

Towards a More Equitable Outcome from  
Rio Plus 20

Ambassador A. Gopinathan

Discussion Paper # 179



**RIS**  
Research and Information System  
for Developing Countries

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# **Towards a More Equitable Outcome from Rio Plus 20**

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**Ambassador A. Gopinathan\***

The “Rio plus 20” summit being held on 20-22 June 2012 provides an opportunity to launch a process for forging a new global compact, underpinned by greater equity and policy space for the developing countries, for dealing with sustainable development in an integrated and holistic fashion, and for moving away from the ‘silo’-mentality. The concept of a ‘Green economy’ has become contentious, with the protagonists failing to elaborate its content and allay fears, and instead, arousing suspicions of disguised protectionism and conditionalities. Developing countries have fallen short in shaping the concept of ‘green economy’ according to their own interests and concerns.

## **Challenges Facing the Developing Countries**

Socio-economic development and poverty eradication continue to be the first and over-riding priorities of the developing countries. The imperative of international co-operation should be reflected in the proposed compact, and given renewed impetus by suggesting practical measures for advancing it. The approach should reaffirm the principles and continued relevance of Agenda 21 adopted at the 1992 Earth summit. The new compact should seek to operationalise the principles of equity and common but differentiated responsibilities. It should adopt innovative approaches and make extensive use of the new information and communication technologies (ICTs). It should factor in the current international economic environment and address the challenges of sustained growth confronted by global economy, especially by the developing countries.

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Developing countries have witnessed a massive expansion in the challenges facing them in the past two decades. Consequently, the policy space available to them for adapting to these rapid changes and providing safety nets to the vulnerable sections of their populations has been constantly shrinking, exacerbating tensions within their own societies and widening the North-South gap.

A 'Business As Usual' scenario emerging from the Rio plus 20 summit would be of no potential benefit to the developing countries, as this would only imply their continuing to be used for the export of polluting industries, dumping of hazardous chemicals and wastes, and sale of technologies and equipment that are fast becoming obsolete in the developed countries.

Many of the challenges facing the developing countries have become inter-connected, necessitating an integrated and holistic approach, rather than a silo-oriented one. Similarly, one country can hardly solve the problems on its own, howsoever resource-endowed it may be, so that co-operative and collective solutions become inescapable. This becomes even more critical as the policies and actions of countries often have transnational impacts, and consequently, developments within countries and those at the international level intersect with unpredictable consequences, as amply demonstrated by the continuing global economic and financial crisis.

The methods employed traditionally by the developed countries in dealing with problems cannot be replicated in the developing countries in many cases. A most telling example would be that of management and disposal of wastes. It would be necessary to promote devising of 'smart' solutions that seek to separate, collect and dispose waste at the village or community level in an affordable way through micro- or nano-solutions that include recycling and re-use. It must be ensured that these models can be scaled up and replicated, and that they afford avenues for participation of the local communities in their implementation, thus

enhancing their cost-effectiveness. The Rio plus 20 summit should encourage the development, incentivisation, up-scaling, replication and extensive deployment of such ‘smart’ solutions on a global scale, especially in the developing countries.

The vast majority of developing countries needs to evolve a growth strategy in the light of expanding population and shrinking resources, one of sustainable development that is ‘resource-frugal’ than ‘resource-intensive’. They need to be helped to put in place resource-frugal alternatives in agriculture, energy, industry and manufacturing, and transportation that make them efficient, affordable and cost-effective. New Information and Communication Technologies (ICT) can play a significant role here, through the use of data analytics in areas such as power supply networks, water supply systems, transportation systems, distribution of goods and services and water supply systems, leading to ‘smart’ solutions that seek to minimize waste, eliminate redundancies, improving efficiencies and enhancing productivity. The international community can play a significant role in these endeavours, not only by creating an enabling environment conducive to such efforts, but also by re-orienting the policies and practices of international organizations and financial institutions towards such approaches.

## **Rio Plus 20 Conference**

Research and academic institutions should be encouraged to undertake work that would help operationalise the principles of equity and common but differentiated responsibilities (CBDR), rather than merely paying lip-service to them.

Implementation and accountability are the two key challenges confronting decision-makers at Rio. Apart from recommending policies and measures, the exercise should put in place a process for developing indicators and benchmarks to evaluate implementation, including those for international obligations and commitments, and capacity-building. It should also delineate frameworks for accountability at the national and

international levels. The solutions should be such that they can be scaled up and are replicable on large scale, thus making them cost-effective. The local communities should be involved fully in their design, and participate effectively in their implementation at the national level.

The approach being suggested here is based on a combination of human rights, that is a rights-based approach to development, with an emphasis on Economic, Social and Cultural Rights as enshrined in the related International Covenant; a more flexible use of Intellectual Property regimes, and International Law, with stress on international obligations and commitments in international legal instruments relating to Human Rights, Environment and Intellectual Property. The call for incorporating a human rights-based dimension in the sustainable development debate should not be seen as being against the interests of the developing countries.

The post-summit work needs to be carried out by an open-ended inter-governmental committee (IGC) with technical inputs from the UN secretariat as necessary. Given the current developmental challenges, India is likely to be affected to the maximum extent by any decisions made in Rio. As it is unlikely that the summit will arrive at political agreements on the outline of the new global compact, it is imperative that India exercise a decisive leadership role in the negotiations, by articulating developing country concerns and shaping their collective positions. India should work with other leading developing countries and like-minded delegations such as China, Brazil, South Africa, Algeria (current chair of G-77), Nigeria, Indonesia, Pakistan, Malaysia and Egypt in the summit and the work of the IGC.

The mandate of the Inter-Governmental Committee (IGC) would be of crucial significance. India and other developing countries should ensure that the IGC is given a clear and unambiguous mandate to develop, elaborate and submit to the 69th session of the UN General Assembly in September 2014 specific recommendations with respect to the following:

The recommendations being made in the following paragraphs are motivated by the foregoing considerations.

*A) Financing:*

- i] In accordance with Article 2 (1) of ICESCR, the summit should ensure that ODA contributions are raised to 0.7 per cent of Gross national Income and that ODA promotes sustainable development;
- ii] Review existing funding mechanisms, especially the Global Environmental Facility (GEF) and others such as the Clean Development Mechanism (CDM), with emphasis on their adequacy in relation to the requirements of the recipients; and,
- iii] Re-orient lending and grant policies and practices of IFIs, RDBs and other multilateral banking and development finance institutions and Civil Society Organizations (CSOs) to incentivize sustainable development, including conservation, recycling, judicious use, renewables, and so on;

*B) Intellectual Property (IP) / Technology Transfer:*

- i] Design an Intellectual Property (IP) system that moves away from the approach dedicated exclusively to protection and enforcement of IP Rights to encouraging creativity and innovation: in particular, it should:
- ii] Encourage greater use of flexibilities and ‘compulsory licensing’ as and where necessary, especially in promoting the Right to health and access to medicines that are safe, efficacious and affordable;
- iii] Promote extension of ‘compulsory licensing’-type solutions to areas of public policy concern other than public health and access to medicines, and in particular, for technologies that promote sustainable development;

- iv] Promote development and deployment of ‘green technologies’, especially in areas such as public transportation, energy, food security, water, ...;
- v] Promote more ‘exceptions and limitations’ in the area of copyrights in respect of the disabled, libraries and educational institutions’ publications;
- vi] Put in place mechanisms for Prior Informed Consent and Access and Benefit-Sharing in respect of genetic resources and associated traditional knowledge;
- vii] Prevent misappropriation of traditional knowledge and bio-piracy;
- viii] Promote utility patent models;
- ix] Encourage open source innovation and their greater use;
- x] Make available for free outcomes from research that is publicly-funded and/or research that is undertaken in publicly-funded institutions;
- xi] Not to seek extension of patents beyond their normal terms through mechanisms such as data exclusivity and data protection; and,
- xii] Incentivise R&D towards sustainable development, including but not limited to, greater use of renewable, systems for waste disposal at the micro -level, through measures such as ...; and,
- xiii] Promote full, serious and dedicated implementation of the Development Agenda in the World Intellectual Property Organisation (WIPO), from the perspective of sustainable development.



### *C) Enhancing Efficiency and Productivity:*

Encourage resource-frugal agriculture, energy production and use, industry and manufacturing and transportation practices;

### *D) International Law:*

Launch a process for a thorough review of the existing compliance, liability and compensation regimes with a view to strengthening them and improving their efficacy, speed and effectiveness; to review the gaps in existing laws and legal instruments from the perspective of sustainability; to

### *E) Human Rights:*

- i] Embrace the incorporation of a rights-based approach to sustainable development in the Rio plus 20 process.
- ii] Develop the concept of Green Economy, SD and SDGs in such a way that incorporates the Right to Development and the Rights enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR); Intellectual property (IP) / Technology transfer:
- iii] Develop tools for transparent and participatory accountability mechanisms at the national level, including scrutiny, monitoring, surveillance, measurement and reporting;
- iv] Develop tools for transparent accountability mechanisms at the international level, including scrutiny, monitoring, surveillance, measurement and reporting of international obligations and commitments;
- v] Design a reporting mechanism that incorporates fulfillment of obligations undertaken by every Member State in respect of

provisions relating to international co-operation and provision of technical assistance contained in instruments of International Human Rights Law and Multilateral Environmental Agreements (MEAs) and Treaties relating to Intellectual property Rights (IPR) regimes; and,

- vi] Encourage the use of the Guiding Principles for human rights and transnational corporations and other business enterprises, including the “Protect, Respect and Remedy” framework, benchmarks and due diligence processes and procedures; and provide for incorporating them in reporting mechanisms for monitoring compliance in this regard;

*F) Oceans and Seas:*

Sustainable use and management of Oceans and seas and marine resources, including redressing pollution from land-based sources, ...;

*G) Forests:*

Sustainable utilization of forests, ... and ;

*H) Management and disposal of wastes:*

Promote micro and nano-level solutions to deal with wastes of various kinds, including E-waste, in sustainable ways, ...;

*I) Energy security:*

Promote the generation and use of renewable energy;

*J) Transportation:*

Evolve and put in place strategies that promote sustainable means of public transportation that are affordable, cost-efficient and effective;

### *K) Water:*

Promote policies and practices for implementation of the newly-recognised human right to safe drinking water and for ensuring safe drinking water, ...;

### *L) Sanitation:*

Promote policies and practices for implementation of the newly-recognised human right to sanitation and for ensuring universal sanitation, ....;

### *M) Employment:*

Evolve the concept of ‘green jobs’ in such a way that enhances workers’ safety, social protection and provides decent employment, ....; and,

### *N) International Co-operation in Specific Areas and Sectors:*

Put in place a new architecture of international co-operation in specific areas and sectors, including, but not limited to, the following:

- i] promote energy security through a concrete programme of incentivizing production of energy through renewable and other environmentally sustainable ways;
- ii] provision of safe drinking water through inexpensive and effective purification processes and plants and desalination techniques;
- iii] provision of concessional finances for effective sanitation at the community level;
- iv] promote food security through a programme of assistance for enhancing on-farm efficiency, food processing, storage and transportation;

- v] promote village and community level programmes of separation, collection and disposal of different types of wastes through recycling, re-use and other sustainable ways;
- vi] promote affordable, inexpensive and affordable means of public transportation that are less energy-intensive, and make extensive use of renewables and compressed natural gas (CNG) which would be less polluting ;
- vii] encourage research and development of technologies in respect of the above-mentioned areas; and,
- viii] encourage application of ICTs in providing ‘smart’ solutions in these areas.

*O) Use of ICTs:*

Promote and facilitate increased use of ICTs and data analytics with a view to providing ‘smart’ solutions for power supply networks, transportation systems, distribution of goods and services and water supply systems that seek to minimize waste, eliminate redundancies and improve efficiencies and productivity;

*P) Sustainable Development Goals (SDGs):*

- i] Targets would be useful only if base-lines are defined well, scope is clarified and possible loopholes are plugged.
- ii] SDGs will be meaningless if they do not include means of implementation and a measurable framework of international co-operation
- iii] MDGs cannot be converted into SDGs without the inclusion of production and use of energy, international assistance for increasing energy efficiency, and reporting by States of efforts to modify production and consumption patterns

### *Q) Standards:*

Any agreement on Standards should conform and be fully consistent with Principle 11 Of Agenda 21.

### *R) “Green Economy”:*

- i] ‘Green economy’ should be integrated and be intrinsically linked to the broader and comprehensive concept of sustainable development;
- ii] “Green economy” should effectively address unsustainable patterns of production and consumption;
- iii] “Green economy’ should not become a vehicle for selectively promoting competitiveness of the developed countries, and for creation of markets for new technologies and those that are becoming obsolete;
- iv] Solutions of the Montreal Protocol type that provide for financial transfers and dissemination of technology should be promoted in more areas and sectors;
- v] The corporate sector should observe the Rio principles; and,
- vi] Greater emphasis should be placed on global concerns such as emissions, oceans, air quality, safe drinking water, sanitation and so on.

### *S) Institutional Framework for Sustainable Development (IFSD):*

#### *T) Peer Review Mechanism (PRM):*

- i] Accept the setting up of a ‘Peer Review Mechanism’, as long as it is agreed that the peer review mechanism would be universal, non-discriminatory and that it would involve the reporting, scrutiny and

monitoring of international obligations and commitments contained in human rights instruments, multilateral/international environment agreements (MEAs) and treaties in respect of IPR regimes;

*U) Sustainable Development Impact Assessment (SDIA):*

Elaborate a concept of Sustainable Development Impact Assessment (SDIA), embracing sustainability from a holistic and integrated perspective, rather than purely environmental as has been the case with EIA, so that longer-term sustainability concerns are fully addressed and incorporated, including analysis and examination of how the project serves the larger objectives of poverty eradication and social development; and,

*V) Sustainable Development Council (SDC):*

Convert the existing Commission on Sustainable Development (CSD) into a Sustainable Development Council by:

- i] making the Peer Review Mechanism [PRM] form the mainstay of the SDC;
- ii] inviting the Special Procedures Mandate Holders of the Human Rights Council, particularly those dealing with the Right to Development and Economic, Social and Cultural Rights to report to the SDC on a regular basis;
- iii] Inviting other UN bodies, Special Representatives of the Secretary-General (SRSGs), treaty bodies of the Intellectual Property regime and Multilateral Environment Agreements (MEAs) to report to SDC as appropriate;
- iv] Entrusting the SDC with the monitoring of the implementation of inter-governmentally-agreed SDGs; in particular, it should monitor them against the indicators agreed for monitoring SDGs; and,

- v] Mandating the SDC to monitor the implementation of agreements relating to practical measures of international co-operation in different sectors, including specific targets and time-tables and policies and measures.

The UN General Assembly should consider and adopt these recommendations at the 69<sup>th</sup> session in 2014 so as to facilitate their implementation from 2015 to 2030, with periodic assessments in 2020, 2025 and 2030. The General Assembly should undertake a review of the progress of the process at its 68<sup>th</sup> session in 2013.

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