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FOREWORD: A REPORT ON THE BELLAGIO CONFERENCE ON U.S.-U.S.S.R. ENVIRONMENTAL PROTECTION INSTITUTIONS

*Charles M. Haar**

I. INTRODUCTION

From August 5 to August 8, 1991, sixteen representatives from government, industry, and academia in the United States and the then Union of Soviet Socialist Republics (USSR) met at the Rockefeller Conference Center in Bellagio, Italy, to participate in the Bellagio Conference on U.S.-U.S.S.R. Environmental Protection Institutions. Cosponsored by the American Academy of Arts and Sciences and the USSR Academy of Sciences's Institute of State and Law, the conference was to provide a forum for exploring ways to improve and supplement the two nations' existing institutions for environmental protection. Oleg Kolbasov, then Director of the Institute of Science and Law and now Russia's Deputy Minister of the Environment, and Charles M. Haar, Louis D. Brandeis Professor of Law at Harvard Law School, co-chaired.

A primary goal of the conference was to study the implementation, rather than the establishment, of environmental policy. Implementation—the creation and operation of the political and economic mechanisms that bring lofty environmental goals to life—is all too often a neglected topic. The conference participants considered the question of implementation from two viewpoints: that of the public sector, whose task is to administer and enforce the statutes and regulations that comprise public policy, and that of the private sector, whose interest is in making profits. In evaluating existing ar-

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rangements for implementation, the participants were compelled to envisage the building of new institutions to advance environmental protection in both the United States and the Soviet Union.

A second goal was comparative analysis: to enable the participants to acquire a fresh perspective on environmental issues by acquainting them with different systems of land use and air and water rights and different institutional arrangements and legal frameworks. The two nations both could learn from each other's experiences and more effectively evaluate the workings of their own systems.

The Bellagio Conference's third aim was to fashion a declaration of environmental principles. Indeed, the question before the house was whether a diverse group of administrators, planners, lawyers, scientists, industrialists, and academics could agree on common goals that would shape public opinion and lend impetus to the enforcement of their countries' environmental policies and programs. The conference planners hoped that, through a comparative study of the United States's and Soviet Union's laws and institutions, there would emerge a consensus on developing more rational and effective systems of environmental management. This consensus then might facilitate future coordination between the two nations in work toward bilateral and multilateral accords.

A final though by no means predominant goal was the publication of the papers that the participants prepared for and presented at the conference. After considering the compilation of the numerous papers into a book, the conference planners instead decided to publish them as a collection in a distinguished environmental journal in order to make them available to a larger policy-conscious public. This issue of the *Boston College Environmental Affairs Law Review* represents that collection.

The papers that the conference planners commissioned from the participants were to stimulate discussions on three interrelated subjects. The first topic was *federalism*. The opening day of the Bellagio Conference was devoted to examining the division of the powers and responsibilities relating to the environment between the central government and the regional and local governments in each nation. One question that guided the conferees was whether any commonalities existed between the federalism practiced in the United States and the federalism that at that time might have developed in the Soviet Union between the emerging republics and Moscow. One must remember that the Bellagio Conference took place during the first week in August, before the attempted coup and the subsequent

transformation of the Soviet Union into a far looser confederation of independent republics.

The second theme was *economic development and the environment*. The conference's second day focused on the trade-offs and balances between economic development and environmental preservation. The sixteen participants grappled with the question of how, when faced with the elemental needs for food, energy, and materials, nations can give environmental concerns due weight in their agendas for survival and growth.

The third subject was *practical application*. On the third day of the conference, the participants looked at case studies from the United States and the Soviet Union. These case studies depicted specific instances of environmental degradation and the two nations' diverse responses to them. Both the American and Soviet participants shared their experiences in translating theoretical insights into concrete achievements, as well as the challenges they encountered in drafting regulations, statutes, and constitutions.

II. THE QUESTION OF FEDERALISM

A. *National Government Versus State/Republican Government: The Issue of Sovereignty*

Because the Soviet participants at the Bellagio Conference increasingly are faced with a new world, they found the discussions on federalism more personally involving and profound than did the participants from the United States. Many governmental functions had begun to shift to the republics as a result of 1991 revisions to the Soviet Union's 1922 constitution, and among the powers that the republics most vociferously claimed was control over the management and protection of the environment. It was clear from both the drafting of the "9 + 1"—the Union Treaty under consideration in August 1991—and the signing of agreements among the different republics, that the Soviets had pondered the relationship between the federal government and the individual states in the United States.

The question of how to delegate powers and functions between the federal and the state or republican levels of government was the focus of lively discussion but only tentative resolutions. The participants acknowledging that a state border drawn by cartographers is

not protection against environmental crises: that air pollution and chemical wastes do not recognize political boundaries, no matter how precisely they are drawn.

The most immediate concern for the Soviet participants was the Union's perceived disregard of local rights and its calculated overlooking of the hazards resulting from the lax siting of industrial facilities—two issues that long had aroused friction between Moscow and the republics. According to the Soviets, the "Center" had been bent on developing industry in the republics, including nuclear and chemical plants, without consideration of either local needs or desires or feasible alternatives. For example, federal projects to divert the Soviet Union's rivers had disastrous ecological consequences for certain regions. The environmental ills resulting from the Center's policies created a powerful sense of outrage that fanned nationalist sentiment in the republics and increased the longing for sovereignty.

This feeling did not halt at the republics' boundaries. By the same token, municipalities and citizen groups had grown suspicious of the central governments within their own republics. Tension over environmental issues generated distrustful, parochial attitudes that rendered more difficult any unified approach to solving collective issues such as the allocation and spending of funds.

Inevitably, Chernobyl came to the fore in the conference discussions, both as a prime example of human error and the danger of relegating the task of preventing disasters to machines and as a symbol of local and republican indignation and willingness to enter into direct confrontation with the central government. Statements by several of the Soviet participants, ringing with intensity, revealed the extent of the various republics' aspirations to sovereignty and their determination that the Center no longer be allowed to interfere in their internal environmental affairs.

The Ukrainian participants in particular were insistent on the principle of local control over environmental policies and resources. They gave voice to the localism that distrust of the central government had generated across the Soviet Union. Some still bristled over the comments that United States President George Bush had made during a visit to Kiev, where after a stop in Moscow, he appealed to the Ukraine Parliament for the preservation of the central Soviet government. These participants emphasized that Ukraine is a nation with its own long history and symbols of sovereignty, and declared that the Union should no longer meddle in the republic's affairs. And this in August of 1991!

After considerable discussion, there was a general acknowledgment—due in part to the persistence of the United States contingent—that some uniformity in standard-setting, research, and siting of polluting facilities was essential. The conference participants debated the roles that regional authorities and an all-Union ministry, should there be one, could play. They considered various means through which the republics might cooperate to forestall detrimental environmental impacts that affected all of them.

One theme emerged from the conference discussions with surprising force: the role of local grassroots movements in addressing environmental issues. The threat that environmental degradation poses to health and safety has aroused citizens in both the United States and the Soviet Union. Political science theorists who subscribe to the currently fashionable concept of mass apathy toward politics would be surprised to learn of these citizens' intense interest in the safety of their surroundings, and their willingness to work toward improvement. Armed with the hindsight resulting from Love Canal and Chernobyl, local constituencies have become passionate political actors with a powerful environmental agenda. The conference participants noted that neighborhood power is linked to the "Not in My Back Yard" (NIMBY) syndrome, which results in service providers such as nuclear power plants not being sited because of local opposition. Most of the discussion centered on how national governments can implement their environmental programs with communities exercising such veto power.

Another issue that surfaced on the first day of the conference was citizens' mistrust of their own governments in the aftermath of an environmental disaster. In the United States, when an environmental disaster occurs, accusations fall on both Washington and industry in a diversion and division of blame. In the Soviet Union, however, public hostility focused on the central government alone, rendering the outrage even more intense. The magnitude of this reaction in both countries came as a shock to those conferees who had assumed that there was more popular goodwill and more widespread acceptance of the difficulties inherent in relying on complex technology.

Residents of communities suffering the impacts of accidents such as Chernobyl and Three Mile Island have displayed a definite lack of faith in the efforts and intentions of their governments, and their open expressions of disdain and outrage often have been exacerbated by perceived governmental secrecy and doubletalk. Scientists too have become the objects of considerable censure, considered arro-

gant and indeed indifferent by the victims of technological failures. This state of affairs underlies the increasing distrust of authority and the intensification of adversarial moods in both the United States and the former Soviet Union.

In the Soviet Union, of course, there historically had been a total denial of the existence of environmental problems. Under communist theory, "the people" own all property. The greedy, antisocial profit motive that characterizes capitalist societies thus is absent, and overexploitation of the natural environment cannot occur. As a consequence, Soviet society at large refused to recognize the possibility of the existence of pollution. For different reasons and to a lesser extent, denial also has been the approach of much of United States industry. American corporations may not have rejected the possibility of pollution but they certainly have kept blinders on.

It takes a severely damaging incident to induce action and break through such inertia. As a result, environmental legislation more often than not has arisen in response to disaster. There is still much to learn about responding to public anxieties and preparing populations for the failure of potentially dangerous technologies. Clearly, the degree to which authorities prepare for and react to environmental crises in turn affects the public's awareness and ability to react responsibly. One lesson of incidents such as Three Mile Island is that governments must pay more attention to the particular concerns of individual communities in developing emergency response plans. Official pronouncements are not enough. All too often they mean that little action will ensue, while the government cloaks itself in technological mystique.

Because the Bellagio Conference took place before the collapse of the Soviet Union, conference participants discussed at length the possibility of mobilizing the then nation's central government to coordinate and fund transrepublic environmental programs. Now, following the foundation of the Commonwealth of Independent States, the need for coordination persists and must be addressed, whether by treaty or through the creation of a new interrepublic agency for the environment or some other institutional arrangement.

Some of the differences among the Soviet participants reflected a generation gap. The older participants seemed much more concerned about anarchy, the disintegration of existing political and social systems, and chaos, while the younger appeared to welcome these very possibilities. They were eager for change and, above all, for republic sovereignty. Regardless of generation, however, there was a sense that the Center never could overcome its past sins: its exploitation

of the nation's environment and natural resources, the ruined health and threatened safety of its citizens, and its disregard of the republics' views. Hence, the breakup of the Soviet Union may have hinged more on environmental dissatisfaction than anyone hitherto had suspected.

B. Environmental Protection and the Role of Government Institutions

An uneasy federalist compromise presently exists in the United States. There are striking imbalances in pollution production and control from state to state because of the mobility of labor and capital. Moreover, many states lack the financial resources to create and administer consistently effective environmental protection programs. For these reasons, Congress made a federal agency—the United States Environmental Protection Agency (EPA)—responsible for standard-setting, monitoring, and enforcement, and gave secondary power to the states to the extent they choose to exercise it. The regulation of land uses—with their obvious impacts on land, air, and water—remains a responsibility of the states, which typically delegate the task to their municipalities. There has been constant battling over which level of government has the authority to address which environmental problems, especially given the ebb and flow of congressional and presidential politics. Major tensions in federal-state relations currently exist in three areas: the use of nuclear power and the disposal of nuclear wastes; the interstate movement of hazardous wastes; and the environmental effects of nuclear weapons production and military base operation.

Conference participants drew comparisons between the United States's EPA and the Soviet Union's Goskompriroda and the difficulties the agencies encountered establishing jurisdiction. Since its creation, Goskompriroda had the double burden of grappling with the ministries at the All-Soviet level as well as the republican level. Because of the turf battles that ensued among these diverse actors, the Soviet Union did little of consequence to implement its numerous declarations on environmental protection. As a result, the Soviet participants were perplexed about enforcement—despite the abundance of federal environmental protection standards, they had for reference only a handful of examples in which their government actually had tried to attain environmental goals.

The topic of enforcement of environmental protection laws by courts and by individual citizens came up repeatedly during the

Bellagio Conference. Participants from the United States pointed to the emergence of the courts in that country as full and sometimes dominant partners with the EPA and state agencies in the forging and implementation of environmental protection policies. Some of these participants believed that citizens' suits have made the enforcement of environmental controls possible in the United States. One further noted that the growing tendency of public authorities to push for criminal prosecution—meaning jail for corporate executives—is proving more effective than fines and penalties in making corporations environmentally responsible and cooperative with federal and state regulatory agencies.

More than once participants noted that the United States's acceptance of the courts' role is so profound and axiomatic that the American professionals—primarily economists—charged with the transformation of Eastern Europe into a collection of market economies have overlooked the need to establish an arbiter of disputes and independent reviewer of government actions. Without the laws of property and contract and an impartial body to interpret and apply them, no free market can long be stable.

Determining the role that courts should play in resolving conflicts within and among the republics, as well as between the republics and the central government, deeply intrigued the Soviet participants. The issue was twofold. First, there was the question of how creating a United States-style court system would affect the allocation of functions between the central government and the republics, and among them and municipalities and local neighborhoods. In a representative democracy such as the United States, the judiciary plays a powerful role by demarcating both the division of powers between the federal and state governments and the separation of powers among the legislative, executive, and judicial branches of government. Second, if the then Soviet Union was going to launch a private property system, it would have to delineate the rights of individual private owners and establish the degree to which it could curtail these rights. Discussion focused on the position of the courts as protectors of property rights.

The United States participants emphasized not only the traditional approach that courts have taken to exercising their constitutional powers—the emphases on procedure, due process, and the need for elaborating the reasons underlying their decisions—but also the consequences of relegating such powers to unelected judges. These quite frank sessions focused on some of the drawbacks of the American judiciary: the delays, high costs, and disincentives to economic ac-

tivity. The difficulties of transferring the principles of the United States's judicial system to the Soviet Union, which lacks a common law tradition and even the faintest concept of an independent federalist court system, prompted much debate.

All in all, in neither the United States nor the Soviet Union is the formal creation of agencies or enactment of laws and promulgation of regulations enough. Each country must establish a detailed and nuanced process to implement reforms. No doubt, experience will prove to outweigh textbook logic.

C. Property Rights: The Government or Individual as Owner?

Who should "own" natural resources? Answering this question is an acute problem that faced the Soviet Union in August 1991 and now poses a challenge to the newly sovereign republics. Reminiscent of the dilemma confronting the nineteenth century United States over the disposition of lands in the West, the debate involves determining both how much title to land should devolve to the private sector, and what powers, privileges, and immunities the public sector should retain.

The assignment of monetary value to land and the creation of systems for land financing are basic tasks awaiting the new republics' leaders. The Soviet participants at the Bellagio Conference, however, were baffled about the usefulness of applying natural rights doctrine to the issue of natural resource ownership. In addition, they asked how a society could price natural resources absent the comparisons possible in an existing free market system. Resolving the issue of who owns natural resources, formerly regarded as the Soviet Union's national treasure, is especially critical now that the republics are laying claim to any and all resources located within their boundaries.

D. The Future of Federalism

Discussions about the relationship between federalism and environmental protection take on a different hue when viewed within the context of a nation's future. A primary concern of all the conference participants was the respective competencies of the Soviet Union and the various republics to organize environmental protection programs. Who best could bear the costs, and who best could address the complex issues, especially the unanticipated problems? In August 1991, the old political system was crumbling, but a new one had not yet arisen. There was no common agreement among the

republics or, for that matter, among the Soviet participants themselves on how to answer these questions. Even now there is no agency formulating an overall Commonwealth policy on environmental protection.

While the Bellagio conferees displayed a powerful feeling of support for independent action by the republics, they nonetheless conceded that individual republics should not set their own ecological standards. Rather than go their individual ways in coping with air, water, and other transboundary pollution, it was agreed, all of the republics should participate in the establishment of some national minimum standards, some unified approach to managing environmental concerns, and some effort at interrepublic dispute resolution.

In sum, the participants were able to single out a number of commonalities between the United States and the Soviet Union. They listed what they saw as the basic issues the two countries needed to address:

- a. which levels of government should have legal authority to
 - set standards
 - monitor compliance
 - enforce standards
 - own and price natural resources
 - fund infrastructure
 - modify technology for industry
 - develop ideas
 - evaluate experiments and research
 - collect and disseminate information;
- b. what the role of individual citizens and grassroots groups is;
- c. how to coordinate agencies and ministries at different levels of government; and
- d. how to resolve conflict among different levels of government, among sovereign states or republics, and between entrepreneurs and government agencies.

III. ECONOMIC DEVELOPMENT VERSUS ENVIRONMENTAL PROTECTION

Throughout the Bellagio Conference, the Soviet delegates spoke in more apocalyptic terms than did the United States delegates. Their awareness that their society was in the throes of a thorough overhaul—its foundations beginning to give way even before the August 1991 coup attempt—gave them a tremendous wariness of the future. The urgency of their apprehensions made a compelling backdrop for the conference's discussions on promoting economic

restructuring, introducing the concept of private property, and encouraging joint ventures amidst concerns about creating and maintaining a safe environment.

A. Environmental Protection and Corporate Responsibility

All agreed—as is easy to do when speaking in general terms—that societies must develop institutions and policies that maximize environmental safety as well as productivity. There was also agreement that conflicts often arise between the goals of economic growth and environmental protection. Several of the participants from the United States argued that such conflicts exist only in the short run, and that, over the long run, most corporations know environmental degradation makes little economic sense. According to these participants, companies that in the past have questioned whether they could be both socially responsive and strongly competitive now know they can and subsequently have adopted policies and practices that are more energy-efficient and environmentally sound. Another conference participant countered, however, that the fear of criminal liability alone has caused many corporations to establish policies, enforced by internal sanctions, on protecting the environment.

Although environmental neglect by United States industries came under sharp criticism, the conference participants acknowledged the growing awareness among business leaders in many nations that seeking profit and meeting environmental needs are not necessarily at odds. Slowly but surely, under the pressure of public opinion and increasingly restrictive regulation, industry is starting to pay attention to the costs of indifference to the environment. One conferee noted that, while the Valdez Principles initially aroused violent opposition from the corporate world, the same corporations now were moving, however grudgingly, towards adopting them. For example, there has been wider acceptance of Valdez Principle 10, which calls on companies to undertake and publish annual self-evaluations of their compliance with all applicable environmental laws as well as with the principles. Many companies have begun making periodic reports on the environmental conditions of their facilities to stockholders and the public.

What ultimately resulted from this discussion was a recognition of the need to build a new culture within corporations—one that includes consideration of environmental impacts in their decision-making processes.

B. Environmental Protection: Command-and-Control Versus Market-Based Regulation

The relationship between environmental controls and economic development came to the fore in another interesting way. In a discussion partly propelled by competing theories of economic efficiency but undoubtedly motivated by ideology on both sides, the conference participants compared the advantages and disadvantages—under any system of economic production—of “command-and-control” and market-based systems of environmental protection.

To a great extent, the traditional mode of regulation in both the United States and the Soviet Union has been to enact administrative rules and technology-based standards that the government then enforces. This is command-and-control regulation. More recently, the United States has witnessed the increased use of market mechanisms to attain public goals. In a sense, the adoption of these mechanisms is an effort to assist the market to purify itself, to manage externalities and work toward more effectively meeting environmental goals while also satisfying economic requirements.

The Bellagio Conference participants examined the potential of market mechanisms such as tax incentives, the transfer of permits, and deposit-refund systems for toxic substances. Market-based measures that increasingly are appearing side by side with traditional zoning controls—incentives such as the use of performance standards and bonus permits, inclusionary zoning, and the transfer of development rights—could be useful in the area of environmental protection. The conferees also discussed the United States’s recent experiments with transferring pollution rights, but they were not ready to recommend the concept wholeheartedly to the Soviet Union or its republics.

The idea of an incentive-based system of environmental protection intrigued the Soviet delegates. They acknowledged that environmental conditions in their country were disastrous. The various levels of government simply were not enforcing existing laws, which were of poor quality and in need of updating. Where there was enforcement, fines and penalties were so low that they achieved neither punishment nor deterrence. In sum, according to many of the Soviet participants, the failure of the Center to provide Soviet citizens with a decent environment was a solid reason for giving the responsibility for environmental enforcement to the republics.

The Soviet delegates appeared to understand that basing environmental controls solely on market incentives would not be sufficient

to bring about the desired results, but that leaving the creation and enforcement of these controls to government fiat likely would mean continuing conflict, stultification, and lack of economic growth. A consensus emerged among the participants that, through new policies and legislation, both the United States and the Soviet Union should foster the internalization of "negative externalities" such as industrial pollution and require that the final price of products reflect the costs for environmental protection. Almost everyone concluded that each country should employ both regulatory and incentive-based measures as the complementary components of an effective national program for environmental protection.

To begin working toward these goals, the participants agreed, both countries should take a cost-benefit approach, examining their economies industry by industry, factory by factory, to find the appropriate balance between sanctions and incentives. It was clear to all that the organizational challenge would lie in coordinating the activities of the agencies responsible for protecting the environment with those of agencies whose primary mandate is fostering economic growth. Participants on both sides emphasized that if the costs of environmental protection mechanisms prove too high, they will become politically unacceptable.

C. Economic Development and Land Use Regulation

Yet another vital issue was the focus of the conference discussions: how agencies with perspectives different from those concerned with environmental protection address the regulation of land uses—the control of suburban development, the pacing of infrastructure expenditures, and the management of population growth and economic development resulting from the expansion of cities. The relationship between the subdivision and use of land and the impacts that these activities have on the land, air, and water may be obvious. Still, both the United States and the former Soviet Union face the problem of coordinating the numerous agencies that act independently on land use and environmental protection issues as if an interdependent relationship between these issues did not exist.

While under the United States Constitution, the federal government could control the use of private land, in fact local governments have this responsibility. They derive their power from the states and operate primarily through local zoning and subdivision ordinances. This system brings decisions over the uses of land closer to local needs. It also, however, hinders the development of statewide

and regional solutions that in particular situations may be the most desirable. Given the elastic nature of environmental problems, which do not respect arbitrarily determined local jurisdictional boundaries, local land use power poses a challenge for the environmental movement.

One instrument with the potential for mediating between economic development and environmental protection on an international scale is an environmental impact assessment (EIA). An EIA can be highly useful, but it is still young and in many aspects untried. To a degree, the environmental impact statements that result from EIA processes have brought the land use planning and environmental protection professions closer together. Indeed, this may prove the vehicle through which the two disciplines merge, and through which now disparate land use and environmental controls evolve into a coordinated scheme for preserving natural resources and assuring the continued existence of the planet.

IV. CASE STUDIES

Case studies turned out to be a crucial source of understanding for the participants at the Bellagio Conference as they compared the environmental protection systems of the United States and the Soviet Union. The combination of telling details and the rounded portrait of specific cases provided the ingredients from which the conferees formulated the general principles of the Bellagio Declaration.

One of the case studies focused on the degradation of Siberia's Lake Baikal. The study showed how the mismanagement of a pulp mill devastated the entire region around the lake. UNESCO had provided some assistance to the region's residents—establishing advisory standards and zones for economic development—but this seemed too little and too late. The Soviet participants explained the Baikal Commission's efforts at coordination and suggested ways in which the commission might be reconstituted to be more effective.

Somewhat different in nature was a detailed look at the use of landmark and historic districts in the United States. Participants discussed how the creation of these districts protects the built environment, and how the United States's experience with establishing and managing such districts could be incorporated into the environmental programs of the republics. One case that the participants examined closely was that of Pennsylvania Avenue in Washington, D.C. A review of the diverse market-based mechanisms employed to protect the Pennsylvania Avenue district—including taxes, incentives, and joint ventures—led to debate over whether and how a

government might extend such an approach to the natural environment. The role of citizens' groups emerged as paramount in both of these case studies.

The Chernobyl disaster provided much food for thought, especially because several of the Soviet participants had firsthand knowledge of the catastrophe. All agreed that further in-depth study of this case would be most useful in determining how to control nuclear power plants; how to divide functions and responsibilities among the different levels of government as well as plant owners and operators and the public.

The conference participants also examined the Boston Harbor case, in which a lawsuit played a primary role in the enforcement of environmental standards and the initiation of an effort to restore a polluted harbor. As with many environmental conflicts, the question of remedy, not liability, became paramount in the Boston Harbor case. The court, acting through appointed masters and monitors, assumed active responsibility for protecting the harbor. The advantages and disadvantages of its more drastic alternatives for action received the greatest attention: its imposition of moratoria on real estate development, and its threat of receivership.

One result of this conference session was the delegates' recognition of the need for multidisciplinary efforts in the field of environmental protection. All acknowledged that environmental protection is one area in which no one profession can claim a monopoly, and in which the competencies of science, law, sociology, and economics are intricately intertwined. In addition, the delegates encouraged the enactment of "sunshine" laws to require governments to provide access to information, especially after a disaster. In a democracy, laws, institutions, and agencies are the products of public opinion. Given this fact, the participants agreed that there would be an even clearer need to harmonize environmental goals with other social goals as the *vox populi* became more ascendant in the republics.

Finally, a proposal was advanced for the creation of a neutral forum for discussing regional environmental issues. Because air and water pollution are transnational problems, the delegates concluded, accommodation is essential between and among sovereign nations, which otherwise might pursue their own individual ends and impair the safety and interests of others.

V. THE FUTURE

All the participants agreed that the Bellagio Conference had been a profitable meeting. At a minimum, it gave them a new perspective

on both the environmental situation in their own countries and the contribution of their respective professions to the field of environmental protection. Recommendations for follow-up meetings on the laws and standards that the two nations could promulgate and the studies and experiments that they ought to undertake accompanied the strong consensus that a record of the meeting and its results should be widely disseminated.

There was a sense among most of the participants that, as grave as the environmental threats in the United States and the then Soviet Union may be, and as stubborn as the resistance of bureaucracy to change is, there was hope for improvement in environmental quality through the adoption of new tools for implementing environmental goals. Obviously, the environmental problems and priorities of the United States and the Soviet Union are not altogether similar, but contrary to some expectations, the differences in the two nations' political and legal cultures proved useful starting points rather than obstacles to discussion.

To distill concrete goals from the three days of discussion and determine the points on which the various participants could reach agreement, the last sessions of the conference were devoted to hammering out a set of principles for public circulation. A short, turbulent evening of debating and rewriting produced a document—the Bellagio Declaration—that everyone could celebrate at the farewell session.

All the conference participants agreed that the Bellagio Declaration should have a wide audience. First and foremost, to meet this goal, the Declaration is slated for presentation at the forthcoming United Nations Conference on Environment and Development in Rio de Janeiro, Brazil, in June 1992. There also will be efforts to present the Declaration to the relevant ministries in the republics of the former Soviet Union and to congressional committees and the EPA and Council on Environmental Quality in the United States. Already, the Ukrainian Minister for the Environment has published the conference proceedings in the *Kiev Bulletin*. Now, there is this issue of the *Boston College Environmental Affairs Law Review*.

A strong indication that the Bellagio Conference proved its worth was the ground swell of support among the participants from the Soviet republics for the idea of holding a second conference, in Kiev in 1992. The Minister of the Environment for Ukraine agreed to arrange this conference and invite representatives of the environmental ministries in the other republics. (Additional future meetings could include the Eastern European countries. Indeed, experts from

these countries, especially Poland and Hungary, had expressed great interest in attending the Bellagio Conference, but a lack of funding dashed their hopes.) The informality, openness, and willingness to analyze problems together that characterized the Bellagio Conference constitute a step toward developing a common environmental language. To build on the achievements in Bellagio by addressing concrete cases and specific remedies—especially those with regional overtones—is the envisioned goal of the reunion in Kiev.

It is fair to conclude that a basis for continuing dialogue has been laid, and that the unique focus of the Bellagio Conference on the implementation of policies and the creation of institutions for environmental protection is the most promising direction for a series of workshops over the next few years. This focus proved most useful, encouraging deeper analytic probing of important environmental issues, clarifying the contending values of interest groups, drawing out fresh implications and unanticipated results, and calling attention to the need for solutions that provide for accountability.

It has become clear that the study of laws, statutes, regulations, and judicial opinions in a vacuum needs supplementing with actual cases and reflections by those who are intimately familiar with concrete events and in-the-field implementation. Case studies from each country—analogue in terms of the nature of their problems and, to some extent, their proposed solutions—bring statistics and legalities to life and can challenge conventional wisdom and generate new ideas.

Environmental issues, vexing as they are, present a great opportunity for emerging and established democracies. Their resolution may prove indispensable to establishing and maintaining functioning markets and democratic institutions. Thus, environmental issues deserve a topmost ranking on the list of social predicaments confronting both the United States and the new republics of the former Soviet Union.

How governments address environmental problems becomes a litmus test for citizens' acceptance of those institutions and values that are essential to a democratic system. For example, citizens in both the United States and the Commonwealth of Independent States want their governments openly to provide reliable environmental data. After the bureaucratic nonresponse to the technological breakdowns at Three Mile Island and Chernobyl, people became aware that governmental secrecy has no place in a functioning democracy. Public understanding and full and free disclosure of information are the pillars upon which true democracies rest. The exist-

tence of an independent reviewing agency, whether a court or another branch of government, is another feature that helps avoid arbitrariness and capriciousness in governmental decisionmaking. An appreciation of the need for checks and balances in the management of environmental matters can lead to the increased acceptance of the institutions that can render a free market economy one that is democratic as well.

To take another example, the use of "carrots" and "sticks" to induce desired action and technological innovation by the private sector—methods that so quickly spring to mind as tools for dealing with ecological hazards—applies equally well to other arenas of regulation in a market system. Similarly, organized citizen participation, responsible for marshalling discontent over environmental policies—the Green Movement comes to mind—has extended its concerns to the evils of totalitarianism. Addressing the issue of protecting the environment on an institutional basis—collecting individual concerns into a broader and more effective vehicle—can serve as an example for learning about the intricacies of law in a democracy. Coping responsibly and forthrightly with environmental dilemmas can form a political and indeed a moral basis for developing the consensus necessary to reshape individual responsibility and institutional responsiveness in a society working to become a democracy.

In sum, efforts to design legal frameworks and institutions for the new environmental politics will reverberate throughout a society and span the entire range of governmental concern and responsibility. A concentration on environmental issues can bolster federalism and democracy in the emerging Commonwealth of Independent States as well as support a progressive evolution of liberal capitalism in the United States. Due process, checks and balances, independent reviewing agencies, and government openness and accountability—all of these basic elements of democracy then may move from distant abstractions to strongly held convictions of everyday life. The possibility of broad political impact justifies placing environmental issues high in the hierarchy of a society's concerns and aspirations.