁵⁹ Development should be handled so that environmental protection and economic progress simultaneously accelerate and limit each other. China's own experience demonstrates that such a paradoxical interaction is possible: over the last decade China has doubled its gross national product, yet according to Qu Geping, "[t]he discharge of most

⁵⁷ This was spelled out by Song Jian, China's State Councilor, during the UNCED conference at Rio de Janeiro. For example, he stated that "international cooperation in the fields of environment and development must take into full account the special situation and needs of developing countries." *Chinese Delegate Says China Aware of its Global Responsibility*, THE BRITISH BROADCASTING CORPORATION; SUMMARY OF WORLD BROADCASTS, June 13, 1992, in LEXIS, Nexis Library, BBOSWB file.

⁵⁸ Daniel Barstow Magraw, *Legal Treatment of Developing Countries: Differential, Contextual, and Absolute Norms*, 1 COLO. J. INT'L ENVTL. L. & POL'Y 69 (1990), in WESTLAW, JLR database.

⁵⁹ *Chinese Delegate*, *supra* note 57.

pollutants has been kept at a stable level, and the environmental quality in some cities and the ecological condition in some regions has even been improved."⁶⁰ By contrast, the emphasis of one policy objective over the other could result in either stagnant economic growth or blind destruction of even more of the environment. Only with sufficient economic growth and the foundation of a new international economic order can the developing world find appropriate ways to cope with environmental problems.

B. National Sovereignty v. International Cooperation

China recognizes that pollution and degradation of the Earth's environment are not confined by national boundaries, social systems, or ideology. Because environmental degradation is an international problem, all countries must work together to develop an international solution. Thus, China's environmental diplomacy reflects not just short-term, domestic interests, but also long-term, international interests.

This long-term view finds expression in China's advocacy of strengthened international legislation in the field of the environment. Over the years China has participated in both the negotiation and formulation of many international environmental laws.⁶¹ For example, Chinese representative Liao Jincheng urged the UN General Assembly to study and strengthen existing international laws and treaties concerning protection of the environment during armed conflicts.⁶²

Furthermore, China takes these international commitments seriously. When China signs onto an international treaty it acknowledges that it should faithfully implement its corresponding treaty obligations.⁶³ It is reasonable to expect other countries to do the same.

On the other hand, the Stockholm Declaration on the Human Environment emphasizes that states have "the sovereign right to exploit their own

⁶⁰ 'Chinese Environment Not Deteriorating,' Says Senior Official, XINHUA, Aug. 6, 1991, in LEXIS, Asiapc library, Allasi file. At the time, Qu Geping was the Director of the State Environmental Bureau of China.

⁶¹ See Appendix.

⁶² China Urges Further Studies and Codification of Existing Law on Protecting Environment During Conflict, XINHUA, Oct. 6, 1992, in LEXIS, Asiapc library, Allasi file.

⁶³ Xinhua Highlights China's Resolve on Environmental Protection, THE BRITISH BROADCASTING CORPORATION; SUMMARY OF WORLD BROADCASTS, Sept. 21, 1993, in LEXIS, Nexis library, Intl file.

resources pursuant to their own environmental policies.”⁶⁴ As states become more involved in international efforts to improve the environment, this sovereign right is necessarily diminished.⁶⁵ Developing countries are concerned that environmental protection may be linked to unrelated issues, such as setting tariffs or trade barriers. For instance, in the Montreal Protocol, many developing countries see “unnecessary and discriminatory provisions and non-tariff trade barriers being employed to enforce compliance.”⁶⁶

In response to the potential movement towards decreased national autonomy, China emphasizes that as international law is developed and implemented, each nation's natural resources must remain indisputably under that nation's control. The manner of exploitation, utilization, and protection of a nation's natural resources is entirely an internal matter.⁶⁷ China strongly objects to the use of environmental protection as a pretext for interfering in another country's internal affairs.

C. *Allocating the Costs of Environmental Protection*

There are many costs associated with environmental protection. If output is decreased to cut down on waste emissions, there is an opportunity cost in lost production. Also, any new technology for preventing emissions or for cleaning up waste costs money to develop or to purchase. Developing countries generally have no discretionary funds to spend on the environment without harming their development capabilities.⁶⁸ Since the entire world benefits from actions taken to improve domestic environments, developing countries want other nations to share the financial burden of these actions.⁶⁹

Thus, although China acknowledges its own responsibility to help solve the problems of pollution, it believes that developed countries should

⁶⁴ Stockholm Declaration on the Human Environment, June 16, 1972, U.N. Doc. A/CONF.48/14 & Corr. 1 (1973), principle 21, *reprinted in* 11 I.L.M. 1416 (1972).

⁶⁵ Mukul Sanwal, *Sustainable Development, the Rio Declaration and Multilateral Cooperation*, 4 COLO. J. INT'L ENVTL. L. & POL'Y 45 (1993), in WESTLAW, JLR database.

⁶⁶ *Ozone Sets Pattern for Greenhouse Diplomacy*, THE FINANCIAL TIMES LIMITED: POWER ASIA, Jul. 16, 1990, in LEXIS, Asiapc library, Allasi file (quoting Datuk Amar Stephen K.T. Yong, leader of the Malaysian delegation).

⁶⁷ *Chinese Premier Presents Proposals to Protect the Earth*, XINHUA, June 12, 1992, in LEXIS, Asiapc library, Allasi file.

⁶⁸ Ntambirweki, *supra* note 11, at 905.

⁶⁹ See, e.g., Paul Lewis, *Negotiators in Rio Agree to Increase Aid to Third World*, N.Y. TIMES, June 14, 1992, at A1.

bear the majority of the financial burden of cleaning up the global environment. Seen from the developing world's perspective, current global environmental problems stem from the developed world's blind industrialization over the past few centuries.⁷⁰ This history of irresponsible consumption, coupled with relatively greater financial and technical capacities, gives the developed world a moral responsibility to take the lead in protecting the global environment and to bear more fiscal responsibility.⁷¹

While developed countries should carry a greater portion of the financial responsibility for environmental protection, they should not for this reason exclude developing nations from the process of formulating international law. Thus, China supports giving developing nations special consideration in the realm of environmental diplomacy.⁷² Appropriate measures should be taken to insure that developing countries are able to participate in international environmental functions, and that they in fact do participate. Only by including developing nations can environmental diplomacy effectively combat international environmental problems.⁷³

Not only should developing countries be included in the process of formulating international policies, but these policies should also reflect the special substantive concerns of developing countries. These countries do not have adequate funds or technology to solve their severe environmental problems, such as desertification, floods and droughts.⁷⁴ To help counteract these problems, China believes that developed nations should provide additional funds and environmentally-sound technologies to developing countries on preferential and non-commercial terms.⁷⁵ This will help offset

⁷⁰ See, e.g., Richard J. Lazarus, *Pursuing "Environmental Justice": The Distributional Effects of Environmental Protection*, 87 NW. U. L. REV. 787 (1993).

⁷¹ The global community is already taking some of these steps. For example, there has been a movement toward so-called *debt for nature* swaps. These forgive some of a developing country's debt in exchange for environmental protection improvements. However, some developing countries fear this as a threat to their national sovereignty. See generally Priya Alagiri, Comment, *Give Us Sovereignty or Give Us Debt: Debtor Countries' Perspective on Debt-for-Nature Swaps*, 41 AM. U. L. REV. 485 (1992).

⁷² See *Chinese Delegate*, *supra* note 52, where the delegate said "[w]ithout effective participation of developing countries, establishment of a 'new global partnership' is impossible."

⁷³ See generally Ntambirweki, *supra* note 11.

⁷⁴ *Id.*, especially Section III.

⁷⁵ This subject was first raised by the Chinese delegate to the Stockholm convention in 1972. The statement can be found in SWANNACK-NUNN, *supra* note 3, at 96.

the economic losses developing nations incur when they begin to meet the standards and obligations set by international treaties and conventions.⁷⁶

III. FIVE PRINCIPLES OF ENVIRONMENTAL DIPLOMACY

China's policy concerns, described above, can be distilled into five fundamental goals or principles which guide China's actions in the international environmental arena. The basic aim of the principles is to ensure independence and autonomy for developing nations, while working to create a firm foundation for environmental development.⁷⁷ While the following are not "official" principles of the Chinese government, they provide a useful framework which both explains and anticipates China's actions in environmental diplomacy.

The first principle emphasizes that China's environmental diplomacy should serve internal affairs. Specifically, China's stance on international environmental issues should be beneficial to its domestic politics and economics, while improving the local environment. Diplomacy is the continuation of internal affairs, and therefore foreign affairs should serve internal interests.

The second principle guiding China's environmental diplomacy is that China's environmental policies should not be determined by other nations demands. China will make its own judgments and follow its own policy decisions when participating in international environmental activities. The government will not yield to external pressures, and will not allow other countries to use the environment as an excuse to interfere with China's internal affairs.⁷⁸

Third, China's environmental diplomacy should adhere to the Five Principles of Peaceful Co-existence.⁷⁹ The Five Principles are: mutual

⁷⁶ See generally Ntambirweki, *supra* note 11, and especially Section III.

⁷⁷ When describing China's view of international law, Samuel S. Kim wrote that in general, principles "rank the highest among the various components in the Chinese definition of international law, and Chinese foreign policy is constantly explained and legitimated in terms of 'basic principles.'" Samuel S. Kim, *The Development of International Law in Post-Mao China: Change and Continuity*, 1 J. CHINESE L. 117, 148 (1987).

⁷⁸ *Chinese Delegate*, *supra* note 57.

⁷⁹ China has developed the "Five Principles of Peaceful Coexistence," which constitute the fundamental tenets of China's foreign policy. The Five Principles emphasize the balancing of domestic interests and international diplomatic relations, a very important diplomatic objective to China. These official Principles of the Chinese government have helped define and explain China's actions in the realm

respect for territorial integrity and sovereignty; mutual non-aggression; mutual non-interference in each other's internal affairs; taking part in international activities which recognize equality and provide for mutual benefit between states; and peaceful co-existence.⁸⁰ Only through peaceful co-existence can every country cope with current environmental problems and conflicts.

Fourth, China's environmental diplomacy should take into consideration not only short-term, internal interests but also long-term, external interests. While China's interest starts with the Chinese people, it does not stop there. China also weighs the rights and interests of other countries, particularly those of developing countries.⁸¹ Thus, China believes that its environmental diplomacy should make a contribution not only to China but also to all other developing countries and to mankind. This fourth principle is internally driven, reflecting the notion that what is good for China is good for the planet. However, China does not accept the opposite notion, as pointed out in principle number two. In other words, if it is good for the world and harmful to China, China will not allow international pressures to alter its resolve.

Finally, China's environmental diplomacy should be subordinate to the broader goals of the nation's international diplomacy. Environmental diplomacy is not a goal in itself; rather it is part of an integrated foreign policy. The Chinese government acknowledges that, while environmental diplomacy is very important, it cannot jeopardize policy in one diplomatic field to achieve goals in another.⁸² When a conflict arises, the environmental policy should be altered to fit into the larger policy objectives of international diplomacy.

IV. CONCLUSION

Over the years China has steadily improved its position on the environment. Domestically, it has passed a number of laws to protect its

of international diplomacy since they were first used in the Sino-Indian Trade Agreement in Tibet in 1954. See Kim, *supra* note 77, at 148.

⁸⁰ These are more thoroughly explained in Kim, *supra* note 77.

⁸¹ Li Peng Meets Experts Attending International Environmental Law Symposium, XINHUA, Aug. 12, 1991, in LEXIS, Asiapc library, Allasi file.

⁸² This was evident, for example, when the Chinese delegation refused to sign onto the final product of the Stockholm convention, because it did not contain a strong enough socialist statement. GREENFIELD, *supra* note 12, at 219-21.

environment, but the most significant gains have been in the realm of international environmental diplomacy. As a developing country, China understands the problems facing the other developing nations of the world. As a significant actor in the world's political order, China is more likely to be heard by the developed nations of the world. China has accepted its position, and become an important player in international environmental diplomacy. Since the developing world will continue to need a voice in these matters, China should continue to serve as a leader. Only by working together and acknowledging the problems of developing nations can the world effectively protect the environment.

APPENDIX

China's Date of Entry	Name of Treaty, Convention, Etc.	Date in Force
ca. July, 1952 ⁸³	Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare ⁸⁴	Feb. 8, 1928
Nov. 11, 1970	Convention on the Continental Shelf ⁸⁵	June 10, 1964 (in force)
May 18, 1972	Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof ⁸⁶	May 18, 1972 (in force)
Aug., 1972	Constitution of the World Health Organization ⁸⁷	April 7, 1948
ca. 1973	Additional Protocol II to the Treaty of February 14, 1967, for the Prohibition of Nuclear Weapons in Latin America ⁸⁸	Dec. 11, 1969
ca. Jan., 1973	Convention of the World Meteorological Organization, with Related Protocol ⁸⁹	March 23, 1950

⁸³ Foreign Minister Zhou Enlai declared that the Chinese government recognized this protocol around this date. Since then, China has entered the protocol into force.

⁸⁴ Treaties in Force, (Treaty Affairs Staff, Office of the Legal Advisor, Department of State) Jan. 1, 1993, at 333-34 [hereinafter *Treaties*]. (This source does not contain the date that China put the treaty into force. In these cases, the Author has provided the dates to the best of his abilities).

⁸⁵ Register of International Treaties and Other Agreements in the Field of the Environment, United Nations Environment Programme, UNEP/GC/INFORMATION/11/REV.1, May 1985, at 33 [hereinafter *RIT*].

⁸⁶ *Id.* at 93-94.

⁸⁷ Multilateral Treaties Deposited With the Secretary-General, AT/LEG/SER.E/11, Dec. 31, 1992, at 299 [hereinafter *Multilateral*]. China signed on July 22, 1946, and resumed activities in 1972.

⁸⁸ *Treaties*, *supra* note 84, at 374.

⁸⁹ *Id.* at 420.

APPENDIX (continued)

China's Date of Entry	Name of Treaty, Convention, Etc.	Date in Force
ca. March, 1973	Convention on the International Maritime Organization ⁹⁰	March 17, 1958
ca. April, 1973	Constitution of the United Nations Food and Agriculture Organization ⁹¹	Oct. 16, 1945
July 6, 1979	International Convention for the Regulation of Whaling ⁹²	May 4, 1959
Sept., 1979	Protocol Concerning the Establishing Research Center to Protect the Panda ⁹³	
ca. Jan., 1980	Convention on the International Regulations for Preventing Collisions at Sea, 1972 ⁹⁴	July 15, 1977
ca. Mar., 1980	Convention Establishing the World Intellectual Property Organization ⁹⁵	April 26, 1970
April 8, 1981	Convention on International Trade in Endangered Species of Wild Fauna and Flora ⁹⁶	July 1, 1975
March 3, 1981	Agreement Concerning the Protection of Migratory Birds and Their Habitats ⁹⁷	
Dec. 10, 1982	United Nations Convention on the Law of the Sea ⁹⁸	Dec. 10, 1982 (signed)
June 8, 1983	The Antarctic Treaty ⁹⁹	June 23, 1961

⁹⁰ *Id.* at 349.

⁹¹ *Id.* at 333.

⁹² RIT, *supra* note 85, at 8-9.

⁹³ A memorandum of understanding between the World Wildlife Fund International and China. See GEORGE B. SCHALLER, *THE LAST PANDA* 11 (1993).

⁹⁴ *Treaties, supra* note 84, at 364.

⁹⁵ *Id.* at 346.

⁹⁶ RIT, *supra* note 85, at 115-16.

⁹⁷ Statement of Treaties and International Agreements, ST/LEG/SER.A/532, June, 1991, at 302.

⁹⁸ RIT, *supra* note 85, at 198-200.

⁹⁹ *Id.* at 42-43.

APPENDIX (continued)

China's Date of Entry	Name of Treaty, Convention, Etc.	Date in Force
Oct. 2, 1983	Protocol of 1978 Relating to the International Convention for the prevention of pollution from Ships, 1973 ¹⁰⁰	Oct. 2, 1983
Dec. 30, 1983	Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space Including the Moon and Other Celestial Bodies ¹⁰¹	Oct. 10, 1967
ca. Jan., 1984	Statute of the International Atomic Energy Agency ¹⁰²	
Nov. 15, 1984	Convention on the Prohibition of the Development, production and Stockpiling of Bacteriological (Biological) and Toxin Weapons, and on Their Destruction ¹⁰³	March 26, 1975
Nov. 19, 1985	Agreement Concerning Fisheries off the Coasts of the United States, with Annexes and Agreed Minutes ¹⁰⁴	
Dec. 12, 1985	Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter ¹⁰⁵	Aug. 30, 1975
March 13, 1986	Convention Concerning the Protection of the World Cultural and Natural Heritage ¹⁰⁶	Dec. 17, 1972
ca. July, 1986	International Tropical Timber Agreement, 1983, with Annexes ¹⁰⁷	Apr. 1, 1985

¹⁰⁰ *Id.* at 122.

¹⁰¹ *Id.* at 68-69.

¹⁰² *Id.* at 292.

¹⁰³ Register of International Treaties and Other Agreements in the Field of the Environment Supplement 1, United Nations Environment Programme, UNEP/GC/INFORMATION/11/REV.1/ Supp. 1, Apr. 1, 1987, at 11 [hereinafter RITSup].

¹⁰⁴ Bi-lateral agreement between the US and China. Treaties, *supra* note 84, at 48.

¹⁰⁵ RITSup, *supra* note 103, at 12.

¹⁰⁶ *Id.*

¹⁰⁷ Treaties, *supra* note 84, at 408.

APPENDIX (continued)

China's Date of Entry	Name of Treaty, Convention, Etc.	Date in Force
Sept. 26, 1986	Convention on Early Notification of a Nuclear Accident ¹⁰⁸	Oct. 27, 1986
Sept. 26, 1986	Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency ¹⁰⁹	Sept. 26, 1985 (adopted)
ca. Nov. 1988	Agreement on the Rescue of Astronauts, the Return of Astronauts, and the Return of Objects Launched into Outer Space ¹¹⁰	
Dec. 12, 1988	Convention on Registration of Objects Launched into Outer Space ¹¹¹	Sept. 15, 1976
ca. Feb. 1989	Convention on the Physical Protection of Nuclear Materials, with Annex ¹¹²	Feb. 8, 1987
Sept. 11, 1989	Vienna Convention for the Protection of the Ozone Layer ¹¹³	Sept. 22, 1985
ca. May, 1990	International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, with Annex ¹¹⁴	May 6, 1975
May 24, 1990	Protocol Relating to Intervention on the High Seas in Cases of Pollution by Substances Other Than Oil ¹¹⁵	March 30, 1983

108 *Id.* at 39. With reservation or declaration.

109 *Id.* at 42-43. With a reservation or declaration.

110 *Id.* at 291.

111 Multilateral, *supra* note 87, at 803.

112 Treaties, *supra* note 84, at 374. With a reservation or declaration.

113 Multilateral, *supra* note 87, at 824.

114 Treaties, *supra* note 84, at 357.

115 Statement of Treaties and International Agreement, ST/LEG/SER.A/529, Mar. 1991, at 87.

APPENDIX (continued)

China's Date of Entry	Name of Treaty, Convention, Etc.	Date in Force
July 10, 1990	International Agreement on Jute and Jute Products, 1989, with Annexes ¹¹⁶	Nov. 3, 1989 (signed)
June 14, 1991	Montreal Protocol on Substances that Deplete the Ozone Layer ¹¹⁷	Jan. 1, 1989
June 14, 1991	Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer ¹¹⁸	Aug. 10, 1992
ca. Oct. 1991	Treaty on the Non-Proliferation of Nuclear Weapons ¹¹⁹	March 5, 1970
Dec. 17, 1991	Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal ¹²⁰	May 5, 1992
ca. March, 1992	Convention for a North Pacific Marine Science Organization (PICES) ¹²¹	
June 11, 1992	Convention on Biological Diversity ¹²²	June 5-14, 1992 (signed)
June 11, 1992	United Nations Framework Convention on Climate Change ¹²³	June 4-14, 1992 (signed)
ca. July, 1992	Convention on Wetlands of International Importance, Especially as Waterfowl Habitat ¹²⁴	Dec. 21, 1975

¹¹⁶ Statement of Treaties and International Agreement, ST/LEG/SER.A/530, Apr. 1991, at 111.

¹¹⁷ Multilateral, *supra* note 87, at 827.

¹¹⁸ *Id.* at 829.

¹¹⁹ Treaties, *supra* note 84, at 375.

¹²⁰ Multilateral, *supra* note 87, at 831.

¹²¹ Treaties, *supra* note 84, at 359.

¹²² Multilateral, *supra* note 87, at 840.

¹²³ *Id.* at 837.

¹²⁴ Treaties, *supra* note 84, at 305.